

# **TOWN OF AUBURN, NEW HAMPSHIRE**

## **ZONING ORDINANCE**

### **MARCH 2024**



Original Ordinance Adopted: March 1967

Revised in the following years:

March 1970, November 1970, November 1972, March 1973, June 1973, March 1975, March 1976, March 1978, March 1979, March 1983, March 1984, March 1985, March 1986, March 1987, March 1988, March 1989, March 1990, March 1991, March 1993, March 1995, March 1996, March 1997, March 1998, March 1999, March 2000, March 2001, March 2002, March 2003, March 2004, March 2005; March 2006, March 2007, March 2009, March 2010, March 2011, March 2014, March 2016, March 2017, March 2018, March 2020, March 2023, March 2024

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## ARTICLE 1 - TITLE, AUTHORITY AND PURPOSE

### 1.01 Short Title

This ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Auburn, New Hampshire," hereinafter referred to as "this Ordinance." This Ordinance was first adopted on March 14, 1967.

### 1.02 Purpose

This Ordinance is made generally: to promote health, safety, prosperity, convenience and general welfare; to secure safety from fire, panic and other dangers; to provide adequate light and air; to promote efficiency, economy, and good civic design in development that will preserve the rural character of Auburn and protect the value of its homes and lands; to ensure the wise and efficient expenditure of public funds; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to lessen congestion in the streets; to prevent the overcrowding of land; to assure proper use of natural resources and other public requirements, and to avoid the undue and unsafe concentration of population. This Ordinance is also intended to foster the goals of "smart growth" set forth in N.H. R.S.A. 9-B:3, including promoting the development and use of land in such a manner that its physical, visual or audible consequences are appropriate to the traditional and historic New Hampshire landscape. This Ordinance is made with reasonable consideration for the character of the various districts and their peculiar suitability for particular uses.

### 1.03 Authority

This Ordinance is adopted pursuant to the authority granted by Chapter 674, et seq., New Hampshire Revised Statutes Annotated, as amended.

### 1.04 Applicability

This Ordinance shall apply to:

- (1). All buildings or structures erected, reconstructed, altered, enlarged, or relocated after the effective date of this Ordinance or applicable amendment;
- (2). The use of any building, structure, or land which is different or expanded from its use prior to the effective date of this Ordinance or applicable amendment; and
- (3). Any land which has been subdivided after the effective date of this Ordinance or applicable amendment.

No person shall use or occupy any land or buildings or permit the use or occupancy of land or buildings under his or her control, except in accordance with the provisions of this Ordinance.

### 1.05 Interpretation

In interpreting any provision of this Ordinance, it shall be held as the minimum requirement adopted for the promotion of the public health, safety and general welfare of the Town. Whenever any provision of this Ordinance is at variance with any other provision of this Ordinance, or with the requirements of any other lawfully adopted rule or regulation, the most restrictive, or that imposing the highest standard, shall govern.

## ARTICLE 2 - DEFINITIONS

### 2.01 General

For the purpose of this Ordinance, certain terms and words shall have the meaning given herein:

- (1). Words used in the singular number include the plural and words used in the plural include the singular;
- (2). Words used in the present tense include the future;
- (3). The words "building", "structure", "lot", or "premises" shall be considered as though followed by the words "or any portion thereof";
- (4). The word "shall" is always mandatory and not merely directory;
- (5). The word "used" shall be construed as though including the words "intended or designed to be used";
- (6). Wherever a definition of a term or phrase is stated by example, it shall be deemed to include the words, "including but not limited to";
- (7). Any specific reference to a Federal or State statute, a regulation of any Federal, State or local agency, or ordinance or regulation of the Town of Auburn, shall include any subsequent amendments thereto or replacements thereof, unless the change would clearly contravene the terms or spirit of this Ordinance, or render the context meaningless.

### 2.02 Words and Terms

- (1). Abandoned: The cessation of a non-conforming use. Abandonment is indicated by the stated intention or otherwise apparent action of an owner to discontinue a non-conforming use of a structure or lot, such as the removal of the characteristic equipment or furnishings used in the performance of the non-conforming use, without its replacement by similar equipment or furnishings, or the replacement of a non-conforming use by a conforming use. See Section 3.05(1)(c). In its context, abandonment shall also be deemed to have occurred when an owner has failed to timely act on any necessary permit or approval. See also Sections 14.11, 14.14(8)
- (2). Accessory Building or Use: See separate definitions at Section 2.02 (12) and 2.02 (98).
- (3). Agricultural, Farm Farming: As defined in NH RSA 21:34-a. and as may be further amended. A single-family detached dwelling shall be a permitted accessory use.

- (a). Agritourism and marketing as defined under NH RSA 21:34-a (b) (5) shall require a Special Exception in accordance with Article 14.14 of the Auburn Zoning Ordinance and be subject to Site Plan Review through the Auburn Planning Board.
- (b). Farm Roadside Stand shall remain an agricultural operation and not be considered commercial (Agritourism), provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner. The floor area of the Farm Roadside Stand shall not exceed one hundred fifty (150) square feet.
- (4). Alteration: Any construction or other action resulting in a change in the external and/or internal structural parts, height, number of stories, size, use, or location of a building or other structure.
- (5). Wireless Communications Facility (Antenna and Communications Towers): A tower, pole, and/or related structure(s) used for the purpose of transmitting, receiving, or relaying radar, radio waves, cellular or radio telephone communications, television signals, satellite signals, data signals, microwaves, or any other electronic signals. This definition shall not include towers or antennas that are less than twenty-five (25) feet in height from the ground and which are accessory to a principal use, nor shall this definition include antennas used exclusively in the amateur radio services or antennas otherwise permitted by federal or state preemption. See Section 3.20.
- (6). Automobile and Similar Vehicle Sales Facility: A building and/or lot used principally for the sale of new or used automobiles or other motor vehicles, with or without an accessory use for the repair or reconditioning of such vehicles. No lot used for a Vehicle Sales Facility may be located any closer than 2,500 feet in any direction to another lot used for Vehicle Sales Facility.
- (7). Automobile Repair Garage: A building and/or lot used principally for the repair and/or servicing of passenger and other light duty motor vehicles. Outdoor storage shall be governed by the Site Plan Review Regulations of the Town of Auburn.
- (8). Automobile Service Station: A building and/or lot used principally for selling of gasoline, oil and related products for motor vehicles. Also, an accessory use for the repair and/or servicing of passenger and other light duty motor vehicles. If the station contains more than two (2) service bays, it shall be classified as an automobile repair garage.
- (9). Boarding or Rooming House: A building principally containing boarding units.
- (10). Boarding Unit: One or more rooms used for the semi-permanent residence of one or more persons not living as a single housekeeping unit and not having individual cooking facilities.
- (11). Building: A structure having a roof, fixed to the land and constructed for the shelter of person, animals or property.

- (12). Building, Accessory: A detached or attached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building. An accessory building may include, but is not limited to, a utility shed, porch, barn or garage.
- (13). Building Area: The percentage of lot area or square footage, as applicable, covered by a building exclusive of cornices, eaves, gutters, chimneys, porches without roofs and bay windows. In determining building area, principal and accessory buildings shall be included.
- (14). Building or Structure Height: Vertical distance measured from the average elevation of the proposed finished grade at the front of the building or structure to the highest point.
- (15). Cellar: A portion of a building partly or entirely below the finished grade of the ground adjoining the building. A cellar is not deemed a story unless its' ceiling is six (6) or more feet above the finished grade at the front of the building. The word "basement" shall be defined in the same manner.
- (16). Church: A building and/or other structure used principally by a body or organization of religious believers to regularly assemble for worship.
- (17). Clustered Development: Two or more buildings, whether single family detached or multi-unit or commercial/industrial, "clustered" or "grouped" on a lot or group of contiguous lots, closer than would otherwise be permitted by the minimum lot size, frontage and yard requirements of this Ordinance, all as more particularly defined by the provision of this Ordinance.
- (18). Commercial Service Establishment: A building and/or other structure used principally for providing commercial services to the public, such as a beauty shop, shoe repair shop, dry cleaner, laundry, electrician, plumber, repair service, installation service, general contractor, rental shop and the like. No accessory use for residential purposes shall be permitted. This definition does not include a sexually oriented business.
- (19). Conservation Easement (Conservation Land): Any open space designation or other restriction which is part of a cluster development, planned unit development, village plan alternative subdivision, or other proposal approved under innovative land use controls, or which is lawfully imposed by either the Planning Board or the Zoning Board of Adjustment as a condition of subdivision, site plan, variance or other type of approval, and which is filed with the records of either the Planning Board or Zoning Board as part of the board's established procedure.
- (20). Conversion Apartment: A single family detached dwelling existing prior to March 14, 1967, consisting of more than one thousand five hundred (1,500) square feet of floor area, and converted after the first effective date of this Ordinance, to contain two dwelling units.
- (21). Cultural Facilities: A building used for a museum, local historical society, library, non-commercial art gallery, planetarium, science education center and the like. Any such facility shall be subject to site plan review and approval by the Auburn Planning Board.

- (22). Day Care Center: A building used principally or as an accessory use to a single family attached dwelling to provide "baby-sitting" type care for children or adults without a teacher or formal educational program. A day care center shall not be permitted in the Industrial Zone unless it is accessory and incidental to another permitted business.
- (23). Development: The construction of improvements on a tract or tracts of land for nonresidential use, multi-family residential use, and/or multiple single-family residences.
- (24). District: A zoning district, in which only those uses may hereafter occur which are either permitted by right or allowed by special exception under this Ordinance.
- (25). Driveway: A space located on a lot, which may not be more than twenty-four (24) feet in width at the lot line, built or used for vehicular access by automobiles or trucks to a garage, parking space or service area.
- (26). Dwelling: A building used primarily as the home residence or regular sleeping place of one or more persons. The term dwelling shall not include a motel, hotel, boarding house, hospital, travel trailer or dormitory.
- (27). Dwelling Unit: One or more rooms providing completely separate living facilities for the use of one or more persons constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation.
- (28). Dwelling Unit, Accessory: Residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, include provisions for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling unit it occupies.

Accessory Dwelling Units shall be permitted by Special Exception as governed under Article 14.14 of the Auburn Zoning Ordinance in all zoning districts that permit single family detached dwellings.

A Special Exception shall be required for construction and or change of occupancy for creation of an Accessory Dwelling Unit.

The Accessory Dwelling Unit shall meet the following requirements.

- (a). An accessory dwelling unit shall have no more than two bedrooms. and shall not exceed seven hundred fifty (750) square feet in living area and shall be attached to a single-family dwelling. Attached means sharing a common habitable space wall.
- (b). An interior door shall be provided between the principal dwelling and the accessory dwelling unit, but it shall not be required that it remain unlocked. The accessory dwelling unit shall have a door with direct access to the exterior, or common space to hallway or exterior door.
- (c). The accessory dwelling unit shall have interconnecting smoke/carbon

monoxide/heat detectors with the principal dwelling unit.

- (d). There shall be adequate provisions for water supply and sewage disposal for the accessory dwelling unit in accordance with NH RSA 485-A:38, but separate systems shall not be required for the principal and accessory dwelling units.
- (e). An accessory dwelling unit shall meet all zoning setbacks and all applicable building codes. There shall be adequate parking to accommodate an accessory dwelling unit.
- (f). The property owner must occupy one of the dwelling units as his/her principal place of residence.
- (g). Only one accessory dwelling unit shall be permitted for any single-family dwelling.
- (h). Detached Accessory Dwelling Units are not permitted.

(29). Dwelling, Unit:

- (a). Multi-Family: A residential structure containing three or more attached dwelling units, such as apartment house, multi-family town house or condominium occupied exclusively for residential purposes. Multi-family dwellings do not include commercial accommodations for transient occupancy. Multi-family units shall require Site Plan Review Approval.
- (b). Duplex: A residential structure that contains two (2) attached dwelling units. The dwelling units must share a common wall or common floor/ceiling assembly, have separate access to each dwelling and meet all current building code standards.

(30). Elderly Housing: Elderly Housing shall mean a development, including housing and allowed support facilities, developed in accordance with any Elderly Housing Regulations adopted by the Town of Auburn., whether or not adopted at the same time as this Ordinance.

(31). Excavation and Soil Removal: The excavation and/or removal of soil material shall be considered a commercial or industrial activity and shall include the removal of soil material such as loam, sand, gravel, and other fill material for sale, or for use in another location, as governed by N.H. R.S.A. 155-E and the Town of Auburn Excavation Regulations. "Excavation and Soil Removal" as defined and regulated herein shall not include the excavation and/or removal of soil material incidental to approved development activities. See Section 3.18.

(32). Floodway: The area subject to regular flooding, the limits of which are determined by the normal annual high-water mark of any lake, pond, river or other major waterway. With respect to special flood hazard areas, the term "floodway" shall be defined by Article 6, "Flood Plain Development Regulations."

(33). Floor Area: The area of livable floor space on all stories of a building measured

between the faces of the interior walls.

- (34). Frontage: The width of a lot bordering on a street measured along its front lot line.
- (35). Hazardous Substance: All elements and compounds currently designated and designated subsequent to the enactment of this Ordinance as hazardous in accordance with Section 311 (b) (2) (A) of the Federal Water Pollution Control Act of 1972, (P.L. 92-500), currently codified at 33 U.S.C. § 1251, et seq.
- (36). Heliport: A landing pad with a capacity for no more than one helicopter and which is used only as an accessory use to a conforming principal use.
- (37). Home Business: The manufacture and/or sale of products such as jewelry, pottery, baked goods, furniture or similar items that has been customarily carried out within a principal living unit and/or accessory structure, is conducted by the residents thereof, is clearly an accessory use to the residential purposes of the parcel is subordinate to the primary use of the premises, and does not change the character thereof. All parking must take place on site (on street parking is prohibited). Any outside storage of materials and/or equipment shall be screened from the road and surrounding properties by natural or structural means. In such cases only one employee from outside of persons living in said dwelling will be permitted. This definition does not include a sexually oriented business. See also Section 3.22. **(changes made by vote on March 12, 2024)**
- (38). Home Occupation Office: An office such as used by a lawyer, doctor, accountant, realtor or other professional or service person that has been customarily carried out within a principal living unit and/or accessory structure, is conducted by the residents thereof, is clearly an accessory use to the residential purposes of the dwelling and does not change the character thereof. All parking must take place on site (on street parking is prohibited). In such cases only one employee from outside of persons living in said dwelling will be permitted. See also Section 3.22. **(changes made by vote on March 12, 2024)**
- (39). Home Shop: A shop such as used by an electrician, plumber or similar tradesperson that has been customarily carried out within a principal living unit and/or accessory structure, is conducted by the residents thereof, is clearly an accessory use to the residential purposes of the parcel is subordinate to the primary use of the premises, and does not change the character thereof. All parking must take place on site (on street parking is prohibited). Any outside storage of materials and/or equipment shall be screened from the road and surrounding properties by natural or structural means. In such cases only one employee from outside of persons living in said dwelling will be permitted. See also Section 3.22. **(changes made by vote on March 12, 2024)**
- (40). Hospital: A building used principally to provide organized inpatient diagnosis and treatment to persons suffering from acute or chronic illness, injury or deformity.
- (41). Hotel: A building principally containing rooms without individual cooking facilities used for transient occupancy, including an inn, motel, motor inn or tourist court, but not including a boarding or rooming house. A restaurant is a permitted accessory use.

- (42). Indoor Commercial Recreation Facility: A building used principally for indoor commercial recreation such as a bowling alley, pool hall, indoor pool, tennis court, gymnasium, roller- or ice-skating rink, indoor movie theater and the like. This definition does not include a sexually oriented business.
- (43). Industrial Establishment: A structure and/or lot used principally for the manufacturing, refining, assembling or processing of raw materials or components through the systematic use of machinery and labor, to produce durable and/or non-durable finished goods, component parts, chemicals, foodstuffs or other products. This definition shall not include a power plant, Bio Mass facility or incineration facility. Outdoor storage of goods shall be governed by the Site Plan Review Regulations of the Town of Auburn.
- (44). Industrial Establishment - Light: A structure and/or lot used principally for the assembling of components, which are themselves produced off site, and which as a final product or by-product do not create any noxious or hazardous substance of any kind, whether the operation is provided with a sophisticated scrubbing, cleaning or reducing process or not.
- (45). Industrial Repair Garage: A structure and/or lot used principally for the repair of heavy-duty vehicles, such as front-end loaders, tractor trailer cabs, dump trucks, or similar vehicle types.
- (46). Junk Yards: As defined by N.H. R.S.A. 236:112, and as governed by N.H. R.S.A. 236, Sections 111-129. All junk yards shall be subject to State and local permitting, as well as Site Plan review and approval.
- (47). Lot: A separate area or parcel of land, not including water area, in single or common ownership. For purposes of this Ordinance, a parcel is considered "separate" if it is described by a separate deed of record, if it is separately described as one of several parcels in a single deed of record, or if it is separately defined in a plan of subdivision approved by the Planning Board and recorded in the Rockingham County Registry of Deeds.
- (48). Lot, Corner: A lot at the point of intersection of and abutting on two or more intersecting streets, where the interior angle of intersection of the street lot lines (or in case of a curved street, extended lot lines) is not more than one hundred thirty-five (135) degrees.
- (49). Lot, Interior: A lot, no lines of which intersect with a street right-of-way.
- (50). Lot Line, Front: The property line dividing a lot from a street right-of-way. In the case of a corner lot, each line with street frontage shall be considered a front lot line.
- (51). Lot Line, Rear: The lot line opposite from the front lot line.
- (52). Lot Line, Side: Any lot line, which is not a front, or rear lot line.

- (53). Lumber Treatment Establishment: A structure and/or lot used principally for the treatment and preparation of lumber, such as planing mills, sawmills and the like. Outdoor storage shall be governed by the Site Plan Review Regulations of the Town of Auburn.
- (54). Manufactured Housing: As defined by N.H. R.S.A. Chapter 674:31. This definition includes “Mobile Home”, as referred to in this Ordinance. See also N.H. R.S.A. 205-C and 205-D, regarding State of New Hampshire statutes governing manufactured and modular housing.
- (55). Merger: Voluntary merger of two or more contiguous lots may be accomplished by the process set forth in Article 3.21(2) of this Ordinance.
- (56). Mobile Home Park: A lot upon which two or more mobile homes are parked for use for residential purposes, whether or not a charge is made for such accommodations.
- (57). Motel: See “Hotel” definition at Section 2.02(41).
- (58). Multi-Unit Commercial Establishment: A building or buildings on the same parcel, or more than one parcel, consolidated as a single development, containing two (2) or more non-residential units or condominiums used principally for providing commercial services, such as a sales establishment, commercial service establishment, warehouse establishment and the like.
- (59). Municipal Building: A building used principally for governmental functions such as town offices, fire department, police department and the like.
- (60). Non-Conforming Building or Structure: A structure, as defined in this Ordinance, lawfully existing at the effective date of this Ordinance, which is not in accordance with all of the requirements pertaining to buildings or structures for the District in which it is located. This shall include a building or structure for which a building permit was lawfully issued prior to the posting of the first required legal notice of the adoption of this Ordinance or any subsequent amendment thereto, and for which the construction was completed within one year of the effective date of this Ordinance, or any subsequent amendment thereto, or within the time limit prescribed by the building permit or other approval, whichever is shorter.
- (61). Non-conforming Lot: A lot lawfully used or existing at the effective date of this Ordinance, or any subsequent amendment thereto, which is not in accordance with all the area, yard, height and frontage requirements of this Ordinance, or any subsequent amendment thereto, for the district in which it is located. This shall include a lot for which a building permit was lawfully issued prior to the posting of the first required legal notice of the adoption of this Ordinance, or any subsequent amendment thereto, and for which the construction is complete within one year of the effective date of this Ordinance, or any subsequent amendment thereto, or within the time limit prescribed by the building permit or other approval, whichever is shorter.

- (62). Non-Conforming Use: A use lawfully existing at the time of adoption of this Ordinance, or any subsequent amendment thereto, which does not conform to one or more of the use provisions of this Ordinance or any subsequent amendment thereto. This shall include a use for which a building permit was lawfully issued prior to the posting of the first required legal notice of the adoption of this Ordinance, or any subsequent amendment thereto, and for which the construction is completed within one year of the effective date of this Ordinance, or any subsequent amendment thereto, or within the time limit prescribed by the building permit or other approval, whichever is shorter.
- (63). Nursery School: A building used principally, or as an accessory use to, a single-family detached dwelling, for pre-elementary, non-public education, where there exists a curriculum and teacher to provide an educational program for children. A Nursery School shall not be permitted in the Industrial District unless it is accessory and incidental to another permitted business.
- (64). Office Establishment:
- (a). Small: A building used principally for offices and/or by those providing professional and quasi-professional services, such as engineers, doctors, bankers, lawyers, accountants, realtors, insurance agents and the like, having less than three thousand (3,000) square feet in floor area.
  - (b). Large: A building used principally for offices and/or by those providing professional and quasi-professional services, such as engineers, doctors, bankers, lawyers, accountants, realtors, insurance agents and the like, having in excess of three thousand (3,000) square feet in floor area.
- (65). Open Space: Land unencumbered by any roadway, parking space, service area, impervious surface, individual lot, building or other substantial structure, and designated as open space on a subdivision or site plan.
- (66). Outdoor Commercial Recreation Facility: A lot and/or structure used principally for outdoor commercial recreation, such as golf courses, miniature golf, fish and game clubs, tennis courts, swimming pools, racetracks, outdoor movie theaters and the like. If located in a Residential-One (R-1) zone, the use of an outdoor commercial recreation facility shall be limited to a minimum lot size of fifteen (15) acres and shall not include racetracks or outdoor movie facilities.
- (67). Parking Space: An off-street space, plus access and maneuvering space, whether inside or outside a structure, for use principally as a parking stall for one motor vehicle.
- (68). Permitted Uses: Use of lots and/or structures that are specifically allowed by this Ordinance without a special exception or variance.
- (69). Permanent Storage Facility: Any carton, freight container, shed, portable storage unit, mobile trailer, tractor trailer, tent or enclosure used for the storage of any material, product or similar item, including household goods, which is either untowable or has been rendered untowable, or, if towable, has remained on the site for an uninterrupted time in excess of three hundred sixty-five (365)

days. All storage facilities and structures, whether temporary or permanent, shall conform to the setbacks within the zoning district and all permanent storage facilities or structures shall require a building permit prior to being located on the site. Sheds which are not located on a concrete foundation, and which are portable, may be located in the side and rear yard setback, with a building permit, provided they do not exceed one hundred and twenty (120) square feet in area.

- (70). Private Airstrip: A lot that is used for the landing and takeoff of aircraft and for receiving and discharging passengers and/or cargo, and which is used only as an accessory use to a conforming principal use. A private airstrip may not involve the conveyance of passengers or cargo for hire.
- (71). Private Education Facility: Any school, which is not a public educational facility and is not a nursery school, such as a private school offering education for students in any grades K – 12, dance studio, music school, or craft facility. Any private educational facility shall be subject to site plan review. A private educational facility shall not be permitted in the Industrial District, unless it is accessory and incidental to another permitted business.
- (72). Produce Stand: See definition of "Agricultural Use – Produce Stand" at Section 2.02 (3)(c).
- (73). Public Education Facility: A building used principally to educate any child of the Town of Auburn, where attendance at such school at the public expense is a right of that child, and any public charter school approved in accordance with N.H. R.S.A. 194-B.
- (74). Public Recreation Facility: Any lot and/or structure used principally for recreation, built or maintained at the public expense and open generally to the public, such as public tennis courts, ball fields, and parks.
- (75). Public Utility: A public or private company or governmental agency under the control of the New Hampshire Public Utilities Commission, involved in supplying utility services through erection, construction, alteration or maintenance of gas, electrical, communication, steam or water transmission or distribution systems.
- (76). Repair: Any construction which replaces materials and does not change the external structural part, height, number of stories, size, use of, or location of a structure.
- (77). Restaurant: A building or other structure used principally to provide refreshments or meals to the public for consumption principally on the premises, including cafes, lunchrooms, cafeterias, tea rooms, sandwich shops and the like, but not including a fast-food restaurant. This definition does not include a sexually- oriented business.
- (78). Restaurant, Fast Food: A building used principally to dispense prepared food and/or beverages to the public for consumption on or off the premises, the major attributes of which are assembly line preparation of food and speed of dispensing, self-service by the customer by standing in line, and/or service to the customer in automobiles, and which generates a large volume and rapid turnover of entering and exiting motor vehicle traffic.

- (79). Roadway: The travel portion of any street, whether paved or unpaved, not including unpaved shoulders, but including paved breakdown lanes.
- (80). Sales Establishment: A structure and/or lot used principally for the sale of products to the public or at wholesale, such as grocery, drug store, general merchandise store, bookstore, distributor of goods/products and the like. Outdoor storage of goods shall be governed by the Site Plan Review Regulations of the Town of Auburn. This definition does not include a sexually oriented business.
- (81). Service Area: An area of a lot used principally for vehicles to make deliveries to or pick-ups from any structure except a single family detached dwelling. Parking spaces and driveways shall not be considered part of a service area.
- (82). Sexually Oriented Business: A business where ten (10%) percent or more of the gross revenues, the stock in trade, or the goods or paraphernalia displayed are of a sexually-oriented or sexually explicit nature. Other examples of sexually-oriented businesses, include, but are not limited to: theaters or the like where sexually explicit materials are shown depicting sexual conduct; nude modeling studios depicting sexual conduct; sexually-oriented massage parlors; businesses, including restaurants and bars, which offer live nude-dancing, nude wrestling, video booths, adult book stores, or any form or depiction of sexual encounter or conduct; and any escort service offering sexual conduct. As used in this definition, the term “sexually oriented goods or paraphernalia” shall have the same meaning as the term “material” defined in N.H. R.S.A. 650:1(III), and the term “sexual conduct” shall have the same meaning as defined in N.H. R.S.A. 650:1(VI).
- (83). Sign: Any display surface, which is designed to inform or attract attention and contains verbal, graphic or pictorial representations.
- (84). Sign, Area of: The entire surface area of a sign within a single continuous perimeter enclosing the extreme writing, representation, emblem or figure, but excluding the supports on which the sign is placed. The area of the largest side of a multi-faced sign shall be regarded as the total area of the sign.
- (85). Single Family Detached Dwelling: A dwelling which stands apart from other buildings, except accessory buildings, and which is used for residence by a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation.
- (86). Site Plan: A plan showing the location of all buildings, parking areas, abutters, traffic access and circulation drives, open spaces, landscaping and any other pertinent information that the Auburn Planning Board deems necessary in exercising its review of non-residential development, clustered residential development, and multi-unit dwelling site plans, in accordance with N.H. R.S.A. 674.
- (87). Social Facility: A structure and/or lot used primarily by clubs of a fraternal, social or non-profit nature, to provide a meeting place and/or to conduct the business of said club.

- (88). Special Exception: A use of a structure or lot which may be allowed under this Ordinance only upon application to, and approval by, the Zoning Board of Adjustment as a Special Exception. See Section 14.14.
- (89). Stream: A body of water, including ponds, brooks and wetlands.
- (90). Story: The portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. An attic shall not be deemed to be a story if unfinished and without human occupancy.
- (91). Street: Street, avenue, boulevard, road, highway, freeway and other public ways.
- (92). Street Line: Boundary line of a street right-of-way as dedicated by subdivision plat or deed of record. Where the boundary line of the street is not established, the street line shall be considered to be twenty-five (25) feet from the centerline of the roadway.
- (93). Structure: A combination of materials for occupancy or use, such as a building, bridge, trestle, tower, framework, antenna, retaining wall, tank, tunnel, tent, stadium, reviewing stand, shed, in-ground pool, above-ground pool, gazebo, platform, greenhouse, deck, pier, wharf, bin, fence, temporary storage facility, sign or the like, said term to be interpreted in the broadest sense and meaning.
- (94). Subdivision: The division of a lot into two or more lots, plats, sites or other divisions of land, for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a lot held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this Ordinance. No development shall be permitted on unlawfully subdivided land without subdivision approval to ensure conformity with the Ordinance and the Subdivision Regulations, plus payment of all applicable civil fines.
- (95). Travel Trailer: A vehicular, portable structure designed to be used as a temporary dwelling for travel, recreation or vacation, built on or propelled on its own chassis. This includes pickup coaches, motor homes, recreational vehicles and camp trailers.
- (96). Travel Trailer/Campground: A lot designed to be used exclusively for the sitting of more than one travel trailer and/or campsite for vacation or recreation purposes.
- (97). Use: A purpose defined by this Ordinance for which a structure or lot is used, occupied or maintained, or for which it is designated or intended to be used, occupied or maintained.
- (98). Use, Accessory: A use secondary and subordinate to and customarily incidental to, the principal use of a structure or lot. An accessory use shall not exceed twenty-five (25%) percent of the total floor area and/or lot area of the structure and/or lot in question, as may be applicable. Non-commercial agriculture shall not, however, be limited in percentage of lot coverage. (continue next page)

- (a). The outdoor storage of products on a lot is solely an accessory use.
  - (b). Aircraft takeoffs and landings shall be subject to all zoning requirements that pertain to the use of land as a private airstrip. (See definition at 2.02(70).
  - (c). In the Industrial District, a private educational facility, a nursery school, or a day care center shall only be permitted as an on-site accessory use to a permitted business and shall be limited to providing services to the children of employees of the permitted business.
- (99). Use, Principal: The main or primary use of a structure or lot, and all activities customarily and directly incidental to and associated with such main use. The preparation and provision of food primarily for consumption on the premises by the occupants or patrons of a structure or lot, and not generally to the public at large, shall be considered customarily incidental to the principal use thereof.
- (100). Utility Substation: A building and/or other structure, owned and/or operated by a public utility, which is principally used for sheltering, mounting and/or supporting utility equipment, machinery or the like, including electrical relay or generating, telephone switching, sewage pumping stations or the like, but not including the transmission lines alone for gas, electrical, telephone, etc.
- (101). Variance: Such departure from the terms of this Ordinance as the Zoning Board of Adjustment, upon appeal in specific cases, is empowered to authorize as a variance under N.H. R.S.A. 674.33.
- (102). Veterinary Clinic: A building and/or other structure used by a licensed veterinarian solely for the practice of veterinary medicine, and not as a kennel.
- (103). Warehouse Establishment: A building or other structure used principally for the storage of products, including finished goods, fuels, lumber, food and chemicals, whether or not involving the wholesaling or retailing of such products principally off the premises.
- (104). Water Supply Works: Any building and/or other structure used by a public utility principally for the supply of water to the public, including a filtration plant, pumping station or the like, but not including water transmission lines alone.
- (105). Wetlands: Pursuant to N.H. R.S.A. 482-A:2.X, an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- (106). Yard: A portion of a lot, whether for landscaping or open purposes, that immediately abuts any building located on said lot.
- (a). Front Yard: A yard extending for the full width of the lot between the nearest building wall and the front lot line.

- (b). Side Yard: A yard extending for the full width of the lot between the nearest building wall and the side lot line.
- (c.) Rear Yard: A yard extending for the full width of the lot between the nearest building wall and the rear lot line.

## ARTICLE 3 - GENERAL PROVISIONS

### 3.01 Uses Not Defined

Any existing or proposed use of a structure or lot that is not specifically defined by this Ordinance shall be deemed to be the same as the use to which it is most closely analogous. In the event that the use is not clearly analogous to a permitted use, as defined by this Ordinance, it shall be a prohibited use.

### 3.02 Conformance with Regulations

In any district, no structure or lot shall hereafter be originally used, and no building shall be erected or altered until a Building Permit and a Certificate of Occupancy have been issued in accordance with the provisions of Article 13 of this Ordinance.

### 3.03 Activity in Floodway

In any district, there shall be no development, within a floodway, as such is defined in Article 6, "Flood Plain Development Regulations."

### 3.04 Frontage

All building lots within the Town of Auburn shall have their minimum required road frontage upon a Class V or better road within the Town of Auburn. All new building lots within the Town of Auburn shall have their minimum required road frontage upon a Class V or better paved road within the Town of Auburn.

### 3.05 Non-Conforming Uses and Lots

#### (1). Non-Conforming Use

Any non-conforming use may be continued indefinitely, but it shall not be:

- (a). Altered except as provided herein in Section 3.05(2);
- (b). Changed to another non-conforming use without approval by the Zoning Board of Adjustment as a special exception; or
- (c). Reestablished if such use has been abandoned for a continuous period of one (1) year.

#### (2). Repair and Expansion of Non-Conforming Uses and Structures

- (a). Removal and replacement of a non-conforming structure, including a building, shall comply with all applicable requirements of this Ordinance and the current Building and Life Safety Codes for the Town of Auburn, unless the owner receives a variance from the Zoning Board of Adjustment. Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-conforming structure, provided that such repair or maintenance does not increase the degree of nonconformity.

- (b). As a special exception the Zoning Board may allow up to a ten (10%) percent expansion in the building area of a conforming building subject to a non-conforming use, provided it is not located on a non-conforming lot. The Zoning Board may impose conditions on the expansion which include, but are not limited to, bringing the entire structure into conformity with existing Building and Life Safety codes. The percentage expansion permitted in this subparagraph (b) shall not be cumulative with subparagraph (c) and any percentage allowed under subparagraphs (b) and (c) shall not exceed ten (10%) percent in the aggregate.
- (c). As a special exception, the Zoning Board may allow up to a ten (10%) percent expansion of a non-conforming use on a conforming lot which is not contained in a building, provided the proposed expansion otherwise meets the criteria for a special exception, and conforms with all other requirements for the District. The percentage expansion permitted in this subparagraph (c) shall not be cumulative with subparagraph (b) and any percentage allowed under subparagraphs (b) and (c) shall not exceed ten (10%) percent in the aggregate.
- (d). Any expansion of a non-conforming use or non-conforming structure on a non-conforming lot shall require a variance from the Zoning Board. See also 3.05(4)(b).
- (e). Any expansion of a non-conforming use or non-conforming structure other than that of a single-family residence and its accessory uses, shall be subject to Site Plan review and approval.

(3). Non-Conforming Mobile Homes

All mobile homes shall be located in the Residential-Two (R-2) zoning district. Any non-conforming mobile home use may be continued indefinitely, subject to the restrictions of Sections 3.05(1) and 3.05(2) herein, except that any movement of the mobile home from the lot upon which it is located shall constitute abandonment.

(4). Non-Conforming Lots

- (a). Existing: Any lawful use of a non-conforming lot existing at the effective date of this Ordinance, or any amendment thereto, whether a conforming use or a non-conforming use, may be continued indefinitely, subject to the restrictions of Sections 3.05(1) and 3.05(2) of this Ordinance.
- (b). Expansion: Expansion of a conforming building, or construction of a new conforming building on a non-conforming lot, (provided the use is conforming), shall be permitted if all structures in the aggregate do not exceed five (5%) percent of the area of the lot, the expansion or new

building meets all current Building and Life Safety Codes, and the non-conforming lot meets all zoning requirements except for frontage and lot size. Buildings on a non-conforming lot which exceed the five percent (5%) area requirement, which do not meet all current Building and Life Safety Codes, or where the non-conforming lot does not meet all zoning requirements except for frontage and lot size, shall require a variance from the Zoning Board of Adjustment.

(5). Wetland Lots

- (a). Any lot which is a non-conforming lot by reason of its inability to comply with the sewage disposal system requirements of this Ordinance, or to the minimum yard requirements for the district in which it is located, due solely to the effect of wetlands; or
- (b). which, if created by subdivision after the effective date of this Ordinance, or any amendment thereto, would have to consist of five (5) acres or more in order to conform to the sewage disposal system requirements of this Ordinance, or to the minimum yard requirements for the district in which it is located, due solely to the effect of wetlands, may be also used for any of the following purposes, regardless of the district in which it is located:
  - (i). Commercial Agriculture - Forestry only; and
  - (ii). Water Supply Works.

3.06 Sanitary Protection

- (1). All sewage disposal systems within the Town of Auburn shall make disposal in a manner which will not be a nuisance or detrimental to public health. In addition, the following criteria must be met:
  - (a). The construction of septic systems for new single family detached dwellings shall be designed to handle a minimum of three bedrooms.
  - (b). All septic systems must be at least one hundred twenty-five (125) feet from a dug private well, surface water and any wetland, and at least seventy-five (75) feet from a drilled private well, except when a lesser set back will provide protection of these areas and their uses, provided conclusive evidence of that protection has been submitted to and approved by the Planning Board.
  - (c). If a state approved non-conforming septic system is in failure, it may be replaced with a system which is in the same location, provided the system has been approved by the New Hampshire Department of Environmental Services and meets the criteria for replacement in kind.

- (2). No sewage disposal system shall be constructed, altered or replaced without a building permit from the Auburn Building Inspector. The application for a permit shall be accompanied by a design sketch of dwellings, wells and other sources of water. The permit shall not be issued until the system has been approved by the New Hampshire Department of Environmental Services.
- (3). No building permit shall be issued for a new structure which involves the generation of sewage waste until the sewage disposal system has been approved by the New Hampshire Department of Environmental Services.
- (4). No building permit shall be issued for the expansion of an existing structure that would require enlarging the on-site septic system, unless the system is approved by the New Hampshire Department of Environmental Services.

### 3.07 Utilities

- (1). The developer shall coordinate development design with the appropriate utility companies to ensure adequate and suitable area for underground installations.
- (2). The developer shall be responsible for providing for water mains, manholes, sanitary services, culverts and catch basins, if required.

### 3.08 Parking

#### (1). General Requirements

Parking spaces for all uses subject to Site Plan Review shall be as prescribed by the Auburn Planning Board in accordance with its Regulations. All residential uses shall be provided with at least three (3) parking spaces per dwelling.

#### (2). Temporary

Travel trailers, boats, or other automotive accessory equipment not used for human occupancy except on weekend trips and the like may be parked but not occupied in any district in any parking space, provided it does not interfere with the parking required on that premises.

#### (3). Commercial Parking

No motor truck or tractor-trailer and/or semi-truck or trailer as defined in N.H. R.S.A. 259 shall be parked overnight in any Residential Zone, including on the public streets.

#### (4). Screened Service Area Requirement

All service areas for any building or land use shall be screened from external view by a wall, a solid fence and evergreens, or the like, to a height of at least six (6) feet above grade level on each side of the service area, except for the entrance.

(5). Off- Street Parking Requirements

In any district, if any structure is constructed, enlarged, or extended, and any use of land established, or any existing use is changed, after the effective date of this Ordinance, parking spaces shall be provided in accordance with the Auburn Site Plan Review Regulations. An existing structure which is enlarged or an existing use which is extended after the effective date of this Ordinance shall be required to provide parking spaces in accordance with the Site Plan Review Regulations for the entire structure or use, unless the increase in number of units or square footage measurement amounts to less than ten (10%) percent, regardless of whether such increase occurs at one time or in successive stages.

(6). Location of Parking Spaces

Required off-street parking spaces shall be provided on the same lot as the principal use, they are required to serve; or, when practical difficulties as determined by the Planning Board prevent their establishment upon the same lot, they shall be established no farther than two hundred (200) feet from the lot upon which is located the principal use which they are to serve.

(7). Parking Space Standards

All parking areas containing over five (5) spaces shall be either contained within structures, or subject to all of the following:

- (a). The area shall be effectively screened on each side which adjoins or faces the side or rear lot line of an adjacent lot situated in any Residential District;
- (b). The area, access driveways and service areas thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation;
- (c). A substantial bumper of masonry, steel or heavy timber, or a concrete curb or berm curb which is backed shall be placed at the edge of surfaced areas, except access driveways, in order to protect abutting structures, properties and sidewalks; and
- (d). Parking spaces shall be so arranged as not to necessitate backing of automobiles onto any street.

(8). Parking of Vehicle for Sale from Residential Property

The parking of vehicles for sale from a residential property is restricted to one vehicle to which the property owner holds title.

3.09 Nuisance Provision

- (1). Any use or other establishment which is persistently and materially obnoxious, or that may be injurious or obnoxious because of the production or emission of smoke, fumes, dust, odor, refuse material, noise, vibration, radiation or like condition, or that endangers the health, safety, peace or enjoyment of the community, or tending to its disturbance or annoyance, is prohibited.

- (2). The accumulation of junk, as defined in N.H. R.S.A. 236:112, et seq., without a certificate of approved location from the Zoning Board of Adjustment and a current license from the Board of Selectmen, or in non-conformity with the New Hampshire statutes pertaining to junk yards, is hereby deemed a nuisance in the Town of Auburn. The Board of Selectmen administer the licensing procedures for junkyards, set forth in N.H. R.S.A. 236:111, et seq. The Board of Selectmen shall require site plan approval from the Planning Board as part of the application process.
- (3). No privately owned and/or privately-operated commercial collection facility, transfer station, trans-shipment facility, compaction facility, landfill, incineration facility or other facility for the commercial handling, transfer, treatment, disposal or other use or disposition of solid waste, refuse, trash, garbage, and/or other putrescible material shall be a permitted use anywhere in the Town of Auburn.

### 3.10 Sign Regulations

#### (1). Purpose

The purpose of this section is to provide reasonable uniformity in the size and treatment of signs used to call attention to the existence of a business or activity. These regulations are intended to prevent signs from detracting from the overall rural character of the Town. These regulations are intended to preserve the Town's character, protect the safety and welfare of the public, and recognize the need for adequate business identification in advertising.

#### (2). Definitions

- a) A-Frame /Sandwich Board Sign: A self-supporting, free-standing sign, sized a maximum of 4 feet in height and 2 feet in width, shaped like an "A" that is easily moveable and temporary in nature.
- b) Awning Sign: Any visual message (letters, words, logos) incorporated into an awning attached to a building. If the awning only contains a street address and no other letters or words, it is not considered a sign.
- c) Changeable Copy Sign: A sign on which the visual message may be manually changed (example, reader board)
- d) Complex: Either commercial or industrial structure(s) with two or more tenant spaces or divisions.
- e) Directional Sign: A sign limited to providing directional or guide information on the most direct or simple route for on-site public safety and convenience. Directional signs may be located adjacent to driveways. Examples, "IN", "OUT", "ENTRANCE", "EXIT", and "PARKING". Directional signs may not contain business names, slogans, or logos, unless the business is not directly visible from the public way.
- f) Electronic Reader Board: A sign, or portion thereof, with characters, letters or illustrations that can be electronically changes or rearranged without altering the face or the surface of the sign.

- g) Freestanding Sign: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.
- h) Historic Plaque: A marker, erected by federal, state or local authority identifying a historic place, name or date.
- i) Illuminated Sign: Any sign illuminated from the interior or exterior of the sign.
- j) Projecting Sign: Any sign affixed to a building or wall in such a manner that its leading edge extends more than twelve inches beyond the surface of such building or wall.
- k) Roof line: Shall be the lower border of a roof that overhangs the wall (the projecting edge of the roof)
- l) Roof Sign: Any sign that extends above the roof line of a building to which it is attached.
- m) Seasonal Agricultural Sign: Sign displayed during the harvest season of the item advertised.
- n) Sign: any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public street or right of way and used to attract attention.
- o) Sign Area: Shall be that contiguous image area of the sign that could be used to communicate visually the advertised message; support structures and embellishments used to enhance the visual look of the sign shall not be counted in the sign area calculations so long as they are no more than 15% of the total sign area.
- p) Unit: Shall consist of only one primary structure per lot with one and only one tenant space.
- q) Wall Sign: Any sign attached parallel to, but within twelve inches of a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign.
- r) Window Sign: illuminated and non-illuminated signs placed in the windows of a structure and viewed or intended to be viewed from outside the structure.

(3). Signs Permitted in Any District

- (a). One sign per lot not exceeding two (2) square feet in area and bearing only property numbers, post office box numbers, names of occupants of the premises or other non-commercial identification.

- (b). One temporary sign per lot not exceeding four (4) square feet in area advertising the sale or lease of, or construction on, the premises on which it is located. A temporary sign for such purposes greater than four (4) but less than twenty (20) square feet in area may be permitted by Special Exception. Such temporary signs shall not be permitted for longer than a one (1) year period except by a subsequent Special Exception. A temporary sign naming a residential development not to exceed thirty-two (32) square feet in area may be permitted by the Planning Board as part of Site Plan or Subdivision Review, until such time as the development has been substantially completed or a permanent sign has been erected, whichever is sooner.
- (c). Legal notices and signs erected or authorized by any public agency having jurisdiction thereof.
- (d). One sign per lot not exceeding twelve (12) square feet in area, bearing only the identification of and information concerning the occupant or activity of premises used for religious, charitable, educational or philanthropic purposes.
- (e). Political Signs. These are subject to NH RSA 664:14-664:18, as may be amended and enforcement shall be through the office of the NH Attorney General.
- (f). “Open” flags measuring 15 sq. ft. in size and attached to the building, or a permanent base shall be allowed in all districts. Only one flag is allowed per business. National, State, and US military flags are exempt.

(4). Signs Permitted in the Rural and Residential Districts

- (a). In addition to those signs permitted by Section 3.10(3), one sign not exceeding four (4) square feet in area shall be permitted for each home office, home business, or home shop on any single lot in the Rural or Residential districts, to identify the occupant or activity of the lot on which it is located.
- (b). One sign conforming to the requirements of Section 3.10(6) of this Ordinance may also be allowed by Special Exception on any single lot in a Rural or Residential district.
- (c). One unlit sign naming a residential development may be approved by the Planning Board as part of subdivision or site plan review approval. The sign shall not exceed thirty-two (32) square feet, shall be durably constructed, solidly erected, and provisions shall be made, to the satisfaction of the Planning Board, for future maintenance of the sign. No such sign shall be placed within the public right of way, unless such placement has been approved by both the Planning Board and the Town Road Agent. Any approval by the Planning Board and the Town Road Agent for placement of such a sign shall be deemed a temporary license, which may be revoked without cause at any time by either the Town Road Agent and/or the Planning Board.

(5). Signs Permitted in the Commercial and Industrial Districts

- (a). In addition to those signs permitted by Section 3.10(3), one sign not exceeding forty (40) square feet in area shall be permitted on any single lot in a Commercial or Industrial district, to identify the occupant or activity of the lot on which it is located. For those uses subject to Site Plan Review, the Planning Board may allow additional such signs conforming to the requirements of Section 3.10(6) of this Ordinance.

For those uses in the Commercial and Industrial zones subject to Subdivision or Site Plan Review, the Planning Board may, upon application, waive the dimensional requirement of forty (40) square feet in area or permit more than one sign on a single lot, upon a showing to the satisfaction of the Planning Board that an additional sign or increase in square footage is appropriate for the particular development, is consistent with the nature of the proposed use, will not detract from the overall appearance of the development, and is in keeping with the zone. Any increase in total combined square footage beyond sixty (60) square feet, and any increase beyond two signs, shall require a Special Exception from the Zoning Board of Adjustment.

- (b). One sign conforming to the requirements of Section 3.10(6) of this Ordinance shall also be permitted on any single lot in a Commercial or Industrial district.

(6). General Requirements

- (a). All signs (except for pre-existing non-conforming signs) must conform to these regulations and the most recently adopted Building Code.
- (b). Signs placement from property lines and edge of traveled roadway shall comply with Sign Specification Chart.(c ). Each sign must have its own support. Posting of signs on trees, utility poles, vehicular control standards, (stop signs, etc.), or fences is expressly prohibited.
- (c). Only one sign shall be permitted on a single lot unless specified otherwise within this article.
- (d). Signs shall be durably constructed, solidly erected and properly maintained at all times.
- (e). No sign shall be erected in or project over any public right-of-way, unless such sign is erected or authorized by a public agency having jurisdiction over the right-of-way.
- (f). No new sign shall materially impair the visibility of any previously erected sign.
- (g). No permanent special attention getting devices, such as pennants, strings, or flags, (other than the United States flag or State of New Hampshire flag), shall appear on or near any sign.

- (h). Any sign illuminator, whether temporary or permanent, other than gaseous tube letter signs, shall be so placed or hooded that the lighting source itself shall not be directly visible at any point beyond the lot lines of the premises illuminated. Any illuminated sign shall be lighted only during the hours when the associated establishment is open for business.
- (i). No sign or its illuminator shall, by reason of its location, shape or color, interfere with traffic or be confused with or obstruct the view or effectiveness of any public traffic sign, traffic signal or traffic marking.
- (j). Signs for uses allowed in any district only as a Special Exception shall be subject to such additional requirements as the Zoning Board may impose.

(7). Non-Conforming Signs.

- (a). Any conforming sign advertising and located on the same premises with a non-conforming use, may be maintained, repaired and replaced during the life of the non-conforming use, but shall not be altered.
- (b). Any other non-conforming sign may be maintained, however replacement of sign must conform with provisions of the most current Zoning Ordinance provisions.

(8). Prohibited Signs

The following signs shall be prohibited within all zoning districts of the Town.

- (a). Beacon or flashing signs. Signs which feature flashing or rotating lights, strobes strands of lights, animation, scrolling or moving parts.
- (b). Electronic Reader Boards.
- (c). Hazardous signs. Signs that interfere with pedestrian or vehicular traffic, distract or confuse motorists, are in the state of disrepair, or are otherwise potentially hazardous to the public.
- (d). Inflatable signs. Any sign of flexible material that maintains its shape by means of inflation.
- (e). Offsite signs. Signs or billboards advertising or identifying businesses not located on the same parcel or lot as the sign.
- (f). Signs on vehicles/trailers. No sign affixed to a transportation vehicle either independently propelled or towable which is parked on a location for the purpose of advertising shall be allowed except where allowed by other sections of this ordinance.

- (g) No sign shall extend above the roof line of the building to which it is attached. Roof signs are not allowed.

(9). Temporary Signs.

- (a). Temporary signs shall not require a permit.
- (b). Temporary signs shall be securely anchored at a stationary location, shall be non-motorized and non-moving, and shall not be lit or illuminated in any way.
- (c). Temporary signs shall not be displayed for more than 30 consecutive days.
- (d). One (1) temporary A Frame sandwich board sign, maximum 4' in height and 2' in width is permitted per commercial business and does not require a temporary sign permit. The sign must be placed on the parcel on which the business is located. The sandwich board shall be removed when the business is not in operation, or when weather conditions, such as wind, create potentially hazardous situations.
- (e). Any Auburn civic organization, non-profit group, religious, educational or other similar entity, may place a temporary sign, a maximum of 24 square feet in area, which advertises an event for that meeting or group.
- (f). One unlighted temporary sign (no larger than 32 sq. ft. in size) advertising "Coming Soon", "Grand Re-Opening" or similar event may be displayed while a business is under construction and until its opening. The "Coming Soon", "Grand Re-Opening" or similar sign must meet the setback requirements of the zoning district in which it is located.
- (g). Per state law, no temporary sign may be placed on State-owned property or within the State right-of-way, as referenced by NH RSA 236:69-89, and enforcement shall be through the NH Department of Transportation.

<b>Zoning District</b>	<b>I</b>	<b>C-1</b>	<b>C-2</b>	<b>V</b>	<b>R-1</b>	<b>R-2</b>	<b>R</b>
<b>Minimum Setback (ft.)</b>							
front lot line	*	*	*	*	10'	10'	10'
side lot line	*	*	*	*	20'	20'	20'
<b>Maximum Height (ft.)</b>							
From Grade (Artificial grading of landscape is not allowed for the purpose of enhancing the sign's height)							
Total Achieved Height							
Free Standing Sign	*	*	*	*	15'	15'	15'
<b>Maximum Sign Area (sq. ft.)</b>							
Free standing sign (structure)	*	*	*	*	NP	NP	NP
Free standing sign (complex)	*	*	*	*	NP	NP	NP
Wall sign	*	*	*	*	NP	NP	NP
home occupation	*	*	*	*	4	4	4
<b>Changeable Copy (sq. ft.)</b>	*	*	*	*	NP	NP	NP
<b>Legend</b>							
<b>NP = Not Permitted</b>							
<b>* = To Be Determined</b>							
<b>    By Site Plan Review</b>							

### 3.11 Temporary and Permanent Storage Facilities

The use of any structure, (including but not limited to cartons, tents, tractor trailers, mobile trailers, portable storage units and freight containers), for permanent storage shall require a building permit and shall meet all zoning district setback requirements. For purposes of this Article, “permanent” usage is defined as more than 180 days.

The use of portable structure, (including but not limited to cartons, tents, tractor trailers, mobile trailers, portable storage units or freight containers), for less than 180 days will be considered temporary, it need not meet zoning district setback requirements, and no building permit will be required, unless the storage structure is permanently affixed to the ground.

Temporary storage in a portable structure which does not meet zoning district setback requirements may be permitted by the Building Inspector for construction purposes, but only for such time as the property is under active construction.

### 3.12 Underground Storage Regulation

- (1). Purpose: The purpose of these rules is threefold:
  - (a). To regulate facilities which may significantly and adversely affect the ground waters of the Town of Auburn;
  - (b). To set forth the regulatory requirements which apply to certain underground storage facilities in the Town of Auburn; and
  - (c). To minimize contamination of the waters of the Town due to the storage and handling of hazardous substances, motor fuels, heating oils and lubricating oils.
- (2). Applicability: These rules apply to all new, modified or replacement residential and non-residential underground storage facilities where the capacity of any one tank or cumulative volume of all tanks is one hundred (100) gallons or greater.
- (3). Minimum Standards for New Underground Storage Facilities: These minimum standards are supplemental to the regulatory requirements of the New Hampshire Department of Environmental Services [N.H.D.E.S.]. Any new, modified or replacement residential and/or non-residential underground storage facilities shall also comply with the N.H. D.E.S. regulations.

Prior to commencing construction or installation, substantial modification, or replacement of existing facilities, an owner shall submit three (3) copies of plans and specifications to the Planning Board, at a duly notified public hearing, and obtain approval of said plans. One copy shall go to the Auburn Volunteer Fire Department, one copy to the Auburn Building Inspector and one copy to the Auburn Planning Board. All facilities shall be designed by an engineer licensed to practice in the State of New Hampshire. All new underground storage facilities shall be designed and constructed to provide the maximum practicable protection against failure, and shall, at a minimum, conform to the following standards:

- (a). Tanks shall be constructed of fiberglass-reinforced plastics or stainless steel;
  - (b). A leak detection system shall be installed;
  - (c). Secondary containment shall be installed; and
  - (d). Pipe fittings shall be made of non-corrosive materials.
- Leak monitoring shall be accomplished by an in-tank monitoring system consisting of in-tank equipment which provides continuous monitoring of any leakage from the tank two-tenths (0.2) of a gallon per hour or larger, or an approved equal. All piping shall be equipped with a UL approved line leak detector on the discharge side of the pump.

Secondary containment shall consist of a concrete vault, water tight and impervious to leakage. The vault shall be a continuous structure with a chemical resistant water stop at any joint. Only top entry manholes are allowed. The vault shall be designed to withstand all expected internal and external forces. At least one port shall be provided for pumping leakage.

### 3.13 Multi-Family Dwellings

#### (1). New Construction and Conversions of Existing Buildings to Multi-Family Dwelling Units

All new construction of multi-family dwellings and conversions of existing buildings, except for conversion apartments, shall be subject to Town of Auburn Site Plan Review Regulations and the following requirements:

- (a). multi-unit dwellings shall have minimum lot sizes no less than the acreage requirement per dwelling unit for the zoning district in which the dwelling is to be located. (March 2018)
- (b). For each unit of a multi-family dwelling, the floor area per unit shall not exceed five (5%) percent of the minimum lot size, nor be less than eight hundred (800) square feet.
- (c). Each multi-family dwelling shall have a sufficient communal water system and communal sewage system approved by the New Hampshire Department of Environmental Services and the Auburn Building Inspector pursuant to Section 3.06 of this Ordinance.
- (d). No multi-family dwelling shall be closer than eighty (80) feet to another building, except an accessory building.
- (e). A timetable for completion of the development shall be established, and provision made to indemnify the occupants of the development or the Town, should the development not be completed to the satisfaction of the Planning Board.

- (f.) Unless identified on the site plan as land available for future development, all areas designated on the site plan as open space shall be permanently maintained as such and shall be guaranteed as such by a restrictive covenant describing the established open space area.
- (g.) The following uses shall be permitted in designated open space areas:
  - (i). Outdoor recreation such as golf, swimming, tennis, skating, hiking and riding trails, and all other forms of predominantly outdoor recreation, except shooting ranges;
  - (ii). Accessory buildings and other structures incidental to outdoor recreation, as set forth above, where said accessory structures are necessary to the pursuit of a permitted recreational use on the premises;
  - (iii). Where an open area is designated on the Site Plan as a "natural area" or "conservation area," no recreation other than passive uses such as fishing, swimming, hiking and canoeing shall be permitted if it will alter any of the natural features. No land improvements, accessory buildings or other structures shall be permitted in a natural or conservation area.

(2). Conversion Apartments:

- (a). The minimum lot size for a conversion apartment shall be at least two (2) acres, but shall be larger, if necessary, to adequately support expanded use of water, sewage, parking and other related demands, as determined by the Planning Board after a preliminary determination by the Building Inspector.
- (b). Existing structures being converted may not be expanded more than the lesser of either twenty-five (25%) percent beyond existing floor area or two hundred (200) square feet. The proposed expansion beyond said guidelines shall result in the project being treated as one for a multi-unit dwelling, and subject it to the requirements of Section 13.02 (1) of this Ordinance.
- (c). Sewage disposal systems shall be expanded, if necessary, to meet the requirements of any additional use of the system, as determined by the Planning Board after a preliminary determination by the Building Inspector.

3.14 Manufactured Housing

Manufactured Housing shall be permitted in the R (Rural), R-1 (Residential-One) and R-2 (Residential-Two) Districts. The Manufactured Housing shall be sited on the lot such that it conforms to all zoning requirements for a single-family dwelling. Additionally, it shall be positioned to obtain the most benefit from natural screening. Only permanent installation where the travel wheels have been removed shall be allowed. Permanent foundations shall be provided in the same manner as for a dwelling. All Manufactured Housing shall comply with and be sited in accordance with N.H. R.S.A. 205-D, Manufactured Housing Installation Standards, Article Six of this Ordinance, (Flood Plain Development Regulations), and the National Plumbing Code. In the event of a conflict in the above statutes or codes, the more stringent provision(s) shall apply.

### 3.15 Travel Trailer Park/Travel Trailer

- (1). Travel trailers shall not be used for permanent living or housekeeping purposes.
- (2). Travel trailer parks may be allowed by Special Exception, provided that travel trailers shall be used only for vacation and recreational purposes. All travel trailer parks shall require site plan approval by the Planning Board and shall have a density of no more than eight (8) units per acre, excluding wetlands, lakes, brooks, streams, slopes in excess of twenty (20%) percent and other unusable areas. Opening and closing dates shall be determined at the time of site plan review.
- (3). An individual travel trailer may be stored on land owned by the owner of such travel trailer, provided that it shall not be used for living or housekeeping purposes and its condition, appearance and the place where it is stored shall not be detrimental to the neighborhood or other property in the vicinity.

### 3.16 Animal Husbandry

Animal husbandry shall be conducted in accordance with the restrictions and regulations of the Town of Auburn and State Health and Sanitary Codes and the Best Management Practices for animal husbandry as published by the State of New Hampshire Department of Agriculture, Food and Markets, most recent edition. For further protection of the health and general welfare of the community, and of water supplies, the following shall apply.

- (1). Waste manure shall be stored or stockpiled at a minimum of seventy-five (75) feet from wetlands, water bodies, and/or drainage swales, and a minimum of one hundred fifty (150) feet from abutting houses, and in such a way as to prevent runoff from reaching such areas.
- (2). A minimum of one (1) contiguous dry acre of land, available to the livestock, shall be required for any animal husbandry. No livestock shall be housed or grazed in a wet area.

### 3.17 Forestry: Reserved for future use (**Deleted by town vote March 2012**)

### 3.18 Excavation and Soil Removal

Excavation and soil removal is permissible as a commercial and industrial activity provided that a permit is issued pursuant to the Town of Auburn Excavation Regulations and that site plan approval is secured from the Planning Board. No permit or site plan approval shall be issued without independent studies confirming that the activity will have no negative impact on the surrounding area, which may be evidenced by, but not limited to: diminution in surrounding property values; unreasonable change in the character of the neighborhood; unreasonable acceleration in the deterioration of highways; creation of health or safety hazards; negative impact on water supplies, (including aquifers and aquifer recharge areas); and/or negative impact on wetlands or other natural environmental conditions. In addition, no permit or site plan approval shall be issued where the activity would create a general nuisance.

### 3.19 The Use and Disposal of Sewage Sludge and Septage

#### (1). Purpose and Intent

The purpose of this Ordinance is to promote the public health and safety of the citizens of the Town by imposing additional requirements for the land application and surface disposal of sewage sludge, as well as requirements which are more stringent than the requirements set forth in 40 United States Code of Federal Regulations 503.1, et seq. See 40 C.F.R. 503.5(b). If at any time the Federal Government, State of New Hampshire, or the County of Rockingham adopts a more stringent requirement than the corresponding requirement of this Ordinance, the more stringent requirement shall control. The words and terms of this Ordinance shall be defined as set forth in the 1994 edition of 40 C.F.R. 503.1, et seq.

#### (2). Residential, Commercial and Industrial Districts

The use and disposal of sewage sludge, including, but not limited to, the stockpiling, treatment, and land application of sewage sludge is hereby prohibited in the Residential, Commercial and Industrial Districts of the Town of Auburn. The stockpiling and treatment of septage for land application, and land application of the same, are hereby prohibited in the Residential, Commercial and Industrial Districts of the Town of Auburn.

#### (3). Rural District

The land application of Class A Sewage Sludge is permissible in the Rural District provided that any person who stockpiles, hauls, treats, or land applies Class A Sewage Sludge must meet the requirements which are set forth in this Ordinance, as well as any and all State and Federal standards or requirements, including the applicable requirements of 40 C.F.R. 503.1 et seq.

No other class of sewage sludge, including Class B, C, or any lesser class, shall be stockpiled, treated, or applied in the Rural District. Class A Sewage sludge suitable for land application shall be limited to sewage sludge from municipal secondary or advanced wastewater treatment facilities. Under no circumstances will sewage sludge generated from incineration, grit, screenings or industrial facilities be deemed suitable for land application. Under no circumstances will sewage sludge containing hazardous waste be deemed suitable for land application in the Town of Auburn. The stockpiling and treatment of septage for land application, and land application of the same, are prohibited in the Rural District.

In order to safeguard against adverse water quality and public health effects, all sludge transported into, stockpiled within, or land applied in a Rural District must meet both the Class A pathogen requirements of 40 C.F.R. 503.32 (a) and the vector control requirements of 40 C.F.R. 503.33 (a) (1), before it is transported into the Town of Auburn.

(4). Reporting Requirements

In addition to complying with all record keeping and reporting requirements imposed by the State of New Hampshire and the United States Government, any person planning to transport to, stockpile on, treat, or land apply sewage sludge in the Rural District shall submit all of the following information to the Planning Board for Site Plan Review and approval, at least ninety (90) days in advance of taking receipt of the sewage sludge:

- (a). A site map that illustrates the following with respect to any area in which sludge is to be stockpiled, treated or applied to land:
  - (i). The location of the stockpiling area(s);
  - (ii). The location and limits of the land application area(s);
  - (iii). All wetlands' areas, streams and open bodies of water within two hundred and fifty (250) feet of the stockpiling, treatment and land application area(s);
  - (iv). All adjacent wells, including the wells of all abutters;
  - (v). All previous adjacent stockpiling, treatment, and land application sites;
  - (vi). All haul roads; and
  - (vii). All property boundaries.
  
- (b). A written report containing:
  - (i). The name, address, telephone number, and the National Pollutant Discharge Elimination System permit number of the sludge generating facility;
  - (ii). The name address, telephone number, and the National Pollutant Discharge Elimination System permit number of any and all sewage sludge treatment facilities, if different from the generating facility;
  - (iii). The name, address, and telephone number of the sewage sludge hauler;
  - (iv). Laboratory reports of all test results;
  - (v). The planned delivery date, or delivery dates;
  - (vi). The planned stockpiling time period and location;
  - (vii). A description of any planned treatment;
  - (viii). A narrative description of the treatment method used to meet Class A Sewage Sludge requirements;
  - (ix). The total surface area of the planned application(s);
  - (x). The total sludge volume to be applied;
  - (xi). Previous land application data, including the cumulative site loading to date, and the site loading from the previous two (2) years;
  - (xii). The number of land applications that can be performed without exceeding the cumulative pollutant loading rate set forth in Table Two (2) of 40 C.F.R. 503.13;
  - (xiii). The name, address and telephone number of the person planning to stockpile, treat, or land apply the Sewage Sludge; and
  - (xiv). If the applicant does not own the land, evidence in writing that the owner of land in the Rural District consents to the stockpiling, treatment, and/or application of Sewage Sludge to the land by the applicant.

No applicant shall take delivery of any Sewage Sludge until such time as the Planning Board, or its duly authorized representative, has provided the applicant with approval in writing. Such approval shall not be automatically given by the Board, but rather shall only be given once the Board has been fully satisfied that the applicant has met the reporting requirements of this Section, and has demonstrated to the Board that the proposed application will not present a general nuisance, health, or public safety risk to the applicant, the abutters of the applicant and any parcels which will be subject to land application.

(5). Stockpiling, Treatment and Land Application

- (a). The stockpiling of all Class A Sewage Sludge shall be done in conformance of all State of New Hampshire and United States government requirements, including the requirements of 40 C.F.R. 503.1, et seq. In addition, Class A Sewage Sludge may only be stockpiled on site if it is properly contained and covered to prevent airborne dispersal of sludge from the pile, storm water transport of the sludge and infiltration of leachate from the Sewage Sludge into the ground water. Sewage sludge shall not be stockpiled for more than ninety (90) days from the first date of receipt.
- (b). Any and all Sewage Sludge must arrive on site in a Class A condition. No treatment will be permitted on the site, except for that treatment which has been pre-approved by the Planning Board or its duly authorized representative.
- (c). The land application of all Sewage Sludge shall be done in accordance with the general requirements and management practices set forth in 40 C.F.R. 503.12 and 503.14, respectively. In addition to meeting State and Federal Vector Attraction Reduction Requirements (VARRS), including those set forth in 40 C.F.R. 503.33, (including at least one of the VARRS in Section 503.33 (b) (1) through 503.33(b) (8)), which must have been conducted at the generation site), all Sewage Sludge applied to the land must be incorporated into the soil within eight hours of the application, unless a specific exemption has been granted by the Planning Board.

(6). Additional Testing Requirements

In addition to all testing required by the State of New Hampshire and 40 C.F.R. 503.1, et seq. (including the total recoverable analysis of the metals listed in Table 3, Section 503.13), testing shall also be conducted for pH, total volatile solids, total nitrogen, total phosphorus, and fecal coliform bacteria. These test results shall be submitted to the Planning Board as part of the Site Plan review and approval process before the applicant takes delivery of any Sewage Sludge in the Town of Auburn. These tests shall be conducted for each and every generation site. During the time period from delivery through the completion of land application these tests shall be repeated on a bi-monthly basis.

A scan shall be conducted for the one hundred and twenty-five (125) priority pollutants, (as designated by the Federal Environmental Protection Agency, see 40 C.F.R. 122, Appendix D, Tables II and III), and the results shall be furnished to the Planning Board as a precondition to Site Plan approval. The priority pollutant scan shall have been

performed within three (3) months prior to the date the results are submitted to the Planning Board. For those land application projects of three months or longer in duration, (with the project start date being measured from the date the application is accepted by the Planning Board), the Board shall be provided with an updated scan for the one hundred and twenty-five (125) priority pollutants no less than every three (3) months.

The results of all testing shall be promptly submitted to the Planning Board or its duly authorized representative for its ongoing review. The Planning Board shall have the discretion to order further testing as a condition of its approval. The costs of all testing shall be borne by the applicant.

(7). Watershed and Wetlands Protection

Consistent with the sanitary protection provisions of this ordinance, no sewage sludge shall be placed within one hundred and twenty-five (125) feet of streams, tributaries, ponds, lakes, seeps or wetland areas. Wetland areas shall be determined by a licensed professional wetland scientist and shall include, but not be limited to, areas designated as having Hydric A soil characteristics.

3.20 Wireless Communication Facilities, Antennas and Communications Towers

- (1). An antenna(s) or tower may be allowed in the Industrial District by special exception and shall be prohibited in all other zones. In determining whether or not to grant the application for special exception, the Zoning Board shall also consider: whether the proposed antenna(s) will detract from the rural character of the Town; whether the proposed antenna or related structures will significantly diminish the quality of any view within the Town; and whether the proposed antenna presents any safety risks to the Town, or to existing or proposed airports. In addition, any such tower or antenna permitted by special exception shall comply with all state and federal regulatory requirements, as well as require site plan approval by the Planning Board.
- (2). Any antenna, tower or other structure governed by this section that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety. The owner shall remove the abandoned structure within ninety (90) days of receipt of a notice of declaration of abandonment from the Town. A declaration of abandonment notice shall only be issued following a public hearing, noticed per town regulations, with notice to abutters and the last known owner and/or operator of the structure. If the abandoned structure is not removed within ninety (90) days, the Town may execute the security for the structure and have it removed.

3.21 Merger of a Nonconforming Lot(s)

- (1). Lots merged for zoning purposes may not be subdivided without the approval of the Planning Board in accordance with the Subdivision Regulations. This provision applies to all lots which have been voluntarily merged. This provision also applies to all lots deemed merged, on or before September 17, 2010, by the provisions of prior versions of the Auburn Zoning Ordinance.

- (2). Any owner of (2) two or more contiguous preexisting approved or subdivided lots or parcels, who wishes to merge them for municipal regulation and taxation purposes, may do so by applying to the Planning Board. Except where such merger would create a violation of this Ordinance, the Town of Auburn Subdivision Regulations, or the Town of Auburn Site Plan Regulations, all such requests shall be approved, and no public hearing or notice shall be required. No new survey plat need be recorded, but a notice of the merger, sufficient to identify the relevant parcels, and endorsed in writing by the Planning Board, shall be filed in the Registry of Deeds, and a copy mailed to the Office of the Selectmen. No such merged parcel shall thereafter be separately transferred without subdivision approval.

### 3.22 Home Businesses, Occupational Office and Shops

- (1). Permissible home businesses, occupational offices, and shops are as defined in Article 2.02(37) – (39). Any home business, office or shop shall be conducted within a principal living unit and/or accessory structure, any outdoor storage of materials and/or equipment shall be screened from the road and surrounding properties by natural or structural means, and shall not be a source of undue nuisance to neighbors by reason of noise, dust, glare, traffic, vibration or other disruptive influences. All parking must take place on site (on street parking is prohibited). **(changes made by vote on March 12, 2024)**

## ARTICLE 4 - DISTRICT REGULATIONS

### 4.01 Application of Regulations

Subsequent to passage of this Ordinance, and any applicable amendments, buildings or land shall hereafter be used, constructed, altered, or enlarged only in conformity with the regulations specified herein for the zoning district in which the building or land is located. A permit for the construction, alteration, enlargement, moving, demolition or use of a building or structure shall not be issued by the Building Inspector, unless the requested action complies with the provisions of this Section, or the applicant has been granted a variance or special exception by the Zoning Board of Adjustment.

### 4.02 Districts

For the purpose of this Ordinance, the Town of Auburn is divided into seven (7) districts as follows:

<u>Full Name</u>	<u>Short Name</u>
Rural	R
Residential-One	R-1
Residential-Two	R-2
Commercial-One	C-1
Commercial-Two	C-2
Village Center	V
Industrial	I

### 4.03 District Boundaries and Zoning Maps

The location and boundaries of the Auburn zoning districts are shown on "The Zoning Map of the Town of Auburn, New Hampshire," dated December 8, 2006, and signed and certified by the Town Clerk, which is part of this Ordinance. Where any uncertainty exists with respect to the boundary of any District as shown on the zoning map, the following rules shall apply:

- (1). Where a boundary is indicated as a highway, street, railroad, watercourse or Town boundary, it shall be construed to be the centerline thereof, or such Town boundary.
- (2). Where a boundary is indicated as approximately parallel to a highway, street, railroad, watercourse or Town boundary, it shall be construed to be parallel to the centerline thereof or such Town boundary.
- (3). Where a boundary coincides within ten (10) feet or less with a lot line, the boundary shall be construed to be the lot line.
- (4). If no natural boundary is given, the location of any boundary shall be determined by use of coordinates identified by permanent bounds.
- (5). If a boundary runs through any lot and such lot is of sufficient size to permit conforming lots in each district, the lot may be subdivided so as to create lots in each district, subject to the approval of the Auburn Planning Board, in accordance with the Auburn Subdivision Regulations. If no subdivision is sought or obtained, the entire lot shall be deemed to be in the more restrictive district.

- (6). If the land in question cannot be divided to permit conforming lots in the two or more adjoining districts, the entire lot shall be deemed to be in the more restricted district, provided that a minimum of twenty (20%) percent of the lot area falls within the more restrictive district. If less than twenty (20%) percent of the total lot area falls within the more restrictive district, the entire lot shall be considered to fall within the less restrictive area. For purposes of this section, the order of most restricted to least restricted is as follows: R, R-1, R-2, V, C-2, C-1, I.

#### 4.04 District Regulations – General

- (1). Unless already specified as an accessory use in its definition, any permitted use or use allowed by special exception in the district regulations of this Ordinance shall be only for use as a principal use. It may, however, be allowed by special exception as an accessory use to any principal use which is permitted or allowed by special exception in that district, unless such combination of uses is otherwise prohibited by this Ordinance.
- (2). Any and all uses allowed herein shall also be subject to all other applicable ordinances and regulations of the Town of Auburn including, but not limited to, Article 6, Flood Plain Development Regulations, and to the statutes and regulations of the State of New Hampshire.
- (3). All non-residential, commercial and industrial uses, all clustered residential developments and all multi-unit dwellings consisting of more than two dwelling units, regardless of the district in which they are built, shall be subject to Site Plan Review by the Auburn Planning Board prior to the issuance of a building permit.
- (4). The minimum lot sizes, yard and frontage dimensions and maximum heights specified in the district regulations for any particular use are subject to any more restrictive provisions required elsewhere in this Ordinance. No structure or dwelling shall be constructed within the yard setbacks except for lawful fences, retaining walls, sheds 120 sq. ft or less, above ground swimming pools, aprons surrounding in ground pools and Patios. Sheds, gazebos and greenhouses up to Two Hundred (200) Square Feet in area must maintain a minimum building setback of fifteen (15) feet from side and/or rear property lines. Maximum building/lot coverage and front setback requirements under appropriate district regulation(s) must still be enforced. Within a Cluster Subdivision, all structures larger than one hundred twenty (120) square feet in area, except lawful structures as listed above, shall maintain no less than sixty (60) feet from structures on abutting lots. (03/2018)

#### 4.05 "R" Rural District

- (1). Objectives and Characteristics

The Rural District (“R”) is designed to permit uses that are compatible with and protective of certain areas that have been and are being used for agricultural and forestry uses, water quality preservation, residential use and public use. This district encompasses those remote areas where intensive development would be premature, given the high public service costs associated with development there.

(2). Permitted Uses

- (a). Agriculture,
- (b). Farm Roadside Stand
- (c). Home Shop
- (d). Home Occupational Office
- (e). Home Business
- (f). Public Educational Facility
- (g). Church
- (h). Public Recreation Facility
- (i). Day Care Center-1 to 6 persons
- (j). Day Care Center-over 6 persons
- (k). Nursery School
- (l). Single Family Detached Dwelling
- (m). Utility Substation
- (n). Water Supply Works
- (o). Manufactured Housing/Mobile Home
- (p). Municipal Buildings
- (q). Elderly Housing

(3). Uses Permitted by Special Exception

- (a). Private Education Facility
- (b). Outdoor Commercial Recreation Facility
- (c). Indoor Commercial Recreation Facility
- (d). Hospitals
- (e). Conversion Apartments
- (f). Travel Trailer Park/Campground
- (g). Cultural Facilities
- (h). Accessory Dwelling Unit
- (i). Agritourism

(4). Lot Size, Frontage, Yards and Height

Minimum Lot Size:	3 acres
Minimum Frontage:	300 feet
Minimum Yard Dimensions:	
Front:	50 feet
Side:	50 feet
Rear:	50 feet
Maximum Height:	
Feet:	35 feet
Stories:	3 stories
Maximum Building Area:	5 %

(5). Clustered Residential or Elderly Housing Development

The following uses shall only be permitted by special exception when located within a clustered residential, elderly or workforce housing development: home shop; home business; day care center - over six children; nursery school; and farm roadside stand.

#### 4.06 "R-1", Residential-One District and "R-2", Residential-Two District

##### (1). Objectives and Characteristics

Residential districts are designed for the protection of areas that have been and are being developed predominantly for residential dwellings and where road systems can accommodate high traffic volumes. The R-1 District is intended to be primarily residential in character with very limited accessory uses. The R-2 District is a somewhat more rural area with a greater variety of residential and accessory uses permitted. The two districts have the same density and dimensional requirements, but different uses.

##### (2). Permitted Uses in the R-1 District

- a. Utility Substation
- b. Single Family Detached Dwelling
- c. Public Educational Facility
- d. Church
- e. Public Recreational Facility
- f. Day Care Center-1 to 6 persons
- g. Home Occupational Office
- h. Agriculture
- i. Water Supply Works
- j. Manufactured Housing/Mobile Home
- k. Municipal Buildings
- l. Workforce Housing

##### (3). Uses Permitted by Special Exception in the R-1 District

- a. Conversion Apartments
- b. Home Shop
- c. Home Business
- d. Day Care Center-over 6 persons
- e. Nursery School
- f. Agritourism
- g. Farm Roadside Stand
- h. Cultural Facilities
- i. Private Education Facilities
- j. Veterinary Clinic
- k. Elderly Housing
- l. Dwelling Unit – Duplex
- m. Accessory Dwelling Unit

##### (4). Permitted Uses in the R-2 District

- a. Single Family Detached Dwelling
- b. Manufactured Housing/Mobile Home
- c. Home Shop
- d. Home Occupational Office
- e. Home Business
- f. Agriculture
- g. Commercial Agriculture-Forestry only
- h. Farm Roadside Stand

- i. Public Educational Facility
- j. Church
- k. Public Recreation Facility
- l. Day Care Center-1 to 6 persons
- m. Day Care Center-over 6 persons
- n. Nursery School
- o. Utility Substation
- p. Water Supply Works
- q. Municipal buildings
- r. Elderly Housing

(5). Uses Permitted by Special Exception in the R-2 District

- a. Agritourism
- b. Conversion Apartment
- c. Travel Trailer Park
- d. Cultural Facilities
- e. Private Education Facility
- f. Veterinary Clinic
- g. Workforce Housing
- h. Dwelling Unit – Duplex
- i. Accessory Dwelling Unit

(6). Lot Size, Frontage, Yards and Height

Minimum Lot Size:	2 acres
Minimum Frontage:	200 feet
Minimum Yard Dimensions:	
Front:	50 feet
Side:	30 feet
Rear:	50 feet
Maximum Height	
Feet:	35 feet
Stories:	3 stories
Maximum Building Area:	5%

4.07 "C-1", Commercial-One District and "C-2", Commercial-Two District

(1). Objectives and Characteristics

The Commercial Districts are designed for the purpose of centralizing the provision of basic goods and services. The Commercial One (C-1) District is intended to allow for regional commercial needs. The Commercial Two (C-2) District is intended to allow for local commercial needs of a low intensity, in keeping with the Village character. The two districts have the same density and dimensional requirements, but different uses. Lot coverage by impervious material in both commercial districts shall be a maximum of forty (40%) percent.

(2). Uses Permitted in the C-1 District

- a. Motels/Hotels
- b. Sales Establishment
- c. Restaurant
- d. Fast Food Restaurant
- e. Commercial Service Establishment
- f. Office Establishment-less than 3,000 square feet of floor area
- g. Multi-Unit Commercial Establishment
- h. Office Establishment-over 3,000 square feet of floor area
- i. Automobile Service Station
- j. Automobile Repair Garage
- k. Automobile or Similar Vehicle Sales Facility
- l. Warehouse Establishment
- m. Utility Substation
- n. Water Supply Works
- o. Outdoor Commercial Recreation Facility
- p. Indoor Commercial Recreation Facility
- q. Farm Roadside Stand
- r. Municipal Buildings
- s. Cultural Facilities
- t. Private Education Facility
- u. Veterinary Clinic

(3). Uses Permitted by Special Exception in the C-1 District

- a. Agritourism
- b. Day Care Center-1 to 6 persons
- c. Day Care Center-over 6 persons
- d. Nursery School
- e. Social Facility
- f. Light Industrial Establishment
- g. Heliport
- h. Sexually Oriented Business (See added requirements of Section 4.07 (7) below.)

(4). Uses Permitted in the C-2 District

- a. Home Shop
- b. Home Occupational Office
- c. Home Business
- d. Sales Establishment
- e. Restaurant
- f. Commercial Service Establishment
- g. Office Establishment-less than 3,000 feet of floor area
- h. Automobile Service Station
- i. Utility Substation
- j. Water Supply Works
- k. Public Education Facility
- l. Day Care Center-over 6 persons
- m. Nursery School
- n. Indoor Commercial Recreation Facility
- o. Hospitals
- p. Agritourism

- q. Farm Roadside Stand
- r. Municipal Buildings
- s. Churches
- t. Public Recreation Facility
- u. Cultural Facilities
- v. Private Education Facility
- w. Veterinary Clinic
- x. Elderly Housing

(5). Uses Permitted by Special Exception in the C-2 District

- a. Fast Food Restaurant
- b. Multi-Unit Commercial Establishment
- c. Automobile Repair Garage
- d. Automobile or Similar Vehicle Sales Facility
- e. Day Care Center-1 to 6 persons
- f. Outdoor Commercial Recreation Facility
- g. Social Facility
- h. Agriculture
- i. Dwelling Unit - Multi-Family
- j. Dwelling Unit - Duplex
- k. Boarding House
- l. Conversion Apartments
- m. Mixed Residential /Commercial Use
- n. Workforce Housing

(6). Lot Size, Frontage, Yards and Height

Minimum Lot Size:	2 acres
Minimum Frontage:	200 feet
Minimum Yard Dimensions	
*** (also see below)	
Front:	50 feet
Side:	30 feet
Rear:	50 feet
Maximum Height:	
Feet:	35 feet
Stories:	3 stories
Maximum Lot Coverage:	40%

\*\*\*Where a commercially zoned lot abuts an R, R-1 or R-2 zone, the minimum side yard requirements shall be increased to 50 feet, and all yards shall be measured from any building, parking space or service area.

(7). Sexually Oriented Businesses

In addition to meeting the criteria set forth in this Ordinance for a special exception, the following conditions shall also be met by an applicant proposing a sexually-oriented business as part of an application for a special exception in the C-1 zone, and if not met, the use(s) shall be deemed to be a prohibited use:

- (a). No sexually oriented business shall be located within one thousand (1000) feet of the property line of a church, cemetery, private educational facility, public or private school, senior center, day care center, hospital, municipal facility, public park, playground, public recreational facility, or dwelling unit;
- (b). No sexually oriented business shall be located within two hundred fifty (250) feet of the right-of-way of Route 101 (including on and off ramps) or Route 28 By-Pass;
- (c). No sexually oriented business shall be located in a multi-use commercial development;
- (d). No sexually oriented material shall be visible from the outside of the building; and
- (e). No private rooms or booths shall be constructed as part of the sexually oriented use.

(8). Addition or Expansion of Single-Family Detached Dwelling:

Notwithstanding the provisions of Section 3.05, an addition or expansion to a single family detached dwelling which was lawfully in existence as of March 10, 2009, shall be permitted within the C-2 District, subject to all area and dimensional requirements of Section 4.07(6).

4.08 “V” Village Center District

- (1). Objectives and Characteristics: The Village Center District is designed to promote and encourage the most efficient, cost effective and beneficial consolidation of land development which will: preserve open space; create more cost-efficient roads, utilities, and other public and private infrastructures; and improve the ability of the Town to provide more rapid and efficient delivery of public safety services. This District is also created to provide private property owners with a method for realizing the inherent value of their real property in a manner conducive to the creation of substantial benefit to the environment and to the Town’s property tax base. The Village Center District is also intended to promote a “town center” area which will provide for the harmonious and aesthetically pleasing development of the Town, and where, through the consolidation of municipal services, small-scale retail/commercial development, limited residential use, and mixed-use development, the Town’s rural charm and character is preserved.

- (2). Boundaries: The Village Center District is an overlay district with the following boundaries:

The land between Eaton Road and Raymond Road; the land on the Northwest corner of the intersection of Manchester Road and Raymond Road, and the land along Route 121 to Bunker Hill Road, (current underlying zone Commercial – Two (C-2).

- (3). Permitted Uses

- (a). Existing Uses: Subject to any existing requirement for site plan approval by the Planning Board, any use which is permitted in either underlying district, (Commercial - 2 or Residential - 2) is permitted, except that the following uses are not permitted:

- (i). Agritourism
- (ii). Manufactured Housing Park
- (iii). Mobile Home Park (single dwellings permitted)
- (iv). Travel Trailer Park

- (b). Additional Uses: Subject to any existing requirement for site plan approval by the Planning Board, the following uses are permitted in the Village Center District, even if they are not permitted in the existing underlying district:

- (i) Workforce Housing - by Special Exception only
- (ii) Dwelling Unit – Multi-Family – by Special Exception only
- (iii) Dwelling Unit – Duplex – by Special Exception only

- (4). Dimensional Requirements

- (a). Minimum Lot Size: 1 acre

- (b). Minimum Frontage: 100 feet

- (c). Minimum Yard Dimensions:

- (i) Front: 50 feet
- (ii) Side: 20 feet
- (iii) Rear: 20 feet

- (d). Maximum Height:
  - (i) Feet: 42
  - (ii) Stories: 3
  - (iii) Maximum Building Area: To be determined by lot coverage limitations in the underlying zone.

(5). Architectural Design Standards

- (a). General Purpose: In order to maintain a consistent and aesthetically pleasing appearance in the development of the Village Center District, commercial buildings and structures must comply with design standards guidelines which will be administered by the Planning Board in its exercise of site plan review. The purpose of the guidelines is to provide design standards which assist with the development, renovations and restorations of commercial properties to complement the overall traditional, rural New England-style appearance of the community. The guidelines are not intended to restrict innovation or variety in construction, restoration or renovation of commercial buildings and structures. Rather, the guidelines are intended to improve the aesthetic appeal of the Village Center District, to conserve and/or increase property values, and to encourage the type of development envisioned for the Village Center District.
- (b). Architectural Plans: No building permit or site plan approval shall be granted for a commercial or multi-family building unless the applicant submits an architectural plan drawn to scale that meets all of the requirements of the Planning Board. The Architectural Plan shall include, at a minimum, the following information:
  - (i) floor plan;
  - (ii) building elevation (all four sides);
  - (iii) type of windows and doors to be installed on building; and
  - (iv) type of building material to be used on the exterior of building;
  - (v) any other details, which the Planning Board may, in its discretion, request be included with the Architectural Plan.
- (c). Evaluation Factors: The Planning Board shall consider the following factors in its determination of whether a proposed site and building design is acceptable:
  - (i) Conformance to the general purpose of the architectural design guidelines;
  - (ii) Architectural character;
  - (iii) Building materials and subdued color considerations;

- (iv) Vehicular and pedestrian circulation and parking;
  - (v) Harmony and compatibility of project compared to existing site and neighborhood;
  - (vi) Lighting design;
  - (vii) Integration of landscape and buffer areas; and
  - (viii) Retention, alteration, or removal of existing structures and site features.
- (d) Specific Architectural Requirements: The Planning Board may, in its discretion, determine that one or more the following requirements should not apply to a particular project, or that one or more factors should be waived for a particular project. The Planning Board will at all times consider whether environmentally responsible building practices require that the Board change or waive any of the requirements.
- (i) The building's orientation, setback, alignment with the street, and spacing relative to other buildings will be considered in the overall design. Reuse of existing structures and landscape features is encouraged. An overall design which will create harmony with the area surrounding the project is the goal. To the extent feasible, a project should be designed to allow for ease of access between commercial uses located adjacent to or nearby the project.
  - (ii) Windows should comprise a minimum of five percent (5%) of the exterior wall surface of a building facing a public street, right-of-way, parking area or developed area. All windows and doorways should be encased with trim.
  - (iii) Site lighting must conform to the specifications in this Ordinance and the Town of Auburn Site Plan Regulations. No light should spill or reflect on to adjacent properties. In accordance with the sign regulations of this Ordinance, illuminated signs should be lit only when the premises is open for business.
  - (iv) Exterior colors of buildings and accessories are encouraged to be muted and to blend with surrounding buildings. Bright colors are generally discouraged.
  - (v) All rooftop mechanical equipment units should be located so that they are not visible from the street level or from other public areas at ground level. Wall or ground mounted equipment shall be screened from public view with fences or vegetation.
  - (vi) All existing man-made and natural features of the site should be integrated into the site to the extent feasible. Buildings should,

where feasible, be clustered to encourage the preservation of open space. Sidewalks and pedestrian pathways should be included where feasible.

- (vii) Variation in detail, form and siting of roof lines is encouraged. Long horizontal roof lines and warehouse style designs are discouraged. Buildings should have pitched or gabled roofs where practical. Shed, gambrel and barn style roofs are also acceptable. Roofs must have appropriate overhangs.
- (viii) All building facades will receive design consideration. A facade unrelated to the rest of the building or the architecture in the surrounding area will not be accepted.
- (ix) Exterior surfaces of materials should be covered with traditional materials or products which simulate natural materials, including but not limited to clapboards, shingles, stone, brick, architecturally treated concrete, vinyl siding or similar materials. Exposed plain cinder block, corrugated steel, sheet plastic or sheet fiberglass are not acceptable. Pitched roofs should be constructed of shingles, metal roofing, or other materials traditionally used in roofing in small towns of New England.
- (x) Illuminated or brightly colored awnings are not acceptable. Awnings should be made of transparent materials such as glass or clear Plexiglass type products. Awning covers designed for shade should be made of fabric or simulated fabric-type material.
- (xi) Fences should be used only where necessary. Fences should be constructed in traditional New England style and constructed of traditional materials, such as picket, split rail, wrought iron, brick or stone. Chain link fences are discouraged.

#### 4.09 "I" Industrial District

(1). Objectives and Characteristics

The Industrial District is designed for the purpose of providing a rationally planned location for industrial uses where vehicular access and future utility service can accommodate such use. Lot coverage by impervious material shall be a maximum of forty (40%) percent.

(2). Permitted Uses

- (a). Industrial Establishment
- (b). Lumber Treatment Establishment
- (c). Industrial Repair Garage
- (d). Utility Substation
- (e). Water Supply Works
- (f). Restaurant
- (g). Fast Food Restaurant
- (h). Office Establishment-over 3,000 square of floor area
- (i). Light Industrial Establishment
- (j). Automobile or Similar Vehicle Sales Facility
- (k). Warehouse Establishment
- (l). Municipal Buildings
- (n). Veterinary Clinic

(3). Uses Permitted by Special Exception

- a. Outdoor Commercial Recreation Facility
- b. Indoor Commercial Recreation Facility
- c. Sales Establishment
- d. Commercial Service Establishment
- e. Office Establishment – less than 3,000 square feet of floor area
- f. Junk Yard
- g. Excavation and Soil Removal\*
- h. Heliport
- i. Private Airstrip
- j. Antenna and Communication Towers
- k. Employee Amenities, including but not limited to: fitness center; dry cleaner; personal services or bank machine, when established as part of a permitted use under Section 4.09(2).

\*Excavation and/or soil removal requires a permit from the Planning Board and must be done in accordance with the Auburn Excavation Regulations.

(4). Lot Size, Frontage, Yards and Height

Minimum Lot Size:	*3 acres
Minimum Frontage:	300 feet
Minimum Yard Dimensions:	** (also see below)
Front:	50 feet
Side: (To be determined by Site Plan Review)	
Rear: (To be determined by Site Plan Review)	
Maximum Height:	*** (also see below)
Feet:	42 feet
Stories:	3 stories

\* If the lot is serviced by municipal water and/or sewer service, the Planning Board may, in its discretion, and upon request, grant a reduction in the lot size requirement.

\*\* Where an industrially zoned lot abuts an R, R-1 or R-2 zone, the minimum yard requirements shall be increased to 50 feet and all yards shall be measured from any building, parking space or service area.

\*\*\* Height restrictions shall not apply to necessary appurtenant structures such as spires, belfries, cupolas, domes, smokestacks, flagpoles, antennae or similar structures.

(5). Permitted Accessory Uses:

In addition to those uses allowed as accessory uses in the Industrial District, a “private educational facility,” a “nursery school,” and a “day care center” may be allowed in the Industrial District if it is accessory to, and incidental to, another permitted business in the District, and it is limited to providing services to the children of employees or owners of the permitted business.

On-site employee housing may be allowed as an accessory use provided the housing is incidental to, and necessary for, the operation of a permitted business in the zone.

## **ARTICLE 5 - WETLANDS AND WATERSHED PROTECTION REGULATIONS**

### 5.01 Authority and Creation:

This Article creating a wetlands and watershed protection overlay district is enacted pursuant to the general authority granted by N.H. R.S.A. 674:16, and the specific authority granted by R.S.A. 674:21,(j), Innovative Land Use Controls, as environmental characteristics zoning.

### 5.02 Administration:

The Planning Board is charged with administering these regulations and with granting conditional use permits in accordance with Sections 5.09 and 5.10 of this Article.

### 5.03 Findings and Purposes:

#### (1) Findings:

Wetlands, vernal pools, ponds, lakes, and streams are significant natural resources of the Town because of their size or functional values, such as flood storage, wildlife habitat, and the enhancement of water quality and/or quantity. The preservation of these water resources promotes the general public health, safety, welfare and convenience in the Town of Auburn.

#### (2) Purposes:

It is intended that these water resource areas remain undisturbed to the extent practical. To further the goal of preserving these water resources, these regulations are intended to:

- (a) Maintain and enhance the quality and quantity of surface waters and groundwater by preserving the ability of wetlands and adjacent upland areas to filter pollution, trap sediment, retain and absorb chemicals and nutrients, and produce oxygen;
- (b) Prevent unnecessary expense, or minimize any necessary expense, to the Town and the public in providing and maintaining essential services and utilities, such as wastewater collection and treatment, drainage facilities, and public water supply, which may arise because of the inappropriate use of land within the wetlands and watershed areas;
- (c) Minimize impacts to existing land uses and lots;
- (d) Prevent the destruction of, or significant changes to, those wetland areas, related water bodies and adjoining land which provide flood protection, protect persons and property against the hazards of flood inundation by assuring the continuation of the natural flow patterns of streams and other watercourses, and provide for nutrient attenuation and augmentation of stream flow during dry periods;
- (e) Encourage those uses that can be appropriately and safely located within the wetlands and watershed areas; and
- (f) Protect native wildlife habitat and natural vegetation upon which a variety of upland and aquatic species are dependent for purposes of breeding or sustenance.

5.04 Delineation of Wetlands and Watershed Protection Area District and Boundaries:

(1) Wetlands and Watershed Protection Overlay District: This overlay district shall consist of all wetlands, as defined in Section 2.02(105) of this Ordinance, as well as the applicable buffer zone, as defined below:

(a) Wetlands and Watershed Protection Area – Level 1: Those areas which meet the definition of wetland as set forth in section 2.02(105) of this Ordinance, and a buffer zone of one hundred twenty-five (125) feet setback from the edge of:

(i) Wetlands indicated as Tiers 1, 2a, 2b, and 3 on the Wetlands Inventory Map prepared by West Environmental on file at the Auburn Town Clerk's Office and Planning Department; and

(ii) All other wetlands greater than five thousand (5,000) square feet in size that have been determined to have one or more of the following functions and/or values per ACOE-HM:

- (A) Groundwater recharge/discharge;
- (B) floodflow alteration;
- (C) sediment/toxicant retention;
- (D) nutrient removal/retention/transformation;
- (E) wildlife habitat;
- (F) uniqueness heritage;
- (G) endangered species; and

(iii) Bodies of water, brooks and streams; and

(iv) Vernal pools as established by a New Hampshire Certified Wetlands Scientist.

(b) Wetlands and Watershed Protection Area – Level 2: Those areas which meet the definition of wetland as set forth in section 2.02(105) of this Ordinance, and a buffer zone of seventy-five (75) feet setback from the edge of:

(i) All other wetlands not meeting the criteria of Section 5.04(1)(a)(i) above; and

(ii) All other wetlands greater than five thousand (5,000) square feet in size that do not meet the criteria set forth in Section 5.04(1)(a)(ii) above and that are not contiguous with surface waters as established by a New Hampshire Certified Wetlands Scientist.

(c) Wetlands and Watershed Protection Area – Level 3: Those areas which meet the definition of wetland as set forth in section 2.02(105) of this Ordinance, and a buffer zone of twenty-five (25) feet setback from the edge of:

(i) Isolated wetlands less than five thousand (5,000) square feet in size and determined not to be a vernal pool by a New Hampshire Certified Wetlands Scientist;

(ii) Drainage basins and/or treatment swales constructed under an approved project unless they contain a perennial stream; and

(iii) Private ponds constructed under an approved project.

(2) Method of Evaluation:

When a wetland is not defined on the Wetlands Inventory Map prepared by West Environmental, as referenced above in Section 5.04(i)(a)(i), the United States Army Corps of Engineers, Highway Methodology Workbook Supplemental (ACOE-HM), shall be used to evaluate and determine the wetland values and functions when evaluation of such is necessary.

(3) Application of Buffers:

Buffers are applied without regard to lot lines and municipal boundaries, except that when a wetland is bounded by a Town Class V or better roadway, or a State or federal highway existing at the time of adoption of this Ordinance, buffers are not applied to properties directly across the right of way.

(4) Boundary Location:

(a) If a boundary of the Wetlands and Watershed Protection Area (WWPA) is disputed by either the Planning Board or an applicant, the exact location of the boundary shall be determined by the Planning Board, in consultation with the Conservation Commission.

(b) The Planning Board, at the applicant's expense, may engage a wetland scientist and/or certified soil scientist to determine the precise location of the WWPA boundary, using the methodology consistent with N.H. Administrative Rules Wt 100-800, and in accordance with the "1987 Corps of Engineers Wetlands Delineation Manual," or the most current methodology accepted by the New Hampshire Wetlands Bureau. As an

alternative, the applicant may retain such a scientist, acceptable to the Planning Board and Conservation Commission, to make such determination. A report of the scientist's findings shall be submitted to the Planning Board and the Conservation Commission, and shall include, if warranted, a revised wetland map of the area in question, along with a written report of the results of the investigation, together with any data forms completed.

(5) Boundary Dispute:

If a landowner chooses to question the boundaries of a given wetland, the landowner shall submit documentation prepared by a certified wetlands scientist in accordance with Section 5.04(b). The Planning Board shall consider the documentation at a public hearing, and may require review of said documentation, at the applicant's expense, by an independent New Hampshire certified wetlands scientist.

(6) Minimum Lot Size and Density:

Except as otherwise provided in this Section, the creation of the Wetlands and Watershed Protection District is not intended to affect the minimum lot size requirements or density calculations required for the underlying zoning district, as such requirements are set forth in Article 4 of the Auburn Zoning Ordinance. However, the land area outside of the Wetlands and Watershed Protection Area must be sufficient to support all intended development in accordance with the terms of the Auburn Zoning Ordinance.

5.05 Permitted Uses:

The following proposed uses are permitted in the Wetlands and Watershed Protection Area:

- (1) Wildlife habitat development and management;
- (2) Conservation areas and nature trails, using Best Management Practices for Erosion Control during trail maintenance and construction, provided that the Planning Board, in consultation with the Conservation Commission, reviews and approves plans for such areas and trails prior to their development;
- (3) Recreation, including open-air recreational uses consistent with the purpose and intent of Section 5.03, such as cross-country skiing, ice skating, and hiking;
- (4) Education, including natural and environmental sciences walks, wildlife and botanical studies and similar activities;

- (5) Seasonally permitted hunting and fishing, as regulated by the State of New Hampshire;
- (6) Production, cultivation, growing, and harvesting of any fruit, vegetable, floricultural or horticultural crops, except turf grasses, conducted in accordance with Best Management Wetlands Practices for Agriculture, (July 1993, amended September 1998), but not within seventy-five (75) feet of the edge of wet of the adjacent wetland. Fertilization shall be limited to lime and wood ash within the boundary of the WWPA;
- (7) Removal of hazardous trees;
- (8) Removal of “invasive” vegetation conducted in accordance with the then-current Best Management Practices for Erosion Control;
- (9) Accessory structures of two hundred (200) square feet or less, that do not require clearing, excavation, filling or grading for the installation or placement of the accessory structures. Such accessory structures cannot be located within seventy-five (75) feet of any area meeting the requirements of a Level 1 Wetlands and Watershed Protection Area, within fifty (50) feet of a Level 2 Wetlands and Watershed Protection Area, or within twenty-five (25) feet of a Level 3 Wetlands and Watershed Protection Area.
- (10) WWPA mitigation, as outlined in Section 5.12 of this Article.

Any uses not listed in this Section are expressly prohibited in the Wetlands and Watershed Protection Area.

#### 5.06 Prohibited Uses and Activities:

- (1) No septic system, lawn, yard, parking lot or landscaping shall be constructed within the WWPA and no structure shall be constructed within the WWPA, except for minor accessory structures expressly permitted under the terms of Section 5.05(9) and structures permitted by a conditional use permit issued by the Planning Board, subject to applicable buffer zones, and structures which are normally associated with use in or near water or relate to transportation over water.
- (2) In addition, no storage of petroleum products, hazardous chemicals or material shall occur within the WWPA. No chemical fertilizers, pesticides, insecticides, or herbicides shall be used within the WWPA.

5.07 Uses Permitted by Conditional Use Permits:

The Planning Board may grant conditional use permits for the following uses within the Level 2 and Level 3 WWPAs:

- (1). Roads and other access ways;
- (2). Drainage ways;
- (3). Pipelines, power lines and other transmission lines;
- (4). Docks, boat launches, and piers;
- (5). Domestic water wells, and associated ancillary pipes and equipment;
- (6). Replacement septic tanks and leach fields where evidence is submitted that no alternative location is available on the property;
- (7). Expansion of existing single-family dwelling which was in existence as of March 10, 2009;
- (8). Miscellaneous trimming and pruning of forestry stock according to good forestry practices;
- (9). Tree farming and forestry according to practices approved by the Planning Board;
- (10). Agriculture;
- (11). Ponds planned and executed under the direction of the N.R.C.S. (formerly known as USDA-SCS);
- (12). Wildlife refuge and/or conservation area;
- (13). Wharves, boathouses, and bridges;
- (14). Wetlands mitigation, remediation, restoration and protection activities;
- (15). Fire ponds, cisterns and dry hydrants; and
- (16). Retention basins and drainage systems.

5.08. Relief from One-Hundred Twenty-Five (125) Foot Setback from Level 1; Seventy-Five (75) Foot Setback from Level 2; and Twenty-Five (25) Foot Setback from Level 3 Wetland and Watershed Protection Area:

(1). Variance Required:

- (a) Wetlands and Watershed Protection Area – Level 1: There will be no conditional use permits issued for relief from the one-hundred twenty-five (125) foot setback from a Level 1 Wetland and Watershed Protection Area, except for those uses permitted under the Minor Conditional Use Permit process set forth in Section 5.10 for this Article. Any other request for relief within the one-hundred twenty-five (125-foot setback from a Level 1 Wetland and Watershed Protection Area shall require a request for a variance from the Auburn Zoning Board of Adjustment, pursuant to Article 14.09 of this Ordinance.
- (b) Wetlands and Watershed Protection Area – Level 2: Except for the allowable activities set forth in Section 5.05, any request for relief from the seventy-five (75) foot setback of the Level 2 Wetland and Watershed Protection Area shall require a request for a variance from the Auburn Zoning Board of Adjustment, pursuant to Article 14.09 of this Ordinance.

(c) Wetlands and Watershed Protection Area – Level 3: Except for the allowable activities set forth in Section 5.05, any request for relief from the twenty-five (25) foot setback of the Level 3 Wetland and Water Protection Area shall require a request for a variance from the Auburn Zoning Board of Adjustment, pursuant to Article 14.09 of this Ordinance.

(2) Conservation Committee: Prior to holding a hearing on a request for a variance for relief from the requirements of Article 5, the Zoning Board of Adjustment shall require that the variance application, and all materials submitted in support of the application, be reviewed by the Auburn Conservation Committee. The Zoning Board shall review and consider the Conservation Committee’s comments prior to granting any such variance.

5.09. Administration of Conditional Use Permits:

(1). Application

(a) Application Form: An application for a conditional use shall be initiated by filing an application with the Planning Board. The Planning Board is authorized to produce an application form for Conditional Use Permit Applications and Minor Conditional Use Permit Applications, which may provide for additional submission requirements as the Planning Board deems necessary.

(b). Subdivision and Site Plan Review: In the event that the applicant is also seeking subdivision and/or site plan approval from the Planning Board, the conditional use permit application hearing may occur simultaneously with a hearing on a subdivision or site plan application for the same project.

(2) Summary of Process:

(a) The Planning Board shall refer the conditional use permit application to the Conservation Commission for review and comment prior to the public hearing on the application. In acting on the application, the Board shall consider any written comments or reports received from the Conservation Commission, as well as any verbal comments made by Conservation Committee members at any conditional use permit hearing.

(b). After holding a duly noticed public hearing on the application, at which the Planning Board determines that the application is complete, and then considers the factors set forth herein in Section 5.09(5)(6), the Planning Board shall then vote to approve the application as presented, approve it with conditions, or deny it.

- (c). Any decision of the Planning Board granting a conditional use permit shall be noted on the recorded plan.
- (d). The duration of a conditional use permit shall be one (1) year. The Planning Board may grant extensions for an additional year, not to exceed four (4) years in total.
- (e). Any person aggrieved by a Planning Board decision on a conditional use permit may appeal that decision to the Superior Court in the manner provided by RSA 677:15.

(3) Application Requirements:

(a) Required Documents:

- (i) Completed Application Form
- (ii) Plot Plan: The applicant shall submit a plot plan showing actual dimensions relative to:
  - (A) proposed improvements;
  - (B) distance to the nearest wetland; and
  - (C) delineation of wetland and classification of wetland level status, (under Section 5.04), which may require a determination by a New Hampshire Certified Wetlands Scientist.
- (iii) Copy of Town of Auburn Tax Map
- (iv) Copy of Town of Auburn Prime Wetlands Map
- (v) List of Abutters with Mailing Addresses (abutters include all properties within 200 feet of subject parcel property lines); and
- (vi) Appropriate Application Fees (see Conditional Use Permit Application Form).

(b) Optional – Investigative or Scientific Studies:

An applicant may submit the results of any special investigative or scientific studies prepared in association with the proposed development, with evidence that may include a functional analysis prepared by a person or firm experienced in evaluating wetlands and watershed protection areas. The Planning Board may, in appropriate cases, require such investigations or studies when it deems such necessary to evaluate an application for a conditional use permit under this Section. The cost of such investigation or study shall be borne by the applicant.

(4). Hearing Procedure:

(a) Burden of Proof:

The applicant for a conditional use permit bears the burden of persuasion, through the introduction of sufficient evidence through testimony or otherwise, that the development and any mitigation, if completed as proposed, will comply with the terms of this Ordinance and will satisfy the specific requirements for the use which are contained in this Ordinance.

(b). Required Criteria:

The applicant for a conditional use permit must prove, through the application form, written submissions and testimony and evidence at the hearing, that all of the following conditions exist:

- (i). The proposed construction is essential to the productive use of land not within the WWPA;
- (ii). Design and construction methods will be such as to minimize impact upon the WWPA, and will include restoration of the site consistent with the permitted use;
- (iii). The proposed development design avoids and minimizes the environmental impact the development shall have on the WWPA, to the greatest extent practical;
- (iv). There is no feasible alternative route on land controlled by the applicant that does not cross the WWPA, nor one that has less detrimental impact on the WWPA;
- (v). There will be, to the extent possible, mitigation of the proposed impacts to the Wetlands and Watershed Protection Area; and
- (vi). Economic advantage is not the sole reason for the proposed location of the construction.

(5) Review Factors:

In reviewing an application of a conditional use permit, the Planning Board shall consider the following information in its deliberations, as may be applicable to the case:

- (a) Application, Plot Plan, and any other Submissions by Applicant.
- (b). N.H. D.E.S. Jurisdiction: Impacts to wetlands, and all other areas under jurisdiction of the New Hampshire Department of Environmental Services – Wetlands Bureau (N.H.D.E.S.-W.B.), requiring a permit approved by N.H.D.E.S.-W.B.;
- (c). N.H. R.S.A. 483-B: Impacts to areas under the jurisdiction of N.H. R.S.A. 483-B, the New Hampshire Comprehensive Shoreland Protection Act, (C.S.P.A.), requiring a permit approved by N.H. D.E.S.;
- (d). Reports or Analyses of Town Departments, Boards, Officers, Counsel or Consultants: Special reports or analyses of the project or its impacts prepared by the Town's departments, boards, commissions, officers, counsel or consultants;
- (e). Conservation Committee: Comments or recommendations from the Town of Auburn Conservation Committee.
- (f). Master Plan: The findings, goals and objectives of the most recent edition of the Town of Auburn Master Plan;
- (g). Capital Improvements Plan: The relationship of the development to the timing, location and cost of public improvements scheduled in the Auburn Capital Improvements Program;
- (h). Auburn Zoning Ordinance: The findings, goals and objectives of the Auburn Zoning Ordinance; and
- (i). Testimony and Hearing Evidence: Testimony and evidence introduced at the public hearing on the application.

(6) Required Findings:

In order to approve the application, the Planning Board must find, based on the application, information and testimony submitted by the application, that:

- (a). If completed as proposed by the applicant, the development in its proposed location will comply with all requirements of this Article, including the required criteria set forth above in Section 5.09(4)(b), and with the specific conditions or standards established in this Zoning Ordinance for the particular use;
- (b). The proposed mitigation, if any, is in accordance with the spirit and intent of this Article;
- (c). The use will not materially endanger the public health or safety;
- (d). The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located;
- (e). The use will not have a substantial adverse impact on highway or pedestrian safety;
- (f). The use will not have a substantial adverse impact on the natural resources of the town;
- (g). The use will be adequately serviced by necessary public utilities and community facilities and services of a sufficient capacity to ensure the proper operation of the proposed use and will not necessitate excessive public expenditures to provide sufficient additional capacity or services.

(7). Conditions of Approval

- (a) Written Conditions: All conditions of approval shall be stated in writing in the permit.
- (b) Boundary Marker: In granting a conditional use permit, as a standard condition, the Planning Board will stipulate that the WWPA boundary shall be delineated with a plastic snow fence or similar obvious barrier during any development phase, such that no land clearing or forest harvesting shall take place within the WWPA except as approved under this Section. The Owner will be required to post the boundary at intervals of no greater than fifty (50) feet, in a manner approved by the Planning Board under this Section, before the lot is offered for sale or resale.

- (c) Applicant's Representations: Representations made at a public hearing or in material submitted to the Planning Board by an applicant to obtain a conditional use permit shall be deemed conditions of the issuance of the permit.
- (d) Additional Conditions: The Planning Board may attach other reasonable conditions to its approval, including but not limited to, performance guarantees and the phasing of a development, where such conditions are shown to be necessary to further the objectives of this Ordinance or the Master Plan, or which would otherwise allow the general conditions of this Article to be satisfied.
- (e) Recording Conditions: The Planning Board may require that such conditions be annotated on a site plan or subdivision plan, or otherwise recorded at the Rockingham County Registry of Deeds.

5.10 Minor Conditional Use Permits:

- (1) Purposes: Minor Conditional Use Permits may be issued for timber harvesting, forestry and brush clearing, certain driveways, as well as for minor accessory structures, as set forth below in this Section.
- (2) Procedure: Minor Conditional Use Permits may be issued without a public hearing, but all other procedural requirements, including notice to abutters, consultation with the Conservation Commission, and the findings of Section 5.09 shall remain in effect.
- (3) Appeals: Appeals of the Planning Board's decisions on such Minor Conditional Use Permit applications shall be made to the Planning Board within thirty (30) days of the date the Planning Board issues a decision on a Minor Conditional Use Permit application.
- (4) Timber Harvesting/Forestry and Brush Clearing:
  - (a) Permission Required: Except to the extent necessary to prevent imminent personal injury or property damage, no cutting or removal of living trees or shrubs shall be permitted in the WWPA without obtaining a minor conditional use permit. The Planning Board shall grant a minor conditional use permit for such purpose after having ascertained the proposed cutting or removal is to be conducted in a fashion that is consistent with the purposes of this Section, and will have as limited an effect on the WWPA as is reasonably possible.

- (b) Best Management Practices: Forestry, including both logging operations and tree farming subject to New Hampshire R.S.A. § 227-j:9, logging, and any associated road building and/or skid trail construction, shall be conducted in accordance with the then-current Best Management Practices for erosion control on timber harvesting operations in New Hampshire, published by the University of New Hampshire Cooperative Extension and the New Hampshire Department of Resources and Economic Development and the New Hampshire Division of Forests and Lands.
- (5). Accessory Structures:
- (a) Permitted Structures: Accessory structures of five hundred (500) square feet or less upon an existing single family residential lot of record after January 1990, and located within the one hundred twenty-five (125) foot setback of a Level 1 Wetland, or within the seventy-five (75) foot setback of a Level 2 Wetland, or within twenty-five (25) feet of a Level 3 Wetland, (in which there is no storage of petroleum products, hazardous chemicals or materials within any portion of the WWPA), that do not require clearing for the installation or placement of the accessory structure(s).
  - (b) Buffer Required: No structure, excavation, filling or grading for the installation or placement of an accessory structure shall be allowed within seventy-five (75) feet of a Level 1 Wetland, within fifty (50) feet of a Level 2 Wetland, or within twenty-five (25) feet of a Level 3 Wetland.
  - (c) Plan Required: The applicant shall provide a to-scale and sufficiently detailed plan with supporting information, such as wetland delineation, to the Building Department and Zoning Officer, that demonstrates compliance with this limited activity, which shall be submitted for approval by the Planning Board.
  - (d) Compliance Determination: The Owner of an existing single family or two-family residence may submit a written request to the Planning Department for a determination of compliance, to be conducted by the Town with the understanding that all fees encumbered by the Town for the determination by a designated third party, (fee not to exceed \$500), shall be paid by the applicant prior to the issuance of a building permit.

- (6). Certain Driveways: Construction of driveways with Minimum Impact Applications for access to single family houses on lots of record as of March 10, 2009 or as part of Planning Board review process for subdivision approval.

#### 5.11. Dredge and Fill Permits

- (1). Conservation Committee:

Prior to filing an application for a New Hampshire Department of Environmental Services (N.H. D.E.S.) Dredge and Fill Permit, the applicant is strongly encouraged to meet with the Conservation Commission to ensure that the proposed dredge and fill is consistent with the intent of this Ordinance.

- (2). Boundary Change:

An approved N.H. D.E.S. Dredge and Fill Permit, once acted upon, will change the Wetlands and Watershed Protection boundary, which will be applied from the new edge of wetland.

#### 5.12 Wetlands and Watershed Protection Mitigation:

If the Planning Board requires Wetlands and Watershed Protection mitigation, it shall be provided in one or more of the following manners:

- (1). Expansion of the buffer width greater than one hundred twenty-five (125) feet of a Level 1 Wetland or seventy-five (75) feet of a Level 2 Wetland around the remaining portion of the impacted region within the subject lot or lots under the application.
- (2). Expansion of the buffer width greater than one hundred twenty-five (125) feet of a Level 1 Wetland or seventy-five (75) feet of a Level 2 Wetland around other WWPAs within the subject parcel under the application.
- (3). Preservation of upland areas adjacent to other WWPAs by easement and/or deed restrictions for wildlife habitat development and management within the subject parcel or adjacent parcels, in a format acceptable to the Conservation Commission and the Planning Board.
- (4). Preservation of upland areas adjacent to other WWPAs by easement and/or deed restrictions for wildlife habitat development and management within the Town of Auburn, in a format acceptable to the Conservation Commission and the Planning Board.

- (5). Development of conservation areas and nature trails within the subject parcels, provided that the Planning Board, in consultation with the Conservation Commission, reviews and approves plans for such areas and trails prior to their development.
- (6). Development of conservation areas and nature trails elsewhere within the Town of Auburn, provided that the Planning Board, in consultation with the Conservation Commission, reviews and approves plans for such areas and trails prior to their development.
- (7). Other suitable mitigation, such as costs or fees to remediate the effects of impact upon wetlands and watershed protection areas, whether on or off-site, wetlands restoration, wetlands construction, etc. or combination thereof, meeting the intent of the regulations and acceptable to the Planning Board and the Conservation Commission.

**Article 6 - Floodplain Management Ordinance**  
**Changes made per OPD and voted on (March 12, 2024)**

Section 1 – Statutory Authority and Purpose

Section 2 – Findings of Fact and Applicability

Section 3 – Administrative Provisions

Section 4 – Floodplain Administrator Duties and Responsibilities

Section 5 – Flood Zone and Floodway Determinations

Section 6 – Substantial Improvement and Damage Determinations

Section 7 – Floodplain Permitting Requirements

Section 8 – Flood Elevation Determinations

Section 9 – Floodplain Development Requirements

Section 10 – Structure Requirements

Section 11 – Detached Accessory Structures

Section 12 – Manufactured Homes

Section 13 – Water Supply and Sewage Disposal Systems

Section 14 – Watercourse Alterations

Section 15 – Variances and Appeals

Section 16 – Definitions

## **SECTION 1 - STATUTORY AUTHORITY AND PURPOSE**

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

## **SECTION 2 – FINDINGS OF FACT AND APPLICABILITY**

- A. Certain areas of the Town of Auburn are subject to periodic flooding, causing serious damage to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Auburn has chosen to become a participating community in the National Flood Insurance Program (NFIP) and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Ordinance.
- B. The following regulations in this Ordinance shall apply to all lands within the Town of Auburn and designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its “Flood Insurance Study (FIS) for Rockingham County, NH” dated May 17, 2005 together with the associated Flood Insurance Rate Map (FIRM) panels 33015C0145, 33015C0165, 33015C0170, 33015C0307, 33015C0309, 33015C0328, 33015C0330, 33015C0335, 33015C0337 and 33015C0341 dated May 17, 2005 and associated amendments and revisions, which are declared to be a part of this Ordinance and are hereby incorporated by reference.
- C. This Ordinance establishes a permit system and review procedure for development in a special flood hazard area of the Town of Auburn.

## **SECTION 3 – ADMINISTRATIVE PROVISIONS**

- A. If any provision of this Ordinance differs or appears in conflict with any other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.
- B. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

- C. In accordance with RSA 676, the Floodplain Administrator shall enforce and administer the provisions of this Ordinance.
- D. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside of a special flood hazard area or uses that are permitted within such areas will be free from flooding or flood damage.

#### **SECTION 4 – FLOODPLAIN ADMINISTRATOR DUTIES AND RESPONSIBILITIES**

- A. The Building Inspector/Code Enforcement Officer is hereby appointed to administer and implement these regulations and is referred to herein as the “Floodplain Administrator.”
- B. The duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:
  - 1. Ensure that permits are obtained for proposed development in a special flood hazard area.
  - 2. Review all permit applications for completeness and accuracy, and coordinate with the applicant for corrections or further documentation, as needed.
  - 3. Interpret the special flood hazard area and floodway boundaries and determine whether a proposed development is located in a special flood hazard area, and if so, whether it is also located in a floodway.
  - 4. Provide available flood zone and base flood elevation information pertinent to the proposed development.
  - 5. Make the determination as to whether a structure will be substantially improved or has incurred substantial damage as defined in this Ordinance and enforce the provisions of this Ordinance for any structure determined to be substantially improved or substantially damaged.
  - 6. Issue or deny a permit based on review of the permit application and any required accompanying documentation.
  - 7. Ensure prior to any alteration or relocation of a watercourse that the required submittal and notification requirements in this Ordinance are met.
  - 8. Review all required as-built documentation and other documentation submitted by the applicant for completeness and accuracy and verify that all permit conditions have been completed in compliance with this Ordinance.
  - 9. Notify the applicant in writing of either compliance or non-compliance with the provisions of this Ordinance.
  - 10. Ensure the administrative and enforcement procedures detailed in RSA 676 are followed for any violations of this Ordinance.
  - 11. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Town of Auburn, within six months after such data and

information becomes available if the analyses indicate changes in base flood elevations, special flood hazard area and/or floodway boundaries.

12. Maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations, including: local permit documents, flood zone and base flood elevation determinations, substantial improvement and damage determinations, variance and enforcement documentation, and as-built elevation and dry floodproofing data for structures subject to this Ordinance.
13. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, inspectors, or other community officials as needed.

## **SECTION 5 - FLOOD ZONE AND FLOODWAY DETERMINATIONS**

- A. The Floodplain Administrator shall determine whether any portion of a proposed development is located in a special flood hazard area and if so, whether it is also located in a floodway, using the effective FIRM. If the development is located wholly or partially in a special flood hazard area, the Floodplain Administrator shall determine the flood zone and the applicable requirements in the Ordinance that shall apply to the development.
- B. Where it is unclear whether a site is in a special flood hazard area and/or in a floodway, the Floodplain Administrator may require additional information from the applicant to determine the development's location on the effective FIRM.
- C. If any portion of a development including a structure and its attachments (e.g, deck posts, stairs) is located in multiple flood zones, the flood zone with the more restrictive requirements documented in this Ordinance shall apply.
- D. Where a conflict exists between the floodplain limits illustrated on the FIRM and actual natural ground elevation, the base flood elevation(s) in relation to the actual natural ground elevation shall be the governing factor in locating the regulatory floodplain limits.
- E. Within a riverine special flood hazard area designated as Zone A, the Floodplain Administrator shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources. If floodway data is available, the applicant shall meet the floodway requirements in Section 14 of this Ordinance.

## **SECTION 6 – SUBSTANTIAL IMPROVEMENT AND DAMAGE DETERMINATIONS**

- A. For all development in a special flood hazard area that proposes to improve an existing structure, including alterations, movement, enlargement, replacement, repair, additions, rehabilitations, renovations, repairs of damage from any origin (such as, but not limited to flood, fire, wind or snow) and any other improvement of or work on such structure including within its existing footprint, the Floodplain Administrator, in coordination with any other applicable community official(s), shall be responsible for the following:
  1. Review description of proposed work submitted by the applicant.

2. Use the community's current assessed value of the structure (excluding the land) to determine the market value of the structure prior to the start of the initial repair or improvement, or in the case of damage, the market value prior to the damage occurring. If the applicant disagrees with the use of the community's assessed value of the structure, the applicant is responsible for engaging a licensed property appraiser to submit a comparable property appraisal for the total market value of only the structure.
3. Review cost estimates of the proposed work including donated or discounted materials and owner and volunteer labor submitted by the applicant. Determine if the costs are reasonable for the proposed work, or use other acceptable methods, such as those prepared by licensed contractors or professional construction cost estimators and from building valuation tables, to estimate the costs.
4. Determine if the proposed work constitutes substantial improvement or repair of substantial damage as defined in this Ordinance.
5. Notify the applicant in writing of the result of the substantial improvement or damage determination. If the determination is that the work constitutes substantial improvement or substantial damage, the written documentation shall state that full compliance with the provisions of this Ordinance is required.
6. Repair, alteration, additions, rehabilitation, or other improvements of historic structures shall not be subject to the elevation and dry floodproofing requirements of this Ordinance if the proposed work will not affect the structure's designation as a historic structure. The documentation of a structure's continued eligibility and designation as a historic structure shall be required by the Floodplain Administrator in approving this exemption.

## **SECTION 7 – FLOODPLAIN PERMITTING REQUIREMENTS**

- A. All proposed development within a special flood hazard area shall require a permit from the Town of Auburn, prior to the commencement of any development activities. Development, as defined in this Ordinance, includes both building and non-building activities.
- B. To obtain a permit, the applicant shall first submit a completed application in writing on a form furnished by the Town of Auburn, for that purpose. Every application shall include, but is not limited to:
  1. The name, address and phone number of the applicant, owner, and contractor(s);
  2. A map indicating the location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and waterbodies;
  3. A description of the proposed development and the use or occupancy for which the proposed development is intended;
  4. If the development involves proposed work on an existing structure, a description of the total costs of the proposed work including all materials and labor;
  5. In a Zone A, for proposed developments either greater than 50 lots or greater than 5 acres, the base flood elevation(s) established for the area, including any data such as hydraulic and hydrologic analyses, used to determine the elevation(s);
  6. Submittal of evidence that all necessary permits have been obtained from those Federal, State, or local government agencies from which prior approval is required; and

7. Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of, this Ordinance.
- C. The Floodplain Administrator shall review all permit applications for completeness and accuracy, and coordinate with the applicant for corrections or further documentation, as needed. If the proposed development will comply with this Ordinance, the Floodplain Administrator shall approve the application and issue a permit. If the proposed development will not comply with this Ordinance, the Floodplain Administrator shall deny the permit application and return to the applicant with a written explanation of denial.
  - D. Following completion of new construction of a structure or an existing structure that was substantially improved or replaced, or that incurred substantial damage, or the placement or substantial improvement of a manufactured home, the applicant shall submit the following to the Floodplain Administrator:
    1. A completed and certified copy of an Elevation Certificate that includes the as-built elevation (in relation to mean sea level) of the lowest floor of the structure and whether or not the structure has a basement.
    2. If a non-residential structure includes dry floodproofing, a completed and certified copy of the Floodproofing Certificate for Non-Residential Structures that includes the as-built elevation (in relation to mean sea level) to which the structure was dry floodproofed and certification of floodproofing.
  - E. The Floodplain Administrator shall review all required as-built documentation and other documentation submitted by the applicant for completeness and accuracy and verify that all permit conditions have been completed in compliance with this Ordinance.

The Floodplain Administrator shall either:

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

## **SECTION 8 - FLOOD ELEVATION DETERMINATIONS**

- A. The Floodplain Administrator shall determine the flood elevation for a structure as applicable for each permit application in the following flood zones:
  1. For Zone A with no base flood elevation shown in the FIS or on the FIRM:
    - a. The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from any Federal, State or other source including data submitted to the community for development proposals (i.e. subdivisions, site plan approvals).

- b. Where a base flood elevation is not available or not known, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.
- c. For a development either greater than 50 lots or greater than 5 acres, the applicant shall develop a base flood elevation for the site and provide it to the Floodplain Administrator with their permit application.

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

## **SECTION 9 –FLOODPLAIN DEVELOPMENT REQUIREMENTS**

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

- 1. Reasonably safe from flooding;
- 2. Designed and constructed with methods and practices that minimize flood damage;
- 3. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement (including structures and above ground gas or liquid storage tanks);
- 4. Constructed with flood damage-resistant materials;
- 5. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- 6. Adequately drained to reduce exposure to flood hazards;
- 7. Compliant with the applicable requirements of the State Building Code and the applicable standards in this Ordinance, whichever is more restrictive.

## **SECTION 10 – STRUCTURE REQUIREMENTS**

A. New construction of a residential structure, or an existing residential structure to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall have the lowest floor elevated at least one (1) foot above the base flood elevation.

B. New construction of a non-residential structure, or an existing non-residential structure to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall:

- 1. Have the lowest floor elevated at least to the base flood elevation; or
- 2. Together with attendant utility and sanitary facilities:
  - a. Be floodproofed at least one (1) foot above the base flood elevation so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
  - c. Be certified by a registered professional engineer or architect that the dry floodproofing design and methods of construction are in accordance with accepted

standards of practice for meeting the provisions of this section. Such certification shall be provided to the Floodplain Administrator in the form of a completed and signed Floodproofing Certificate for Non-Residential Structures.

- C. A fully enclosed area for new construction of a structure, or an existing structure to be substantially improved or replaced, or that has incurred substantial damage located in a special flood hazard area that is below the lowest floor of a structure, below the base flood elevation, and therefore subject to flooding, shall meet the following requirements:
1. Be constructed with flood damage-resistant materials;
  2. Be used solely for the parking of vehicles, building access, or storage;
  3. Be constructed with the floor of the enclosed area at grade on at least one side of the structure; and
  4. Be constructed with flood openings installed in the enclosure walls so that they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
    - a. **A minimum of two flood openings on different sides of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;**
    - b. **The bottom of all flood openings shall be no higher on the enclosure wall than one foot above either the interior or exterior grade, whichever is higher; and**
    - c. **Flood openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.**
- D. A fully enclosed area that has a floor that is below grade on all sides, including below-grade crawlspaces and basements are prohibited for new structures, existing structures to be substantially improved or replaced, or that have incurred substantial damage located in a special flood hazard area.

## **SECTION 11 - DETACHED ACCESSORY STRUCTURES**

(COMMUNITIES CAN CHOOSE TO REDUCE THE MAXIMUM SQUARE FOOTAGE SIZE OF A DETACHED ACCESSORY STRUCTURE IN THIS SECTION IF THEY CHOOSE TO ENFORCE THESE REQUIREMENTS)

## **SECTION 12 – MANUFACTURED HOMES AND RECREATIONAL VEHICLES**

- A. A new manufactured home to be placed, or an existing manufactured home to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall:

1. Have the lowest floor elevated at least to the base flood elevation;
  2. Be on a permanent, reinforced foundation;
  3. Be installed using methods and practices which minimize flood damage;
  4. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring are authorized to include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces; and
  5. Comply with the requirements of Section 10(C) of this Ordinance in cases where fully enclosed areas are present below an elevated manufactured home, including enclosures surrounded by rigid skirting or other material attached to the frame or foundation. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have flood openings.
- B. A recreational vehicle located within a special flood hazard area shall meet one of the following requirements:
1. Be on site for fewer than 180 consecutive days; or
  2. Be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
  3. Meet the requirements for “manufactured homes” as stated in Section 12(A) of this Ordinance.

### **SECTION 13 - WATER SUPPLY AND SEWAGE DISPOSAL 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 Building Inspector 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.

### **SECTION 14 – FLOODWAY REQUIREMENTS**

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

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

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

If the analyses demonstrate that the proposed activities will result in more than a one (1) foot increase in the base flood elevation, the applicant must obtain a Conditional Letter of Map Revision (CLOMR) from FEMA prior to permit issuance by the Floodplain Administrator. The Floodplain Administrator reserves the right to deny a permit for the project if concerns about the development being reasonably safe from flooding remain following issuance of the CLOMR. If a permit is issued and the project completed, the applicant must also obtain a Letter of Map Revision (LOMR) from FEMA. CLOMR and LOMR submittal requirements and fees shall be the responsibility of applicant.

## **SECTION 15 – WATERCOURSE ALTERATIONS**

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

## **SECTION 16 - VARIANCES AND APPEALS**

- A. Any order, requirement, decision or determination of the Floodplain Administrator made under this Ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- B. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the variance standards under state law that:
  - 1. The variance will not result in increased flood heights of any magnitude, additional threats to public safety, fraud on or victimization of the public; or extraordinary public expense;

2. The issuance of the variance will not conflict with other State, Federal or local laws or Ordinances;
3. If the requested variance is for activity within a floodway, no increase in flood levels during the base flood discharge will result; and
4. The variance is the minimum necessary, considering the flood hazard, to afford relief.

C. The Zoning Board of Adjustment shall notify the applicant in writing that:

1. The issuance of a variance to construct below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
2. Such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

D. The community shall:

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

## **SECTION 17 - DEFINITIONS**

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

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

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

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

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

**Building** - see "Structure".

**Conditional Letter of Map Revision (CLOMR)** means FEMA's comment on a proposed project that would, upon construction, affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing floodway, base flood

elevation, or the special flood hazard area. CLOMRs do not revise an effective FIRM since they do not reflect as-built conditions.

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

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

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

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

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

- a. the overflow of inland or tidal waters, or
- b. the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Boundary and Floodway Map (FBFM)** means the official map on which FEMA has delineated the Regulatory floodway. This map should not be used to determine the correct flood hazard zone or base flood elevation. The FIRM will be used to make determinations of flood hazard zones and base flood elevations.

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

**Flood Insurance Rate Map (FIRM)** means the official map incorporated with this Ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the community. The FIRM is a graphic representation of the data contained in the accompanying Flood Insurance Study.

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

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

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

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

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

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

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

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

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

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

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

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

**Letter of Map Change** means an official document issued by FEMA that revises or amends

the flood hazard information shown on the FIRM without requiring the FIRM to be physically revised and/or re-published. Letters of Map Change can include Letters of Map Amendment, Letters of Map Revision, and Letters of Map Revision Based on Fill.

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

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

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

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

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

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

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

**New Construction** means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**Recreational Vehicle** means a vehicle:

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

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

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

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

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

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

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

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

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

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

**ARTICLE 7 – RESERVED FOR CLUSTERED DEVELOPMENT**

**Clustered Development language removed  
by town vote on March 8, 2016.**

## ARTICLE 8 - 55 AND OLDER HOUSING REGULATIONS

### 8.01 Authority Statement:

This article is adopted pursuant to the provisions of NH RSA 674:16 and 674:21, Innovative Land Use Controls, and is adopted to effectuate the Master Plan for the Town of Auburn.

The Auburn Planning Board, under the authority of this Article, may grant the Applicant relief from the requirements of this article as they deem appropriate and necessary.

### 8.02 Purpose:

The regulations in this section have been established for the purpose of providing for the construction of housing units, suitable for occupancy by persons 55 and older, while ensuring compliance with local planning standards, land use policies, good building design and the requirements for the health, safety, and general welfare of the inhabitants of Auburn.

### 8.03 Objectives and Characteristics:

The 55 and Older Housing Regulation is designed to permit an increased residential density, greater than allowed with conventional development in all zoning districts, with the exception of the Rural (R) district. This section is intended to set criteria that assure a project for persons 55 and older will address the needs specific to the residents of the project. These 55 and Older Housing regulations supersede conflicting regulations as to dimensional requirements, (including but not limited to lot size, frontage requirements, setbacks, roadway standards, and buffer zones), and design standards found in the Town of Auburn Zoning Ordinance or other Town Regulations, with the exception of any requirement pertaining to architectural design that is intended to create uniformity in appearance or design of building style or façade.

All 55 and older housing developments under this section must be established and maintained in compliance with the United States Fair Housing Act, as amended, 42 U.S.C. Sec. 3602, et seq. and RSA 354-A:15 et seq. The Planning Board may require assurance of compliance with those statutes by deed restriction or other instrument as a condition of approval. Such assurance may consist of a written plan submitted by the Developer, which sets forth: (a) the regulations under those statutes whereby a project may lawfully discriminate in favor of residents 55 and older; and (b) how the developer complies with, or proposes to comply with, such requirements, including covenants and other deed restrictions and other to-be-recorded agreements.

### 8.04 Permitted Uses

- (1) 55 and Older Housing Units, and
- (2) 55 and Older Housing Support Facilities

#### 8.05 Definitions:

The following words and terms pertain only to the 55 and Older Housing Regulations set forth herein. All words and terms not defined here will assume the definition found elsewhere in the Auburn Zoning Ordinance.

- (2) 55 and Older Housing Development: Housing units intended for and occupied by persons 55 years of age and older as such housing is permitted and regulated by federal and state law. These regulations shall not prohibit caregivers from utilizing accessory dwelling units; or in the case of housing units financed wholly or partially with Federal funds, housing units occupied by persons 55 and older, as defined in the funding program. Such programs must have the approval of the United State Department of Housing and Urban Development as one designed and operated to assist persons 55 and older. Housing contained in such a development shall feature predominately small, single-family units, and multi-family units.
- (3) Housing Unit: An autonomous unit providing the necessary requirements for independent living, containing not more than two bedrooms.
- (4) Bedroom: A room with an interior door, exterior windows (satisfying emergence egress requirements) and a built-in closet.
- (5) Useable Land: Land which is not a water body, wetland, or steep slope exceeding twenty-five (25%) percent.

#### 8.06 Review

Any proposed 55 and older housing development shall be subject to the Town of Auburn Site Plan Review Regulations and the Subdivision Regulations, as amended.

#### 8.07 Regulations and Design Criteria

- (1) Rural (R) District: 55 and older housing developments shall not be permitted in the Rural District.
- (2) Project Size: The minimum size tract of land for a 55 and older housing development shall be ten (10) acres of land with a minimum of five (5) acres of usable land. The tract shall have a minimum of fifty (50) foot frontage on a Class V or better road. If, in the discretion of the Planning Board, a second access or exit road is required for traffic circulation or safety, then the Planning Board shall require a minimum of fifty (50) feet of additional frontage on a Class V or better road.
- (3) Maximum Allowable Attached Units: The maximum allowable attached units shall be four (4), with single and duplex units preferred.

- (4) Building Set Back: Each multi-unit building shall have a minimum separation of fifty (50) feet from any other building unless there is an accessible fire hydrant or fire cistern located in accord with fire codes, in which case each multi-unit building able to access a hydrant or fire cistern shall have a minimum separation of thirty (30) feet. Each building shall have a minimum setback of thirty (30) feet from the edge of pavement of the internal road system. There shall be a setback of one hundred fifty (150) feet from existing public roadways for all housing units and support structures.
- (5) Buffers: The Planning Board shall establish a buffer zone around the entire perimeter of the 55 and Older Housing Project site based on the following criteria:
- (a) Topographic features of the site and adjacent sites;
  - (b) Use or zoning classification of abutting land;
  - (c) Degree of visual barrier provided by the proposed buffer; and
  - (d) Degree of screening provided by the developer.

In no event shall the buffer zone be less than one hundred (100) feet. Natural, existing, wooded, buffers are preferred; however, the buffers for each project will be individually considered by the Planning Board, as part of the review and approval process.

- (6) Wetland Buffer Zones: The wetland buffer zones shall be reduced to the following:
- a. Level 1 wetlands = 50'
  - b. Level 2 & 3 wetlands = 25'

Note: Wetland buffer zones shall be “no-disturb” buffers and the buffers shall be delineated with placards every 100’ and shall be placed on existing trees or steel t-posts.

- (7) Parking: There shall be two (2) indoor/garage parking spaces and one visitor parking space per dwelling unit. The Planning Board shall take into consideration the needs of persons 55 and older when considering the location of parking spaces and the parking area’s access to the unit(s) it serves. Depending on the size and layout of the development, the Board may require additional visitor parking spaces.
- (8) Building Height: The maximum building height shall not exceed thirty-five (35) feet for single-family and multi-family units and support facilities.
- (9) Housing Units: All housing units shall have a maximum of two (2) bedrooms. The minimum unit size shall be nine hundred (900) square feet and the maximum dwelling size shall not exceed two thousand (2,000) square feet. A site-specific floor plan for each unit design shall be part of the approval process.

(10) Allowed Support Facilities: During the Planning Board’s plan review hearings, the needs of persons 55 and older shall receive priority consideration when approving any support facilities. The Planning Board may require support facilities for the 55 and Older Housing Project, including, but not limited to, the following:

- (a) Meeting rooms and/or clubhouse
- (b) Gated, fenced and screened common parking are for RV’s boats, trailers, etc.
- (c) Indoor and outdoor recreational facilities, such as card rooms, swimming pool, playing fields, trails etc.;
- (d) Postal sub-station;
- (e) Library;
- (f) Retail shops, not to exceed three thousand (3,000) square feet.

(11) Road Construction: All roads, sidewalks and drives shall be privately owned and maintained. Easements for emergency access and releases from liability shall be given to the Town in a form acceptable to Town Counsel. Sidewalks shall be provided in a manner satisfactory to the Planning Board. Street construction shall be in accordance with the Town of Auburn Subdivision Regulations, with the exception of the following design criteria:

Design speed:	25 mph
Min. angle of intersection:	75 degrees (90 degrees preferred)
Min. street grade:	1 %
Max. street grade:	8%
Max grade within 50-feet of intersection:	3%
Min. K-values for vert. curves:	
Sag:	26
Crest:	12
Min. intersection sight dist.:	280’
Min. pavement/shoulder width (uncurbed)	20’/2’
Min. pavement width (Curbed):	22’
Min. sidewalk width:	5’ (min. 1-side)
2.5” Caliper Deciduous Street Trees	Both Sides, every 100’
Maximum dead-end road length	Determined by Board

(12) Landscaping Design & Requirements: A landscaping plan shall be prepared and submitted by a NH Licensed Landscape Architect. The plan shall be evaluated considering the size, density, and design of the 55 and Older Housing Development. The Applicant shall address the Board’s comments and concerns prior to the approval of the application.

(13) Fire suppression systems: Shall be designed to standards approved by the Auburn Fire Department and are required in all housing units. Prior to conditional or final approval, written approval from the Fire Department shall be obtained.

- (14) Building/Fire Codes: All construction must comply with the Code of Barrier-Free Design for the State of New Hampshire, New Hampshire Fire and Life Safety Codes, and Auburn Building Codes.
- (15) Protective Well Radii – All protective well radii shall meet the most current NHDES requirements for drinking water, potable, wells & water sources.
- (16) General Design Character: The design and site layout of the proposal shall be consistent with the rural character of the Town, maximize the privacy of the housing units, preserve the natural characteristics of the land, and consider such factors as orientation, views and recreational opportunities. The design shall make provision for pedestrian access throughout the site.
- (17) Outdoor Site Lighting: The outdoor site lighting shall adhere to the lighting regulations specified in the Subdivision and Site Plan Regulations. The Planning Board may require additional lighting or low-level (decorative) lighting along the access road and throughout the project site.
- (18) Architectural Design: Color renderings and floor plans, prepared by a NH Licensed Architect, shall be provided for review and approval.

#### 8.08 Site Ownership

At the time of application, the entire site shall either be under one owner, or documents shall be submitted with the application that show all owners of record have applied to the Planning Board for consolidation, pending approval of the site plan.

#### 8.09 Agreements, Restrictions and Provisions

All deed restrictions, condominium documents, homeowner association documents, organization provisions and other agreements for the methods of management and maintenance of common lands, roads, utilities and support facilities shall be approved by the Planning Board. The site must be made subject to permanent recorded covenants describing the occupancy of each housing unit. The authority for and obligation of enforcement shall be the responsibility of the owner or owners' association. Additionally, the authority, but not the obligation, to enforce deed restrictions or other agreements referred to in this Section shall be granted to the Town of Auburn.

## 8.10 Density

Maximum density shall be determined as follows:

- (1) From the gross tract area subtract the following: slopes greater than twenty-five (25%) percent, wetlands, streams and bodies of water. The remaining tract area is the “usable land” and shall be used for density calculations.
- (2) 55 and Older Project developments with on-site wells and septic systems shall have a density of no greater than four (4) bedrooms per acre of the usable land.
- (3) 55 and Older Project developments with Public Utility Commission regulated public water system and sewer may have a density of no greater than six (6) bedrooms per acre of the usable land.
- (4) Housing units shall have a maximum of 2 bedrooms and shall be specifically designed for occupancy by persons 55 and older.

The allowed number of units may be grouped or dispersed over the parcel in any fashion within the limits imposed by this ordinance and existing septic system and well siting requirements.

## 8.11 Maximum Number of Units

The total number of 55 and older housing units approved under the provisions of this Ordinance shall not exceed ten (10%) percent of the total number of non-55 and older housing units then currently existing in the Town. This requirement shall be reviewed by the Planning Board on an annual basis to determine the need for 55 and older housing in the region and the Town’s proportionate share.

**ARTICLE 9 - WORKFORCE HOUSING**

9.01 Authority and Purpose

This section is enacted pursuant to the requirements of N.H. R.S.A. 674:59, (effective July 1, 2009), which requires municipalities to provide reasonable and realistic opportunities for the development of workforce housing, as defined by N.H. R.S.A. 674:58, IV, including rental and multi-family housing. The purpose of this section is to fulfill Auburn’s requirements to provide reasonable and realistic opportunities for workforce housing in order to meet its fair share of the current and reasonably foreseeable need for such housing. At the same time, the Town enacts this section to assure that any such housing meets reasonable standards and conditions for approval related to environmental protection, water supply, sanitary disposal, traffic safety and fire and life safety protection.

9.02 Definitions

- (1). “Affordable”: Housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed thirty (30%) percent of a household’s gross annual income.
- (2). “Multi-Family Housing”: For the purpose of workforce housing developments, means a building or structure containing five (5) or more dwelling units, each designed for occupancy by an individual household.
- (3). “Workforce Housing”: All workforce housing developments shall be proposed as cluster housing developments in accordance with Article 7 of this Ordinance. Workforce housing developments may consist of:
  - (a). Housing which is intended for sale and which is affordable to a household with an income of no more than one hundred (100%) percent of the median income for a 4-person household for counties and metropolitan areas of the Sate of New Hampshire, applicable to Auburn, as published annually by the United States Department of Housing and Urban Development; and
  - (b). Rental housing which is affordable to a household with an income of no more than sixty (60%) percent of the median income for a 3-person household for counties and metropolitan areas of the Sate of New Hampshire, applicable to Auburn, as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than twenty (20%) percent of the units, or in which more than fifty (50%) percent of the dwelling units have fewer than two (2) bedrooms, shall not constitute workforce housing for the purposes of this article.

- (c). The terms “workforce housing” and “affordable housing” are used interchangeably throughout this Article.

### 9.03 Permissible Locations

Workforce housing developments shall be permitted in the Residential 1 District, and shall be permitted by special exception in the Residential 2, Commercial 2, and Village Districts. Workforce housing developments are prohibited in all other districts.

### 9.04 Requirements for Workforce Housing Developments

#### (1). Design Requirements

- (a). A site plan of the entire development shall be submitted to the Auburn Planning Board and the development shall conform to all of the Town’s regulations and ordinances in effect at the time of submittal. However, if the applicant complies with the procedural requirements set forth in Section 9.05 below, an application for a workforce housing development may be granted a density bonus as set forth in this Article.
- (b). Affordable units which are part of a clustered development may be clustered within a discrete portion of such development, if the quality of construction and appearance of the structures is the same throughout the development.
- (c). Units constructed under an incentive for affordable or workforce housing must be finished in their entirety and may not be expanded in a manner which will exceed the income/resale cap established by this Article and applicable published income data. This limitation shall be noted on any Site or Subdivision Plan and included as a deed restriction in all conveyances.
- (d). During construction of an approved development qualifying as workforce housing, the developer must maintain at least the proportionate share of affordable units proposed as a percentage of total units during the build-out phase.

- (2). Phasing Each workforce housing development shall be phased so that no more than seven (7) dwelling units per development shall be permitted in any one calendar year.

(3). Density Bonus Incentive

- (a). Affordable Housing Sales: A density bonus of fifteen (15%) percent above the standard density, (and above any other density bonus awarded under other provisions of the Auburn Zoning Ordinance), will be allowed for developments that guarantee:
- (i) Twenty (20%) percent or more of the total number of units proposed within the development, including all units allowed by density bonuses under any section of the Auburn Zoning Ordinance, shall be affordable as defined in Section 9.02(1);
  - (ii) Fifteen (15%) percent or more of the units constructed will be sold at initial sale for a price that can be afforded by a household with an income of no more than one hundred (100%) percent of the median income for a 4-person household for counties and metropolitan areas of the State of New Hampshire, applicable to Auburn, as published annually by the United States Department of Housing and Urban Development; and
  - (iii) Five (5%) percent or more of the units constructed will be sold at initial sale for a price that can be afforded by a household with an income of no more than eighty (80%) percent of the median income for a 4-person household for counties and metropolitan areas of the State of New Hampshire, applicable to Auburn, as published annually by the United States Department of Housing and Urban Development; and
  - (iv) Units will be sold with deed restrictions and a recorded housing agreement, in a form satisfactory to the Planning Board, that limits, for a period of thirty (30) years renewable upon sale or transfer, the resale value of the unit to not more than the purchase price multiplied by a factor of 1, plus the percentage increase in median income from the year of initial occupancy until the year in which the unit is resold, plus the cost of property improvements, other than normal maintenance, made by the owner.

- (b). Affordable Housing Rentals: A density bonus of fifteen (15%) percent above the standard density, (and above any other density bonus awarded under other provisions of the Auburn Zoning Ordinance), will be allowed for developments that guarantee:
- (i) Twenty (20%) percent or more of the total number of units proposed within the development, including all units allowed by density bonuses under any section of this Ordinance, shall be affordable as defined in Section 9.02(1);
  - (ii) Fifteen (15%) percent or more of the units constructed will be rented for a price that can be afforded by a household with an income of no more than one hundred (100%) percent of the median income for a 4-person household for counties and metropolitan areas of the State of New Hampshire, applicable to Auburn, as published annually by the United States Department of Housing and Urban Development;
  - (iii) Five (5%) percent or more of the units constructed will be rented for a price that can be afforded by a household with an income of no more than sixty percent (60%) of the median income for a 4-person household for counties and metropolitan areas of the State of New Hampshire, applicable to Auburn, as published annually by the United States Department of Housing and Urban Development; and
  - (iv) Units will be rented with deed restrictions and a recorded housing agreement, in a form satisfactory to the Planning Board, that limits, for a period of thirty (30) years, renewable upon each rental, the rental price for each unit to an affordable price as determined by the formula set forth above in Section 9.02(3)(b), updated to the year in which the subsequent tenant assumes occupancy, unless no such tenant is found after a sixty (60) day good faith effort. Total gross rent to be charged to subsequent tenants shall not exceed the gross rent at the time of initial occupancy times a factor equal to 1 plus the percentage increase in the median area income, updated to the year in which the subsequent tenant occupies the unit.
- (c). Density Bonus Cap: The density bonuses set forth above as incentives for the development of affordable housing are not cumulative of each other, and no project shall receive more than a fifteen (15%) percent overall density bonus based on affordability.

(4). Administration of Units – Sales or Rentals

- (a). In the event of a unit sale or transfer of an owner-occupied unit, the buyer will be certified for income eligibility under this Article by an agency with expertise acceptable to the Town, prior to the sale or transfer. A copy of said certification will be provided to the seller.
- (b). In the event of a rental or renewal of an affordable rental unit, the renter will be certified for income eligibility under this Article by an agency with expertise acceptable to the Town, prior to the rental or renewal. A copy of said certification shall be provided to the landlord. Rental units cannot be sub-let to a third party by the current renter of record.
- (c). In the event rental units are sold, the requirements set forth in Section 9.02(3)(b)(iv), pertaining to deed restrictions and recorded housing agreements, will apply.
- (d). A certification fee will be charged for each sale, transfer or rental term for a unit. The fee will be paid by the purchaser or renter of the unit, as designated by the Town.
- (e). Ongoing responsibility for monitoring compliance with resale and rental restrictions on affordable housing units shall be the responsibility of the Auburn Board of Selectmen or its designee. The Planning Board may adopt regulations to aid in the implementation and administration of Article 9 pertaining to workforce housing developments.

9.05 Application Process

- (1). Application: Any person who proposes to develop workforce housing within the Town of Auburn shall submit application to the Auburn Planning Board, in the same manner as with an application for approval of a standard housing development, except that the applicant for approval for a workforce housing development shall provide with the initial application(s) a statement of intent for the development to qualify as workforce housing. Failure to file such a statement of intent at the time of submission of the initial application to the Planning Board shall constitute a waiver of the applicant's appeal rights under N.H. R.S.A. 674:61, but shall not preclude an appeal under other applicable laws.

(2). Approval:

- (a). If the Planning Board approves an application to develop workforce housing subject to certain conditions or restrictions, the Planning Board shall notify the applicant in writing of such conditions and restrictions and give the applicant an opportunity to establish the cost of complying with the conditions and restrictions and the effect of compliance on the economic viability of the proposed development. The Planning Board's notice of the conditions and restrictions shall constitute a conditional approval solely for the purpose of complying with the requirements of N.H. R.S.A. 676:4, I(c)(1). It shall not constitute a final decision for any other purpose, including the commencement of any applicable appeal period.
- (b). If the applicant notifies the Planning Board at any time that the applicant accepts the conditions and restrictions of approval, the Planning Board may issue its final decision without further action.
- (c). Upon receiving notice of conditions and restrictions of approval, the applicant may submit, within forty-five (45) days, evidence to establish the cost of complying with the conditions and restrictions and the effect on economic viability.
- (d). When the Planning Board receives, in compliance with the time frame set forth in Section 9.05(2)(c), evidence from the applicant establishing the cost of compliance with the Planning Board's conditions and restrictions and the effect on economic viability, the Planning Board shall allow the applicant to review such evidence at the next Board meeting for which ten (10) days notice can be given. At such meeting, the Planning Board may also receive and consider evidence from other sources.
- (e). After the meeting described in the preceding paragraph, the Planning Board may affirm, alter, or rescind any or all of the conditions or restrictions of approval.
- (f). The Planning Board shall not issue its final decision on the application before the conclusion of the meeting described in section 9.05(2)(d), unless the applicant fails to submit the required evidence within the period designated by the Planning Board, in which case the Board may issue its final decision any time after the expiration of the period for submitting evidence.

#### 9.06 Annual Report

The owner of a project containing affordable units for rent shall prepare an annual report certifying that the gross rents of affordable units and the household incomes of tenants of affordable units have been maintained in accordance with the income restrictions set forth in this Article. Such reports shall be submitted to the Board of Selectmen or its designee, and shall list the contract rent and occupant household incomes of all affordable units for the calendar year, and the dates of initial occupancy for each household. Failure to file a complete report with sworn certification by the owner shall be considered a violation of the Auburn Zoning Ordinance.

#### 9.07 Fair Share Calculation

A calculation of Auburn's fair share of affordable housing units shall be provided to the Board of Selectmen by the Planning Board, or its designee, after a public hearing. The fair share calculation shall be determined in accordance with the Master Plan of the Town of Auburn and other appropriate federal and state guidelines. The fair share accommodation of income qualified individuals shall be recalculated every five (5) years, according to the most current data available. A previous unmet fair share accommodation balance, if any, should not be carried over to the next five (5) year period. Each fair share housing calculation determined by the Planning Board shall be filed with the Town Clerk.

#### 9.08 Termination and Reinstatement of Incentive System

The incentive system allowing density bonuses for affordable housing shall remain in effect until Auburn's fair share of affordable housing units have been approved by the Planning Board. If, after recalculation during any five (5) year interval, Auburn is deemed to have met its fair share of affordable housing units, the density bonus system shall terminate. The density bonus system for affordable housing units shall be reinstated if a fair share housing need is determined to exist after any recalculation by the Planning Board.

**ARTICLE 10 – RESERVED FOR GREEN BUILDING STANDARDS**

## **ARTICLE 11 - SMALL WIND ENERGY SYSTEMS**

### 11.01. Purpose:

This Article is enacted in accordance with N.H. R.S.A. 674:62-66, and the purposes outlined in RSA 672:1-III-a. The purpose of this Article is to accommodate distributed generation/small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this Section provides a permitting process for small wind energy systems to ensure compliance with the requirements and standards established herein.

### 11.02. Definitions:

- (1). Meteorological tower (Met tower): Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this Article, Met towers shall refer only to those whose purpose is to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.
- (2). Net metering: The difference between the electricity supplied over the electric distribution system and the electricity generated by the small wind energy system that is fed back into the electric distribution system over a billing period.
- (3). Power grid: The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.
- (4). Shadow flicker: The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.
- (5). Small wind energy system: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.
- (6). System height: The vertical distance from ground level to the tip of the wind turbine blade when it is at its highest point.

- (7). Tower: The monopole, guyed monopole or lattice structure that supports a wind turbine.
- (8). Tower height: The height above grade of the fixed portion of the tower, excluding the wind turbine.
- (9). Wind turbine: The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

11.03. Review Procedure:

- (1). Building Permit: Small wind energy systems and met towers are an accessory use permitted in all zoning districts. No small wind energy system shall be erected, constructed, or installed without first receiving a building permit from the Building Inspector. A building permit shall be required for any physical modification to an existing small wind energy system that materially alters the size and/or type of the small wind energy system or its location. Like-kind replacements shall not require a building permit to be modified. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed three (3) years from the date the building permit was issued.
- (2). Application: Applications submitted to the Building Inspector shall contain a site plan with the following information:
  - (a). Property lines and physical dimensions of the applicant's property;
  - (b). Location, dimensions, and types of existing major structures on the property;
  - (c). Location of the proposed small wind energy system, foundations, guy anchors and associated equipment;
  - (d). Tower foundation blueprints or drawings;
  - (e). Tower blueprint or drawings;
  - (f). Setback requirements as outlined in this ordinance;
  - (g). The right-of-way of any public road that is contiguous with the property;
  - (h). Any overhead utility lines;

- (i). Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity;
  - (j). Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider;
  - (k). Sound level analysis prepared by the wind turbine manufacturer or a qualified engineer;
  - (l). Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to State, Federal and International building or electrical codes or laws as required by this Ordinance;
  - (m). Evidence of compliance or non-applicability with Federal Aviation Administration requirements; and
  - (n). List of abutters to the applicant's property.
- (3). Abutter and Regional Notification: In accordance with N.H. R.S.A. 674:66, the Building Inspector shall notify all abutters by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded thirty (30) days to submit comments to the Building Inspector prior to the issuance of the building permit. The Building Inspector shall review the application for regional impacts per N.H. R.S.A. 36:55. If the proposal is determined to have potential regional impacts, the Building Inspector shall follow the procedures set forth in N.H. R.S.A. 36:57, IV.

#### 11.04 Standards:

- (1). The Building Inspector shall evaluate the application for compliance with the following standards:
  - (a). Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the wind turbine base to the property line, public roads, or nearest point on the foundation of an occupied building.

Minimum Set Back Requirements			
Occupied Buildings on Participating Landowner Property	Occupied Buildings on Abutting Property	Property Lines of Abutting Property and Utility Lines	Public Records
0	1.5	1.1	1.5

- (i) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
- (ii) Guy wires used to support the tower are exempt from the small wind energy system setback requirements.
- (b). Tower: The maximum tower height shall be restricted to thirty-five (35) feet above the tree canopy within three hundred (300) feet of the small wind energy system. In no situation shall the tower height exceed one hundred fifty (150) feet.
- (c). Sound Level: The small wind energy system shall not exceed sixty (60) decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
- (d). Shadow Flicker: Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than thirty (30) hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
- (e). Signs: All signs including flags, streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
- (f). Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
- (g). Aviation: The small wind energy system shall be built to comply with all applicable Federal Aviation Administration, (FAA), Regulations, including but not limited to, 14 C.F.R. part 77, subpart B, regarding installations close to airports, and the New Hampshire Aviation statutes and regulations, including but not limited to N.H. R.S.A. 422-b and R.S.A. 424.
- (h). Visual Impacts: It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access the wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner’s access to the optimal wind resources on the property.

- (i) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but is not limited to, information regarding site selection, turbine design or appearance, buffering, and screening of ground-mounted electrical and control equipment. All electrical conduits shall be underground.
- (ii) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include, but are not limited to, white, off-white or gray.
- (iii) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.
- (i). Approved Wind Turbines: The manufacturer and model of the wind turbine to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar entity on a list approved by the State of New Hampshire, if available.
- (j). Utility Connection: If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to N.H. R.S.A. 362-A:9.
- (k). Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- (l). Clearing: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system, and as otherwise prescribed by applicable laws, regulations, and ordinances.

11.05. Abandonment:

- (1). At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the Building Inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
- (2). Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within ninety (90) days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Building Inspector. "Physically remove" shall include, but not be limited to:

- (a). Removal of the wind turbine and tower and related above-grade structures; and
  - (b). Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after-conditions.
- (3). In the event that an owner fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous twelve (12) month period. After the twelve (12) months of inoperability, the Building Inspector may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from the Notice receipt date. After review of the information provided by the owner, if the Building Inspector shall determine that the small wind energy system has not been abandoned, the Building Inspection shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
- (4). If the owner fails to respond to the Notice of Abandonment, or if, after review by the Building Inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind turbine and tower at the owner's sole expense within three (3) months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the Building Inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

#### 11.06. Violation

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

#### 11.07. Penalties

Any person who fails to comply with any provision of this Article or a building permit issued pursuant to this Article shall be subject to enforcement and penalties as allowed by N.H. R.S.A. Chapter 676 and this Ordinance.

## ARTICLE 12 – GROWTH MANAGEMENT

### 12.01 Basis, Purpose and Authority

(1). Findings:

Auburn has recently updated (2007) and reaffirms its Master Plan. The Town has also prepared and adopted (2008) a Capital Improvements Plan, (CIP). These documents constitute careful study and assessment of community development needs.

These documents describe regional and local growth trends and project future growth trends. Presented therein are the findings relative to the significant development pressure that the Town is projected to experience and the steps the Town should pursue to manage future growth. In accordance with those plans, facility expansion (school enlargement) and facility upgrade (road improvements) are planned and/or underway in Town.

(2). Purpose:

The purpose of this Article is to meet the goals of the Master Plan and to meet the proposed schedule for capital improvements contained in the CIP. This Article is intended to balance local service expansion needs with consequent fiscal demands, protect public health and general welfare and foster environmental protection. It is intended to promote planned, orderly growth. The proposed growth limitation will permit a reasonable rate of growth to occur, in line with the ability of the Town to accommodate its fair share of such growth, without imposing unacceptable burdens on current or future taxpayers. The growth limit represents Auburn's share of the projected regional growth.

(3). Authority:

This Ordinance is established pursuant to N.H. R.S.A. 674:22.

### 12.02 Eligibility

Eligibility for building permits, but not a right to the issuance of a building permit shall require, in addition to other provisions of this Ordinance and Subdivision Regulations of the Town of Auburn, either:

- (1). The recording of a plan in the Rockingham County Registry of Deeds; or
- (2). The existence of a lot of record recorded in the Rockingham County Registry of Deeds.

### 12.03 Issuance

Building permits shall be issued only upon proper completion of the building permit application, payment of the application fee, acceptance of application by the office of the Building Inspector, payment of the permit fee, and in accordance with the following:

- (1). The number of building permits to be issued in any building year for the construction of new dwelling units shall be limited to three (3%) percent

(rounded to the nearest whole number) of the number of dwelling units known to exist in Auburn in the previous year.

- (2). The Planning Board, with the advice of the Selectmen, shall establish, prior to March Town Meeting of each year, the number of dwelling units known to exist, using the best available information. The permit year or building year will run from March Town Meeting to March Town Meeting.
- (3). One building permit shall be required for the construction of each dwelling unit, with a duplex requiring two permits, etc. Conversion of a single-family dwelling to a two-family dwelling shall require one permit for the additional dwelling unit. The only exception to this one unit-one permit rule shall apply to units containing only two or fewer bedrooms built in clustered or multi-unit developments. Said units shall be non-expandable. Two or fewer bedroom units shall be treated as two-thirds ( $2/3$ ) of a unit for the purposes of the permit limit system. Permit amounts resulting in  $1/3$  remainders shall be rounded down and  $2/3$  remainders rounded up. For the purpose of determining the number of bedrooms in a unit, any room that could reasonably be used as a bedroom shall be counted as such whether or not it is so designated under current plans. This two-thirds treatment shall not apply to density determination or any other elements of the Town's regulations.
- (4). No more than seven (7) of the annual permits shall be issued to any one individual, business entity or group of related individuals and/or business entities in any one year.
- (5). Not more than seven (7) of the annual permits shall be issued in any one subdivision or re-subdivision of the land.
- (6). One fifth ( $1/5$ ) of the annual permit quota shall be reserved for owners of single lots, that are not part of a subdivision of three lots or more or not created within one (1) year from the date of building permit application, for development of single-family homes.
- (7). Permits issued shall lapse and be returned to the pool if construction on the building has not begun within three (3) months. Site preparation work shall not be considered building construction. If building construction has not been completed within twelve (12) months of issuance, a renewal of the permit shall be necessary, including all fees. This renewal shall not be subtracted from the available building permits for the year.
- (8). Unused total annual allocations shall lapse at the close of the year and may not be carried over to a subsequent year.
- (9). In the event more permits are requested than are available, the earlier application shall prevail based on the date and time of receipt of the application in the Building Inspector's office. The Building Inspector may maintain a waiting list in the event that another permit comes available during that building year or to apply to the next building year. The waiting list shall not extend beyond the next building year.

#### 12.04 Exceptions

- (1). Permits for non-dwelling construction or permits for alteration or replacement of existing buildings will not be affected by this Ordinance.
- (2). Proposals for housing for the age restricted 55 and older housing, accessibility housing or Workforce Housing may be excluded from the limitations of this Article upon a finding by the Zoning Board of Adjustment that the proposed project does provide such housing, and provided said proposed housing complies in all other regards to the Town Zoning Ordinance, Subdivision Regulations and with the intent of the Master Plan. **(changes made by vote on March 12, 2024)**
- (3). Every September and every December, the Planning Board shall review the number of permits issued to date, determine the outstanding number of permits that remains to be issued within the quota, and consider issuance of additional permits (within the annual quota) to developers or developments which had previously received their annual quota of permits.

#### 12.05 Administration

- (1). All applications shall first be reviewed for compliance with other regulations. Each application shall then be assigned a date and time of receipt by the Building Inspector.
- (2). This Article of the Zoning Ordinance shall be reviewed by the Planning Board at least once every year, or sooner, if necessary, to determine whether the building permit limitation should be revised or ended and whether the limit represents a fair and equitable method of growth management. Regional and local growth trends, the Auburn Capital Improvements Plan, land use and housing need shall all be factors considered during this review.
- (3). If the Town does not accept the recommended limits, then the growth limitations will be abolished.

## **ARTICLE 13 BUILDING CODE AND BUILDING PERMITS**

### **13.01 Building Permits Required**

No building shall be erected, constructed, reconstructed, altered or repaired without a building permit issued by the Building Inspector. The Building Inspector is authorized to charge and collect for the Town the fees for building permits, inspections, and certificates for occupancy. The Auburn Board of Selectmen shall be authorized to establish a fee schedule and amend as necessary following the required statutory public hearing process. The Building Inspector shall receive applications and issue Building Permits under the fee schedule set forth in Appendix E.

### **13.02 General Building Requirements**

No building or structure shall be erected, constructed, reconstructed, altered or repaired in any zoning district, unless in compliance with Article 6, Flood Plain Development Regulations, and each of the following:

- (1). All construction shall be in compliance with the most current versions of the State Building Codes and Standards referenced in N.H. R.S.A. 155-A. All modular housing shall comply with modular building standards, N.H. R.S.A. 205-C. Where two or more codes are in conflict with one another, the Building Inspector shall apply the strictest of the code provisions. The Building Inspector shall post a list of the applicable codes in the Town of Auburn and shall update that list with the most current versions of each of the above-referenced codes.
- (2). Renovations and remodeling of existing structures made necessary by ordinary maintenance and updating of obsolete finish materials will be permitted without making application for a building permit, so long as it does not involve alteration of interior partitions, or modification to structural, electrical, or mechanical systems. Work on existing structures in excess of this shall be classified as rehabilitation construction and shall require a building permit and shall be subject to all other provisions of this Ordinance.
- (3). On all new buildings or structures, construction must be at least ninety (90%) percent complete before occupied as a dwelling, as determined by the Building Inspector for the Town of Auburn, with reference to the building plan or sketch approved under the provisions of this Article.
- (4). No building permit for a new dwelling shall be issued unless it contains at least eight hundred (800) square feet of first floor living area.
- (5). All buildings or structures used for residential purposes shall be set on continuous solid foundations of concrete, brick, stone or other acceptable masonry material or pressure treated lumber.
- (6). Buildings must be framed according to good building practices and outside walls shall be covered with permanent materials customarily used, such as: wood or fire-resistant shingles, siding clapboard, brick, stucco, concrete or cinder block or other acceptable materials.

- (7). All electrical wiring shall conform to the latest National Electrical Code (NEC) approved methods and practices for safety to life and property. Compliance with the safety code of the National Board of Fire Underwriters shall be prima facie evidence of such approved methods and practices.
- (8). In all garages attached to a residence, the wall adjacent to the residence shall have a surface of fire-resistant material approved by the Fire Underwriters. Basement garages must also conform to the above specifications for all ceiling areas exposed in the garage, plus any partitioning walls surrounding it. Stair entrances from the garage to the residence shall also be sheathed, including walls, ceilings and door.
- (9). No Certificate of Occupancy shall be issued until site and driveway requirements for storm water drainage have been met as prescribed by the Building Inspector and Road Agent. The Building Inspector and/or Road Agent shall require, where necessary, the installation of a culvert of a size sufficient to properly control the flow of water. Additionally, all new driveways (including a driveway on a single lot) shall meet all the requirements of Section 9.15, "Driveways," of the Town of Auburn Subdivision Regulations.
- (10). Any structure damaged by fire, or other casualty, or act of God, to the extent of more than fifty (50%) percent of its total floor area or volume, shall be repaired or rebuilt in conformity with the regulations of this Ordinance, or it shall be razed and the remains removed at the Owner's expense within one year of the date of the damage.
- (11). All residential and non-residential structures, whether single or multi-unit dwellings, which utilize storage tanks for liquid petroleum or propane gas shall have the storage tanks piped to within eight (8) feet of any combustion unit with an acceptable rigid pipe, as defined by NFPA 58 Chapter 2-4.2 Pipe, and further requiring that the rigid piping be protected in accordance with NFPA 58 Chapter 3-2.7.6 and 3-2.7.7, Installation of Pipe. The owner or user of the storage tank must ensure that the tank and piping is both properly installed and maintained in a safe operating condition. All non-single family detached dwelling installations shall be performed by a fuel gas fitter licensed in accord with N.H. R.S.A. 153:27, et seq.
- (12). All buildings with cellars, regardless of their use, must have three or more exits. Buildings with cellars must have at least one of the three exits from the cellar. With any construction begun after the effective date of this amendment, casement windows will not be an acceptable exit.

### 13.03 Application

- (1). All applications for Building Permits shall be accompanied by a plan showing basic construction plans and details and a plot plan indicating the location of lot lines, structures, wells, septic tanks, driveways, the nearest accepted right-of-way, and the intended use of the lot.
- (2). The Building Inspector may conduct a minimum of three site and structure inspections for each new structure or dwelling permit issued and a lesser number for remodeling permits.

- (3). No permit shall be issued, or be considered valid, if it is in violation of any portion of this Ordinance, or any other Town Ordinance.
- (4). The fees for Building Permits and Certificates of Occupancy shall be paid when an application is submitted and shall be returned if an application is denied.
- (5). Applications for Building Permits and Certificates of Occupancy shall be made in duplicate on forms provided by the Building Inspector, each to be accompanied by a plot plan drawn to scale including information outlined in Section 13.03(1) above, and all other information as may be required by the Building Inspector to process said application. The proposed handling of water supply and sewerage disposal shall be described on all applications and shown on the plot plan.
- (6). Except upon written order of the Zoning Board of Adjustment, no Building Permit or Certificate of Occupancy shall be issued for any construction or use which would be in violation of this Ordinance.
- (7). Where applications are denied by the Building Inspector, the specific reasons for so doing shall be stated fully on the application, with one copy of the application to be filed in the Town and one copy returned to the applicant.
- (8). All valid building permits must be exercised within twelve (12) months after date of issue. If a valid building permit is not exercised, a renewal permit must be applied for.
- (9). Whenever, in the judgment of the Building Inspector, expert professional assistance is required to analyze plans and specifications, or to inspect work pursuant thereto, the Building Inspector may, after notification to applicant, obtain such assistance. Such expert assistance is to be paid for by the applicant.
- (10). The Building Inspector shall grant or deny the application within a twenty (20) day period. If granted, the Building Inspector shall give the applicant a Preliminary Certificate of Occupancy, which the applicant shall post in a conspicuous place on the work site. Such certificate will become null and void if the proposed undertaking is not commenced within ninety (90) days of its issuance.
- (11). If the application is denied because licenses, permits or approvals are required under this Ordinance by some authority other than the Building Inspector, or for any other reason, the Building Inspector shall state the reasons for the denial on the application. An application denied on the basis of the Town's Growth Management Ordinance shall state such and shall indicate the date of denial.
- (12). Upon satisfactory completion of the undertaking in accordance with the provisions of this Ordinance, the application, and any conditions imposed by other authorities having jurisdiction under this Ordinance, the Building Inspector shall issue the applicant a Final Certificate of Occupancy.

#### 13.04 Certificates of Occupancy

- (1). No land or building shall be occupied, used, or changed in use until a Certificate of Occupancy has been issued by the Building Inspector stating that the proposed use of such land or building complies with all the provisions of this Ordinance. In the case of construction on a new foundation, a certified foundation plan shall be submitted to the Building Inspector at the time of the foundation inspection, showing the location of the new foundation on the lot, and delineating the edge of any wetland within one hundred fifty (150) feet of the construction. No construction beyond an existing foundation shall be performed until a certified foundation plan and a to-scale plan of the proposed further construction, delineating the edge of any wetland within one hundred fifty (150) feet of the construction, is submitted to, and approved by, the Building Inspector.
- (2). A Certificate of Occupancy shall be applied for at the same time application is made for a Building Permit, and shall be issued following an inspection of the premises by the Building Inspector, and his/her finding that all provisions of this Ordinance, the Town of Auburn Subdivision Regulations and the Town of Auburn Site Plan Regulations have been met

#### 13.05 Other Approvals

In instances where licenses, permits or approvals are required under this Ordinance by some authority other than the Building Inspector, the Preliminary Certificate of Occupancy shall be issued by the Building Inspector only after the applicant has secured the necessary other license, permit or approval.

#### 13.06 Swimming Pool Barrier Requirements

All swimming pools installed within the Town of Auburn shall comply with applicable state building codes and amendments under NH RSA 155-A. All pools shall have barrier requirements in place prior to final inspection and issuance of certificate of completion.

#### 13.07 Power Burner, Chimney, Fireplace, Furnace and Oil Tank Permits

- (1). It shall be unlawful for any person or persons, firm or corporation to construct or reconstruct any chimney, fireplace or furnace equipment of any kind, nor install fuel oil tanks or power burner equipment, without first obtaining a permit for such installation from the Building Inspector.
- (2). Upon the receipt of an application for a permit for the installation of power burner equipment, oil tank, fireplace or chimney, the Building Inspector shall issue a temporary approval for such installation.
- (3). Installation under the temporary approval required above shall be in accordance with the rules and regulations of the Town of Auburn Building Code and regulations of the New Hampshire Board of Fire Control, promulgated under N.H. R.S.A. 153.

- (4). Upon completion of the installation, the temporary approval shall become void. The Chief of the Fire Department, or one of his subordinates, after having inspected the installation or otherwise satisfying himself that it is in accordance with this Ordinance, shall advise the Building Inspector to issue a permanent permit covering the storage of oil and/or operation of the equipment installed as provided herein.
- (5). A fee of \$25.00 is required with each power burner, fireplace, furnace or oil tank installation application.

### 13.08 Smoke, Fire and Carbon Monoxide Detection and Portable Fire Extinguishers

- (1). All new construction shall be equipped with smoke detectors, fire detectors, carbon monoxide detectors and fire suppression equipment in accord with the then current State of New Hampshire Building Codes and State Fire Codes, as well as N.H. R.S.A. 153:10-a relative to fire warning and carbon monoxide detection.
- (2). All Commercial and Industrial occupancies shall have all Portable Fire Extinguishers installed, inspected, maintained and recharged in accordance with NFPA 1 Uniform Fire Code 2009 edition, NFPA 101 Life Safety Code 2015 edition, NFPA 10 Standard for Portable Fire Extinguishers 2013 edition and the NH State Fire Code. Any person performing an annual external visual examination of a portable fire extinguisher shall obtain a:
  - (a) Certification as a Portable Fire Extinguisher Technician by the National Association of Fire Equipment Distributors. (NAFED) or;
  - (b) Certification or testing by another recognized organization as deemed appropriate and acceptable by the Authority Having Jurisdiction. (AHJ) or;
  - (c) Current certification from the manufacturer of the portable fire extinguisher denoting the portable fire extinguisher and areas in which the applicant has successfully trained and been certified.
- (3). All new construction and all new uses shall conform with the Town of Auburn Fire Department Rules and Regulation Requirements for fire alarms and fire suppression, as provided by the Planning Board.

### 13.09 Enforcement

- (1). It shall be the duty of the Building Inspector to keep a record of all applications for building permits issued with a notation of special conditions involved.
- (2). It shall be the further duty of the Building Inspector to maintain consistent surveillance of the Town to ensure that the provisions of this Ordinance, the Subdivision Regulations and the Site Plan Regulations are not being violated. The Building Inspector is also authorized to join the Town Health Officer in enforcing health code violations when, in his/her opinion, the violation rises to the level of a nuisance.

### 13.10 Violations and Penalties

- (1). If at any time the Building Inspector finds that any construction or use has been commenced in violation of this Ordinance, he or she shall immediately notify the Owner or agent of the nature of the violation, in writing, and order the abatement of such violation.
- (2). Failure to comply with any provisions of this Ordinance, any specific conditions and safeguards established by the Zoning Board of Adjustment in granting a variance or special exception, or any condition or requirement of Site Plan or Subdivision approval of the Planning Board, or an Excavation Permit shall cause the violator to be liable for a fine not to exceed Two Hundred Seventy-Five Dollars (\$275.00) for each day such violation continues unabated after the remedy of the same is ordered by the Building Inspector, and/or such other penalty as may be authorized by N.H. R.S.A. 676:17. For subsequent offenses involving the same violation, an owner shall be subject to a fine of not more than Five Hundred Fifty (\$550.00) per day of a continuing violation. The Building Inspector may undertake any enforcement action or combination of enforcement actions allowed by law, including:
  - (a). Self-help;
  - (b). A civil action for fines;
  - (c). A civil action for attorney's fees;
  - (d). An action for injunctive relief;
  - (e). An action for money damages; and
  - (f). Any other action allowed by law.
- (3). Wherever any violation of this Ordinance occurs, any person may file a complaint in regard thereto in writing to the Building Inspector. The Building Inspector shall immediately investigate said complaint, and finding a violation to exist, shall act according to paragraph 14.02 of this Ordinance.

### 13.11 Appeals

- (1). The owner, applicant or any other person aggrieved by a decision of the Building Inspector hereunder, may appeal therefrom to the Zoning Board of Adjustment.
- (2). The procedure for said appeals shall be the same in all respects as appeals from the refusal to grant a building permit as provided in N.H. R.S.A. 673:3, 674:34, and the Zoning Board of Adjustment shall have the same duties and powers as provided therein.
- (3). Whenever, in the judgment of the Zoning Board of Adjustment, expert professional assistance is required to determine any appeal, the Zoning Board may, after notification to the appellant, obtain the same at the expense of the appellant, who shall pay the cost of such expert.

## **ARTICLE 14 - ADMINISTRATION AND ENFORCEMENT**

### 14.01 Zoning Officer-Building Inspector

The Board of Selectmen shall appoint and replace, as is appropriate, a Zoning Officer-Building Inspector (herein referred to as "Building Inspector") whose duty it shall be to administer the provisions of this Ordinance in accordance with New Hampshire Revised Statutes Annotated, Chapters 673, 674, 676 and 677, and, where applicable, all other State laws and Town of Auburn ordinances and regulations. The procedures for obtaining building permits and certificates of occupancy from the Building Inspector are set forth in Article 13.01, et seq. of this Ordinance.

### 14.02 Enforcement

In any case in which the Building Inspector finds that an undertaking subject to the provisions of this Ordinance has been commenced or is proceeding in violation of this Ordinance, he/she shall issue a cease and desist order to the owner. If compliance with this Ordinance is not gained within thirty (30) days, or such shorter period of time deemed appropriate by the Building Inspector, the Building Inspector shall notify the Selectmen, and they shall take immediate steps to enforce compliance by seeking an injunction in the Superior Court, civil fines, and attorney's fees, or by any other appropriate legal action set forth in Section 13.10.

### 14.03 Penalty

Any owner violating any of the provisions of this Ordinance may be fined not more than Two Hundred Seventy-Five Dollars (\$275.00) for a first offense. Each day such violation continues from the time a cease and desist order is issued, until the time that work is undertaken to comply with the provisions of this Ordinance, (excluding any time during which the individual is actively seeking relief through administrative appeal or court action), the owner shall be subject to an additional fine of not more than Two Hundred Seventy-Five (\$275.00) per day. For subsequent offenses involving the same violation, an owner shall be subject to a fine of not more than Five Hundred Fifty Dollars (\$550.00) per day of continuing violation.

### 14.04 Fees Established by Selectmen

The Board of Selectmen may adopt, and, from time to time, amend, a schedule of fees adequate to cover the cost of required notices and its other necessary administrative expenses. The cost of notice, whether mailed, posted, or published, shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid grounds for the Board to terminate further consideration, and to deny an application or appeal without public hearing.

### 14.05 Zoning Board of Adjustment

- (1). Appointment: The Zoning Board of Adjustment shall consist of five (5) members who shall be residents of the Town and appointed by the Board of Selectmen. Members of the Zoning Board of Adjustment in office at the effective date of this Ordinance shall continue in office. Thereafter, as terms expire or vacancies occur, the Selectmen shall make appointments pursuant to N.H. R.S.A. 673:5. At no time shall more than one member of the same occupation or profession be permitted on the Board. No more than five (5) alternate members shall be appointed by the Selectmen, pursuant to N.H. R.S.A. 673:6.

- (2). Removal of Members
- (a). After public hearing, appointed members and alternate members of the Zoning Board of Adjustment may be removed by the Board of Selectmen upon written findings of inefficiency, neglect of duty or malfeasance in office. See NH RSA 673:13.
  - (b). The Board of Selectmen shall file with the Town Clerk a written statement of reasons for removal under this section.
- (3). Adoption of Rules: The Zoning Board of Adjustment shall adopt rules to govern its proceedings pursuant to N.H. R.S.A. 676:1. Rules of procedure shall be adopted at a regular meeting of the Board and shall be placed on file with the Town Clerk for public inspection.
- (4). Powers: Pursuant to N.H. R.S.A. 674:33 and 674:33-a, the Zoning Board of Adjustment shall have the following powers:
- (a). To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Building Inspector or other administrative official in the enforcement of this Ordinance or of any ordinance adopted pursuant to N.H. R.S.A. 674:16.
  - (b). To hear and decide requests for special exceptions to the terms of this Ordinance, which the Zoning Board is authorized by this Ordinance to pass upon.
  - (c). To hear appeals under N.H. R.S.A. 676:5(III) when the Planning Board has interpreted the Zoning Ordinance in the context of Site Plan review or a Subdivision Application. See 14.06(2).
  - (d). To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, if, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.
  - (e). To grant a permit to locate a building or structure or part thereof in a street shown on the official town map when the Zoning Board finds that the property of the applicant of which the mapped-street location forms a part will not yield a reasonable return to the owner of the property, or the Zoning Board finds, after balancing the interest of the municipality in preserving the integrity of the official map and in not increasing too greatly the cost of later opening such street, and the interest of the owner in the use and benefits of his property, that considerations of justice and equity require the grant of such permit; provided, however, that the Zoning Board shall deny such a permit if the applicant will not be substantially damaged by placing his building outside the mapped-street location. Before taking any action under the section, the Zoning Board shall hold a hearing at which parties in interest and others shall have an opportunity to be heard. Notice for a public hearing under this section shall be as provided in N.H. R.S.A. 675:7.

- (f). To grant equitable waivers from the physical layout or dimensional requirements of this Ordinance in accord with N.H. R.S.A. 674:33-a. Under no circumstances shall this authority be used to grant a waiver from a use restriction in this Ordinance. An equitable waiver granted under this authority shall not be construed as a non-conforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with this Ordinance. This authority shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable zoning requirements. This authority shall not be construed to impose upon town officials or boards any duty to guarantee the correctness of plans reviewed by them or property inspected by them.
  - (g). To hear appeals from the decision of the Building Inspector denying a building permit on a lot accessed by a Class VI road, whenever the enforcement of N.H. R.S.A. 674:41 would entail practical difficulty or unnecessary hardship and when the circumstances of the case do not require the building, structure or part thereof to be related to existing or proposed streets. In passing on such an appeal the Zoning Board may impose such terms and conditions as it deems appropriate under RSA 674:41.
  - (h). In exercising its appellate powers, the Zoning Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, or decision, as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
  - (i). The concurring vote of three (3) members of the Zoning Board shall be necessary to reverse any action of such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to affect any variation in this Ordinance.
- (5). Issuance of Decision
- (a). The Zoning Board of Adjustment shall issue a final written decision which either approves or disapproves an application for a local permit. If the application is not approved, the Zoning Board shall provide the applicant with written reasons for the disapproval.
  - (b). Whenever the Zoning Board issues a decision, the decision shall be placed on file in the Town Clerk's office and shall be made available for public inspection after the decision is made, within the time period required by N.H. R.S.A. 91-A.

#### 14.06 Appeals to Zoning Board of Adjustment

- (1). Administrative Officer's Decision: Appeals to the Zoning Board may be taken by any person aggrieved by, or by any officer, department, board or bureau of the Town affected by, any decision of an administrative officer of the Town. Such appeal shall be taken within a reasonable time, as provided by the rules of the Zoning Board, by filing with the officer from whom the appeal is taken and with the Zoning Board a notice of appeal specifying the grounds thereof. The

officer from whom the appeal is taken shall forthwith transmit to the Zoning Board all the papers constituting the record upon which the action appealed from was taken. Applicants are warned that an appeal to the Zoning Board of Adjustment may not toll or stay the time period in which to appeal a Planning Board decision to the Superior Court.

- (2). Planning Board Decision: If, in the exercise of subdivision or site plan review, the Planning Board makes any decision or determination which is based upon the terms of this Ordinance, or upon any construction, interpretation or application of this Ordinance, which would be appealable to the Zoning Board of Adjustment if it had been made by the administrative officer, then such decision may be appealed to the Zoning Board of Adjustment; provided, however, that if the Planning Board decision is based on any section of this Ordinance involving innovative land use controls adopted pursuant to N.H. R.S.A. 674:21, which delegate administration to the Planning Board, then the Planning Board's decision made pursuant to that delegation shall not be appealed to the Board of Adjustment, but may be appealed to the Superior Court as provided by N.H. R.S.A. 677:15. Any such appeal of the Planning Board's decision or determination shall be taken within a reasonable time, as provided by the rules of the Zoning Board of Adjustment, by filing with the Planning Board and with the Zoning Board a notice of appeal specifying the grounds thereof. The Planning Board shall forthwith transmit to the Zoning Board of Adjustment all the papers constituting the record upon which the action appealed was taken.
- (3). Status Quo Maintained: The effect of an appeal to the Zoning Board shall be to maintain the status quo. An appeal of the issuance of any permit or certificate shall be deemed to suspend such permit or certificate, and no construction, alteration, or change of use which is contingent upon it shall be commenced. An appeal of any order or other enforcement action shall stay all proceedings under the action appealed from, unless the officer from whom the appeal is taken certifies to the Zoning Board of Adjustment, after notice of the appeal has been filed with such officer, that, by reason of facts stated in the certificate, a stay would, in the officer's opinion, cause imminent peril to life, health, safety, property, or the environment. When such a certification has been made by the enforcing officer, the officer's enforcement proceedings shall not be stayed, other than by a restraining order which may be granted by the Zoning Board or by the Superior Court, on notice to the officer from whom the appeal is taken and cause shown.

#### 14.07 Referral to Planning Board

The Zoning Board may, before acting on any appeal, special exception or variance, refer it to the Planning Board for review and recommendation.

#### 14.08 Motion for Rehearing

Within thirty (30) days after any order or decision of the Zoning Board of Adjustment, the Selectmen, any party to the action or proceedings, or any person directly affected thereby, may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the Motion for Rehearing the ground therefore; and the Board of Adjustment, may grant such rehearing if in its opinion good reason therefore is stated in said motion. The thirty-day time period shall be counted in calendar days

beginning with the date, as required by N.H. R.S.A. 677:2, following the date upon which the Board voted to approve or disapprove the application; provided however, that if the moving party shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within five (5) business days after the vote pursuant to N.H. R.S.A. 676:3-II, the person applying for the Motion for Rehearing shall have the right to amend the Motion for Rehearing, including the grounds therefore, within thirty (30) days after the date on which the written decision was actually filed.

Upon the filing of a Motion for Rehearing, the Zoning Board shall within thirty (30) days either grant or deny the application, or suspend the order or decision complained of pending further consideration. Any order of suspension may be upon such terms and conditions as the Zoning Board may prescribe.

#### 14.09 Variances

- (1). General: Any variance shall be only for the minimum relief required to alleviate the hardship justifying the variance and shall expire if construction or the use (as appropriate) is not commenced within two (2) years of the authorization. In authorizing a variance, the Zoning Board may attach such conditions and safeguards as it deems necessary or appropriate to protect the abutters, the neighborhood and/or the Town as a whole. Additional provisions relative to the granting of a variance within a special flood hazard area are contained in Article 6.10.
- (2). Requirements: The Zoning Board of Adjustment may authorize a variance from the Zoning Ordinance only where the applicant proves all of the following:
  - (a). Literal enforcement of the provisions of this Ordinance would result in an unnecessary hardship:
    - (i). For purposes of this sub-paragraph, “unnecessary hardship” means that owing to special conditions of the property that distinguish it from other properties in the area;
      - (A) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of the provision to the property; and
      - (B) The proposed use is a reasonable one.
    - (ii). If the criteria in sub-paragraph (i) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.
  - (b). Granting of a variance will not be contrary to the public interest;
  - (c). The granting of a variance will be in keeping with the spirit and intent of the Ordinance;
  - (d). The granting of a variance will result in substantial justice being done; and

- (e). There will be no diminution in the value of surrounding properties as a result of granting the variance.

#### 14.10 Disability Variance

Notwithstanding the provisions of Section 14.09, the Zoning Board of Adjustment may grant a variance without finding a hardship arising from the condition of the premises when reasonable accommodations are necessary to allow a person with a recognized physical disability to reside in or regularly use the premises, provided that:

- (a). Any variance granted under this Section shall be in harmony with the general purpose and intent of this Zoning Ordinance; and
- (b). The Zoning Board of Adjustment may provide that the variance shall survive only so long as the particular person has a continuing need to use the premises.

When such a limitation has been imposed on the variance, any improvements made as a result of the variance shall, at the sole discretion of the Zoning Board, be removed upon cessation of use by the particular person(s) who is the subject of the variance.

#### 14.11 Abandonment or Discontinuance of a Variance

If, after commencement, a variance is abandoned for a period of one (1) year, or otherwise replaced by a conforming use, then the variance shall be deemed to have expired and cannot be reestablished without a new application process and affirmative decision by the Zoning Board of Adjustment.

#### 14.12 Appeals under N.H. R.S.A. 674:41

If an appeal has been granted under N.H. R.S.A. 674:41, the applicant shall have two (2) year within which to obtain a building permit. Failure to secure a building permit within two (2) year of the Zoning Board decision shall result in an expiration of the relief granted by the Zoning Board of Adjustment.

#### 14.13 Temporary Uses

In the case of natural disaster such as dwelling destruction by fire, the Zoning Board of Adjustment may authorize a permit, after due notice and hearing, for the temporary occupancy and use of a structure or land in any zone for a purpose that does not conform with the zone requirements. Such occupancy and use shall be subject to any reasonable conditions and safeguards which the Zoning Board may impose to minimize any injurious effect upon the neighborhood or to protect contiguous property. The approval by the Zoning Board and any permit based thereon, for such temporary occupancy and use, shall not be granted for a period of more than twenty-four (24) months, and may be renewed upon reapplication to the Zoning Board.

#### 14.14 Special Exceptions

- (1). General: Special exceptions shall be subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements and standards of this Ordinance. Special exceptions shall be made in harmony with the general purpose and intent of this Ordinance. All such uses are hereby

declared to possess characteristics of such unique and special form that each specific use shall be considered as an individual case.

(2). Standards Applicable to All Special Exceptions: The Zoning Board of Adjustment shall grant an application for a special exception provided the applicant proves by a preponderance of the evidence that the following criteria are met:

- (a). The requested use is specifically authorized in this Ordinance for the zone;
- (b). The requested use will not create undue traffic congestion or unduly impair pedestrian safety;
- (c). The requested use will not overload any public or private water, drainage or sewage system, or any other municipal system, nor will there be any significant increase in storm water runoff onto adjacent property or streets;
- (d). The requested use will not create excessive demand for municipal services, including, but not limited to, police, fire protection, or schools;
- (e). The requested use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to the use of, or out of character with, the adjacent neighborhood in that location, and the nature and height of the buildings and structures will neither discourage the permitted use of the adjacent land and buildings nor impair the value thereof;
- (f). The proposed location, with due consideration to the size of the use, the nature and intensity of operations involved and the size of the site, is appropriate for the requested use;
- (g). The intensity of the use will be of no greater intensity than the operation of any permitted use; and
- (h). The requested use is consistent with the spirit and intent of this Ordinance and the Town of Auburn Master Plan.

(3). Permits for Special Exceptions

Special exceptions may be allowed only by approval of the Zoning Board of Adjustment. A permit for a special exception use shall not be issued by the Zoning Board until it shall first be satisfied that all of the standards and conditions of this section and this Ordinance have been met.

(4). Review Procedure

- (a). In determining whether to grant or deny a special exception, the Zoning Board shall apply the standards applicable to variances, as prescribed by N.H. R.S.A. 674:33, I(b), except that no showing or finding of unnecessary hardship shall be required.

- (b). The burden of proof in establishing the propriety of a special exception and compliance with the standards set forth in Section 14.14(2) shall be upon the applicant.
- (c). The Zoning Board shall utilize the procedures established by N.H. R.S.A. 674:33 in hearing and determining applications for a special exception.

(5). Application Process:

- (a). When submitting an application for a special exception to the Zoning Board, the owner or his agent shall also submit the following:

A preliminary plan prepared in accordance with the standards and requirements set forth in the Town of Auburn Subdivision Regulations, unless otherwise noted in the following subsections.

The applicant shall also submit to the Zoning Board and/or the Building Inspector any information specifically required by this Ordinance or any applicable Town regulation, depending upon the proposed use.

The applicant shall also submit any additional information so indicated in the following subsections, and any other information requested by the Zoning Board in order to permit the Zoning Board to reach a decision on the application.

- (b). If requested, a special exception applicant shall present the Zoning Board with a written environmental impact statement concerning the actual or potential effect of the proposed use upon the following factors:
  - (i) The regenerative capacity of water aquifers or other ground or service water supplies;
  - (ii) The natural functioning of plant, animal, fish and human life processes;
  - (iii) Unique or irreplaceable land types, historic sites or archaeological areas, or of existing scenic and aesthetic features of the surrounding area;
  - (iv) Conformity with existing geologic and topographic features; and
  - (v) The traffic volume or traffic patterns in the surrounding area.

- (c). Within five (5) days of receipt of the plan(s), the Zoning Board shall transmit a copy thereof to the Planning Board, Health Officer, and/or Police Chief, where appropriate. These entities or officers shall submit written recommendations and reports to the Zoning Board within fifteen (15) days of receipt of the applicant's plan(s).
- (d). The Zoning Board shall not take final action on an application for a special exception until it has received reports thereon from the Planning Board and department heads, as indicated above, or until each recipient has allowed fifteen (15) days to elapse. The Zoning Board shall give due consideration to the reports, and where its' decision differs from the recommendations, shall state the reasons therefore in writing.
- (e). Failure of the Zoning Board to approve or disapprove an application for special exception upon a use permit or a new or renewal license application within one hundred and twenty (120) days from the date of filing of the application shall constitute approval, and the permit or license shall be automatically issued.
- (f). If the Zoning Board denies a special exception, it shall do so in writing issued to the owner. Within ten (10) days of its written denial, the Zoning Board shall also issue to the owner a written statement of its reasons for the denial.

(6). Conditions

If deemed necessary to protect the best interest of the abutting property, the neighborhood, or the Town as a whole, the Zoning Board may impose conditions in granting a special exception. These conditions may include, but are not limited to, the following:

- (a). Increasing the required lot size or yard requirements;
- (b). Limiting the height of buildings because of obstruction to view and reduction of light and air to adjacent properties;
- (c). Controlling the number and location of vehicle access points to the property;
- (d). Increasing the street width adjacent to the property;
- (e). Increasing the number of parking spaces required;
- (f). Limiting the number, location and size of signs;
- (g). Requiring suitable on-site landscaping and screening;
- (h). Specifying a time limit for initiation and/or completion of construction or alteration of a structure; and
- (i). Providing for specific layout of facilities on the property, such as location of the building, parking areas, access to the building and the like.

(7). Limits of Special Exception

Special exceptions shall be deemed to authorize only one particular use. If there is an alteration in use, a request for a new special exception is required. If the use or construction authorized by the granting of a special exception has not commenced within a two (2) year period from the date of the decision of the Zoning Board of Adjustment, or in the event of an appeal to the courts of the special exception or the project to which it relates, within a two (2) year period from the final judgment of the court, then the special exception shall be deemed to have expired and the Zoning Board's decision rendered null and void. Upon a request, submitted prior to the date of expiration, the Zoning Board of Adjustment may extend the period of validity of a special exception for two (2) additional year, provided that the applicant presents evidence of:

- (a). A good faith effort to commence the use or construction so authorized by special exception;
- (b). That the delay in commencement of the use or construction was beyond the applicant's control; and
- (c). That the circumstances relating to the property and surrounding neighborhood have not changed substantially since the date of the original decision.

(8). Abandonment or Discontinuance of a Special Exception

If, after commencement, a special exception is abandoned or discontinued for a period of one (1) year, or it is supplanted by another use, then the special exception shall be deemed to have expired and shall not be re-established without a new application to the Zoning Board of Adjustment and an affirmative decision thereon.

14.15 Costs

Any person appearing before the Zoning Board of Adjustment may be represented by counsel, but the costs of retaining such counsel shall be borne by the party retaining the counsel, and not by the Town of Auburn.

14.16 Appeals to the Superior Court

The filing of an appeal with the Superior Court shall not stay any enforcement proceedings upon the decision appealed from and shall not have the effect of suspending the decision of the Zoning Board of Adjustment unless the appealing party has been granted a restraining order by the Superior Court.

## **ARTICLE 15-AMENDMENT, VALIDITY AND EFFECTIVE DATE**

### 15.01 Amendment

Any amendment to this Ordinance, as proposed by the Planning Board or otherwise, shall be adopted in accordance with the procedures required by New Hampshire Revised Statutes Annotated, Chapter 675, et seq.

### 15.02 Validity

The invalidity of any provision of this Ordinance or district boundary shown on the official zoning maps shall not affect the validity of any other provision of this Ordinance or boundary.

### 15.03 Existing Ordinances

All existing Ordinances or parts thereof inconsistent with the provisions of this Ordinance are repealed upon passage of this Ordinance.

### 15.04 Effective Date

The effective date of this Ordinance or any amendment thereto shall be upon its approval by the Town of Auburn pursuant to New Hampshire Revised Statutes Annotated, Chapter 675, et seq.

The effective date of this amended Ordinance is March Town Election, 2018.

## **APPENDICES**

APPENDIX A	.....	Zoning Matrix of Uses and Districts
APPENDIX B	.....	Zoning Table of Dimensions
APPENDIX C	.....	Flood Insurance Rate Map
APPENDIX D	.....	Zoning Map
APPENDIX E	.....	Fee Schedule for Building Permits and Inspections
APPENDIX F	.....	Fire Department Regulations

**APPENDIX A  
ZONING MATRIX OF USES AND DISTRICTS**

P= Permitted Use      S= Special Exception      X= Not Allowed

TYPE OF LAND USE		ZONING DISTRICTS						
<u>PUBLIC AND INSTITUTIONAL</u>		<b>R</b>	<b>R1</b>	<b>R2</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>V</b>
1	Public Educational Facility	P	P	P	X	P	X	P
2.	Church	P	P	P	X	P	X	P
3.	Public Recreational Facility	P	P	P	X	P	X	P
4.	Day Care Center, 1 to 6 Persons	P	P	P	S	S	X	S
5.	Day Care Center, over 6 Persons*	P	S	P	S	P	X	P
6.	Private Education Facility*	S	S	S	P	P	X	P
7.	Nursery School*	P	S	P	S	P	X	P
8.	Outdoor Commercial Recreational Facility	S	S	X	P	P	S	S
9	Indoor Commercial Recreational Facility	S	X	X	P	P	S	P
10	Social Facility	X	X	X	S	S	X	S
11.	Hospitals	S	X	X	X	P	X	P
12.	Municipal Buildings	P	P	P	P	P	P	P
13.	Cultural Facilities	S	S	S	P	P	X	P

\* In a Clustered Residential Development, the following uses are allowed by Special Exception: home shop; home business; daycare center (over 6 persons); nursery school and produce stand.

<u>AGRICULTURE AND FORESTRY</u>		<b>R</b>	<b>R1</b>	<b>R2</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>V</b>
1	Agriculture	P	P	P	P	S	X	S
2	Agritourism	S	S	S	S	P	X	P
3	Farm Roadside Stand	P	S	P	P	P	X	P

<u>RESIDENTIAL</u>		<b>R</b>	<b>R1</b>	<b>R2</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>V</b>
1	Single Family Detached Dwelling	P	P	P	X	X	X	X
2.	Manufactured Housing/Mobile Home**	P	P	P	X	X	X	X
3.	Dwelling Unit, Duplex	X	S	S	X	S	X	S
4.	Dwelling Unit, Multi-Family	X	X	X	X	S	X	S
5.	Boarding House	X	X	X	X	S	X	S
6.	Clustered Residential Development	X	X	X	X	X	X	X
7.	Conversion Apartment	S	S	S	X	S	X	S
8.	Accessory Dwelling Unit	S	S	S	X	S	X	X
9.	Accessory Dwelling Unit to Commercial Establishment	X	X	X	X	X	X	X
10.	Elderly Housing	P	S	P	X	P	X	P
11.	Workforce Housing	X	P	S	X	S	X	S
12.	Mixed Residential/Commercial Use	X	X	X	X	S	X	S

\*\* Manufactured Housing Parks and Mobile Home Parks are not permitted.

## APPENDIX A CONTINUED

<u>COMMERCIAL</u>		<b>R</b>	<b>R1</b>	<b>R2</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>V</b>
1	Home Shop	P	S	P	X	P	X	P
2.	Home Occupational Office	P	P	P	X	P	X	P
3.	Home Business	P	S	P	X	P	X	P
4.	Motels/Hotels	X	X	X	P	X	X	X
5.	Sales Establishment	X	X	X	P	P	S	P
6.	Restaurant	X	X	X	P	P	P	P
7.	Fast Food Restaurant	X	X	X	P	S	P	S
8.	Commercial Service Establishment	X	X	X	P	P	S	P
9.	Office Establishment under 3,000 sq. ft.	X	X	X	P	P	S	P
10.	Office Establishment over 3,000 sq. ft.	X	X	X	P	X	P	X
11.	Multi-Unit Commercial Establishment	X	X	X	P	S	X	P
12.	Automobile Service Station	X	X	X	P	S	X	S
13.	Automobile Repair Garage	X	X	X	P	S	X	S
14.	Automobile or Similar Vehicle Sales Facility	X	X	X	P	S	P	S
15.	Warehouse Establishment	X	X	X	P	X	P	X
16.	Light Industrial Establishment	X	X	X	S	X	P	X
17.	Travel Trailer Park/Campground	S	X	X	X	X	X	X
18.	Clustered Commercial Development	X	X	X	X	X	X	X
19.	Veterinary Clinic	X	S	S	P	P	P	P
20.	Sexually Oriented Business***	X	X	X	S	X	X	X

\*\*\* Subject to additional requirements of Section 4.07(7)

<u>INDUSTRIAL</u>		<b>R</b>	<b>R1</b>	<b>R2</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>V</b>
1	Industrial Establishment	X	X	X	X	X	P	X
2.	Lumber Treatment Establishment	X	X	X	X	X	P	X
3.	Junk Yards	X	X	X	X	X	S	X
4.	Industrial Repair Garage	X	X	X	X	X	P	X
5.	Clustered Industrial Development	X	X	X	X	X	X	X

<u>MISCELLANEOUS</u>		<b>R</b>	<b>R1</b>	<b>R2</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>V</b>
1	Utility Substation	P	P	P	P	P	P	P
2.	Water Supply Works	P	P	P	P	P	P	P
3.	Excavation and Soil Removal	X	X	S	X	X	S	X
4.	Heliport	X	X	X	X	X	S	X
5.	Private Airstrip	X	X	X	X	X	S	X
6.	Antennas and Communication Towers	X	X	X	X	X	S	X
7.	Permanent Storage Facility	S	S	S	S	S	S	S
8	Temporary Storage Facility	X	X	X	X	X	P	X
9.	Employee Amenities, including but not limited to: fitness center, dry cleaner, personal services or bank machine, when established as part of a permitted use in the Industrial District.	X	X	X	X	X	X	X

**APPENDIX B  
ZONING TABLE OF DIMENSIONS**

DISTRICT	MINIMUM LOT SIZE	MINIMUM FRONTAGE	MINIMUM DIMENSIONS			MAXIMUM HEIGHT	
			Front Yard	Side Yard	Rear Yard	Feet	Stories
R	3 acres	300 feet	50 feet	50 feet	50 feet	35	3
R1, R2	2 acres	200 feet	50 feet	30 feet	50 feet	35	3
C1, C2	2 acres	200 feet	50 feet	30 feet	50 feet	35	3
I	3 acres	300 feet	50 feet	(* see note)		42	3

\* To be determined at Site Plan Review

Note: See specific sections of this Ordinance for additional requirements.

**APPENDIX C  
FLOOD INSURANCE RATE MAP**

**Please see Article 6 – Flood Plain  
Development Regulations**

**[msc.fema.gov](https://www.msc.fema.gov)  
to create a FIRMette map**

**APPENDIX D  
ZONING MAP**

Please call the Planning Office

**APPENDIX E**  
**Building Department Fees for Permits/Inspections**  
**(ability to amend by Auburn Board of Selectmen per RSA 674:51 adopted March 2017)**

Fee Schedule Posted at Auburn Town Hall and on Town of Auburn Website per NH RSA 673:16 III

**APPENDIX F  
FIRE DEPARTMENT REGULATIONS**

Section A	System Design and Layout
Section B	System Guide Lines
Section C	Radio Boxes
Section D	Knox Box
Section E	Plan Review and Technical Assistance

Plan Review and Technical Assistance.

- (1) The Town of Auburn shall require for new commercial construction, modification, or rehabilitation, construction documents and shop drawings shall be submitted, reviewed, and approved by the AHJ (Authority Having Jurisdiction) prior to the start of such work.
- (2) The applicant shall be responsible to ensure that the following conditions are met:
  - (a) The construction documents include all of the fire protection requirements.
  - (b) The shop drawings are correct and in compliance with all applicable codes and standards.
  - (c) The contractor maintains an approved set of construction documents on site.
- (3) It shall be the responsibility of the AHJ (Authority Having Jurisdiction) to promulgate rules that cover the criteria to meet the New Hampshire State Fire Code and the review of documents and construction documents within established time frames for the purpose of acceptance or providing reasons for non-acceptance.
- (4) Review and approval by the AHJ shall not relieve the applicant of the responsibility of compliance with the New Hampshire State Fire Code.

Technical Assistance

- (1) Construction documents or shop drawings shall be prepared and or reviewed by an approved independent third party with expertise in the matter to be reviewed at the submitter's expense.
- (2) The independent reviewer shall provide an evaluation and recommend necessary changes of the proposed design, operation, process, or new technology to the ADH.
- (3) The AHJ shall be authorized to require the design submittals to bear the stamp of a registered design professional.
- (4) The AHJ shall make the final determination as to whether the provisions of The New Hampshire State Fire Code have been met.

These requirements are not to be construed to be complete, but only as a guide. For all questions regarding fire, the enclosed shall be directed to the Auburn Fire Department and resolved before proceeding with construction.

## **SECTION A**

### **System Design and Layout**

1. All fire alarm systems installed in the Town of Auburn shall have an application for Fire Alarm from The Auburn Fire Department. A floor plan showing all fire alarm devices, location of radio box, panel and annunciators, a one-line wiring diagram, and battery calculations and annunciator detail showing zone labeling will be required to be submitted before The Auburn Fire Department or Town of Auburn Building Inspector issues an application.
2. The installer shall complete a certificate certifying that the system has been 100% tested and functions in complete compliance with the system specifications and manufacturers recommendations. The certificate shall be signed by the installer, general contractor and the owner. After receipt of the certification, the Fire Chief will conduct an inspection, the installer shall perform the test and shall provide the necessary tools and personnel to perform the test with a representative of the owner. It shall be the responsibility of the owner to inspect 25% of all alarm devices quarterly. The intent is a 100% inspection of the system annually.
3. Additions and modifications to existing systems will require a new application and submittal.
4. All equipment used shall be of a type approved by the Fire Chief. All systems shall be installed in accordance with NFPA 1221, 13A, 70, 72A, B, C, D, E, F, G, H, 90A, 101, IBC 2000, and IRC 2000.
5. All Fire Alarm Panels, Annunciators, Firefighter Telephone and Fire Alarm Pull Stations shall have CAT-30 key locks.
6. All Fire Alarm Panels (FIRE ALARM CONTROL PANEL) shall be stand-alone units. No other functions shall be allowed in the panel (e.g. security systems).
7. All systems shall be DC, supervised, battery stand-by Fire Alarm systems. Multiplex and addressable systems shall not be allowed without special exception after review by the Fire chief.
8. A separate AC circuit disconnect will be provided for the Fire Alarm system with breaker lock and painted RED.
9. The batteries used with the Fire Alarm control panel shall be capable of operating the panel for sixty (60) hours with a five (5) minute ring-down at the end of the sixty (60) hour period. The calculation used to determine battery capacity shall be presented to the Fire Department with the application for Fire Alarm. Stand-by batteries and the charging system shall be supervised.
10. Fire Alarm control panels shall have a sign "Fire Alarm System" of 1" white lettering on a red background.
11. If the Fire Alarm control panel is located in a separate or concealed space, a sign shall be provided on the entrance door or near the concealed space. The sign shall be red with white lettering at least one (1) inch in height and shall read: "Fire Alarm System".

12. Upon activation of any alarm device, the control panel shall sound the evacuation signals, flash the evacuation lights, indicate the zone of activation, and send a signal to a UL approved central station. Elevator recall shall be wired to the State of New Hampshire Elevator Code.
13. All elevators which travel 25 feet or more above the ground level shall be connected to the fire alarm system. Each elevator lobby, at each level and the elevator equipment room shall have a smoke detector with connections to the elevator control system. Smoke detectors activation in an elevator lobby shall prevent the elevator from stopping and/or opening at the lobby. The system shall be wired so that in the event of activation of all lobby smoke detectors, the elevators shall open at a designated level. Elevator recall systems shall reset-set automatically with the resetting-setting of the Fire Alarm Control Panel. All smoke detectors shall be connected to the appropriated zone of the building fire alarm system.
14. All control panels shall have a drill switch to permit fire drills without summoning the Fire department in educational, daycare, nursing homes, group homes, and other occupancies as determined by the Fire Department.
15. City disconnect switches are not allowed on the Fire Alarm control panels. This shall not apply to Radio Box trip units.
16. All zones of the control panel shall have red alarm indicating lamps and yellow trouble lamps. Power lamps shall be green.
17. A trouble signal switch shall silence the trouble audible signal while the trouble visual signal remains illuminated. The trouble silence and drill switches shall have a ring back feature to supervise correct switch position. Alarm signals shall have a resound provision. When a system is "silenced" and subsequent alarms from any other zone shall resound-round the evacuation signals. All control panels shall have a signal silence switch and a system reset switch.
18. Control panels having zone labeling on the outside of the door with zone lamps mounted on an inside panel shall have zone labeling inside the panel also, to indicate zones when door is opened.
19. ALL SYSTEMS shall allow the visual indicators of the evacuation signal to stay illuminated after the alarm silence switch is operated and remain illuminated until the system is reset.
20. All places of assembly and all structures housing 24 or more living units shall require a Voice Fire Alarm system with slow whoop evacuation signal and must have a supervised microphone public address system.
21. All dwelling units shall have a UL listed device (mini-horn) or speaker connected to the buildings fire alarm system. All evacuation and audible devices shall have the same sound.
22. End of the line devices must be installed electrically last beyond any detection device in an alarm circuit. The location of the end of the line device shall be permanently labeled.
23. Detection devices located in concealed areas shall have remote indicators or their location shall be permanently marked in a manner acceptable to the Fire Chief.

24. A system smoke detector and 212-degree sprinkler head (if sprinkled) shall be installed in all main electrical rooms. Installation of equipment shall be in accordance with modern standards of practice. All wiring shall be in accordance with the National Electrical Code, NFPA 72 series pamphlets, and all State and Local codes, and the rules and regulations of The Auburn Volunteer Fire Department.
25. Fire Alarm zones shall protect a maximum of 10,000 square feet.
26. Structures having multiple-tenant outside access shall be zoned by tenant space. (E.g. strip malls shall be zoned by address of each store.)
27. All wiring shall be run in EMT or metallic conduit. All pull boxes shall be red. No wiring shall be exposed. 105-degree centigrade wire may be run without conduit provided it is not exposed, is above seven (7) feet from the floor level and is stapled or supported every twenty-four (24) inches. 105 c wire must be labeled 'FPL', 'FPLR' if the cable runs in a plenum. All initiating and audio/visual devices shall be mounted on back of boxes. All wire must be solid.
28. All Alarm initiating devices other than smoke devices shall be wired electrically first before smoke detectors in a class "B" system. All smoke detectors shall be wired electrically grouped together in a class "A" system.
29. If a local alarm system is present, a RED label with White lettering shall be present over the pull stations and is to read: "LOCAL ALARM ONLY. DIAL "911"
30. A remote annunciator shall be located at the main entrance of the building and strategically mounted to allow unimpaired access and view at all times. The color shall be predominantly red. All zone labeling shall be in plain English indicating the location of the alarm. Zone indicators WILL NOT be allowed on the annunciator. Units located on the outside of the building shall be back-lit type with sufficient brilliance to be seen in normal direct sunlight. No LED lamps are allowed. Acceptable annunciator labeling will include: Back lit painted window letters or engraved plastic white on red. NOTE: "Dymo" labels will not be allowed.
31. Graphic annunciators shall be required on all buildings of unusual design or with a floor space in excess of 20,000 square feet and all multi-building systems.
32. The building graphic shall show the building in phase with the viewer and shall indicate in red to the viewer "You Are Here".
33. Building outlines shall be "triple thick" black. Within the building's rooms, corridor, etc. shall be shown "double thick". Other lines of lesser significance such as door swings and windows shall be shown "single thickness". Extraneous building details shall be eliminated to provide a clear and concise plan of the layout depicting only relevant details.
34. Graphics having significant detail should have stairways highlighted or shaded in blue and elevators in yellow to bring attention to these areas. All main corridors and point of egress shall also be clearly indicated.
35. All Fire Alarm and Fire Department control devices and locations shall be shown with red symbols and identification.
36. Zone boundaries shall be shown using a red dashed line when applicable.

37. Permanent "HAZARDOUS MATERIALS" storage locations should be so noted in red.
38. Annunciator panel detail plan and drawing shall be submitted to the Fire Chief for approval before installation.
39. All exterior exit ways and each exit from each floor shall have a pull station within four (4) feet of exit way.
40. All pull stations and horn/light units shall be predominantly red and be labeled "Fire". Any alarm or signal devices located in the building which are not part of the fire alarm system shall be painted a color other than red. If key pull stations are used, a CAT-30 key shall be used.
41. Signal levels shall not be less than 84 dB or exceed 100 dB as measured four (4) feet above the floor throughout each coverage area. Levels shall be measured using an ANSI Type 1 sound level meter set for "A" weighting and "slow" meter response. For signals with varying levels, the signal shall be deemed to be the maximum level indicated. The signal level requirement shall be met for all required signals. Tests shall be conducted with doors closed between rooms.
42. The Town of Auburn assumes no responsibility for the correct operation of the fire alarm systems.
43. The Auburn Fire Department maintains a "Knox Box" key depository system. All commercial, industrial, non-residential and multi-family buildings are required to install "Knox Box" systems. See section D of these regulations for additional information and requirements.

## **SECTION B**

### **Fire Alarm System Guidelines**

1. All single family and two (2) family homes shall be equipped with 110-volt hard wire smoke detectors, with a minimum of one per floor and is to include the attic. All smoke detector circuits will be tied into a common light circuit.
2. All multi-family dwellings from 3 to 6 units shall contain 110-volt smoke detectors in all common hallways, attic area and basement area. These shall all be connected together and connected to a common light circuit. Each unit shall be equipped with not less than one (1) smoke detector per floor and shall be connected to a common light circuit with-in the unit.
3. All multi-family dwellings from 7 to 9 units shall meet all specifications as listed above in section 2. However, pull stations shall be installed within four (4) feet of all common exits and shall be labeled local alarm as specified in the System Design and Layout section 29.
4. All multi-family dwellings from 10 units on up shall meet all requirements as listed above in section 3. However, said alarm system shall be equipped with a Radio Box Fire Alarm System and shall meet all requirements as listed for Equipment Design and layout and

the section on Radio Boxes which can be found in Section C.

5. All commercial and industrial buildings shall contain a complete fire alarm system as specified in the System Design and Layout.
6. All commercial and industrial buildings, up to 8,000 square feet shall be monitored by a Digital Dialer and shall be monitored by a UL approved monitoring company.
7. All commercial and industrial buildings greater than 8,000 square feet shall be monitored by a radio Box transmitter which will be monitored by the Town of Derry.
8. All places of assembly will be monitored by a Radio Box Transmitter that will be monitored by the Town of Derry.
9. Buildings undergoing renovations must be brought up to compliance as defined in this document.
10. All smoke detectors shall be UL approved and not less than three (3) percent activation.

### **SECTION C Radio Boxes**

1. All Radio Boxes installed in The Town of Auburn shall be of a type approved by the Fire Chief.
2. Radio Boxes shall be pedestal or wall mounted at the main entrance of the building, or internally mounted next to the Fire Alarm Panel. Internally mounted Radio Boxes shall require a Knox Box at the main entrance of the building.
3. Radio Box batteries shall be float charged from an AC source in the Fire Alarm Control Panel, fused at both ends of the charged circuit.
4. Radio Master Box Interface will be mounted adjacent to the Fire Alarm control Panel and have its trouble signal wired to the common system trouble. Fire Alarm panels with UL listed Radio Box trip modules do not require interface panels.
5. All Radio Box Locks shall be a CAT-30 lock and key.
6. All Radio Box locations must be approved prior to installation.
7. All Radio Boxes shall remain completely covered during construction to prevent accidental use.
8. All keys to the Radio Box shall be turned over to the Fire Chief after system acceptance.
9. All equipment shall be made available for test and inspection when required by the Fire Department.

10. The Auburn Fire Department reserves the right to disconnect service to the Radio Box at any time for non-compliance with the Fire Department regulations or in case of system trouble which might endanger the proper operation of the Town alarm system. The owner will be notified of any disconnections.

**SECTION D**  
**Knox Box**

Any building having an alarm system must have a "Knox Box" mounted within 10 feet of main entrance.

Applications can be obtained from the Building Inspector or Fire Chief.