

TOWN OF EPPING, NH

ZONING ORDINANCES

2023



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ARTICLE 1

- 1.1. **PREAMBLE** - Pursuant to the authority conferred by Chapter 674:16 of the New Hampshire Revised Statutes Annotated 1955, as amended, and in accordance with the goals set forth in the Master Plan; this ordinance is hereby enacted by the Town of Epping.
- 1.2. **TITLE** - This Ordinance shall be known and may be cited as the “Zoning Ordinance of the Town of Epping”, and may be referred to herein as the “Zoning Ordinance.”
- 1.3. **PURPOSE** - The purposes of the Town of Epping Zoning Ordinance are to lessen congestion in the streets; to secure safety from fires, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to protect private and public property; to facilitate the adequate provision of transportation, water, sewage disposal, schools and parks; to ensure proper use of natural resources; to protect property values; and to fulfill other public requirements.

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- 2.7. Non-Conforming Uses. **(moved to Article 6: 3/00)**
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- 2.9. Multi-Family Housing Use Regulations. **(moved to Article 6: 3/00)**
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- 6.7. Non-Conforming Uses. **(moved to Article 6: 3/00)**
- 6.8. Manufactured Housing Use Regulations. **(moved to Article 6: 3/00)**
- 6.9. Multi-Family Housing Use Regulations. **(moved to Article 6: 3/00)**
- 6.10. Duplex Housing Use Regulations. **(moved to Article 6: 3/00)**
- 6.11. Supplementary Use Regulations.
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- 6.13. **** **“The Planning Board may require special buffering of existing residential areas.”**

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- 7.7. Non-Conforming Uses. **(moved to Article 6: 3/00)**
- 7.8. Manufactured Housing Use Regulations. **(moved to Article 6: 3/00)**
- 7.9. Supplementary Use Regulations.
- 7.10. **** **“The Planning Board may require special buffering of existing residential areas.”**

**** **(Adopted by Town on March 12, 1996)**

1. HIGHWAY-COMMERCIAL ZONE

1.0. **PURPOSE:** To attract new commercial development and increase professional services which will be beneficial to town residents.

1.1. Beginning at a point **twelve hundred (1200) feet** easterly of the centerline on Route 125 (Calef Highway) and bordering the centerline of the Boston and Maine Railroad (Portsmouth Branch) Right-of-Way, thence traveling northerly parallel to and twelve hundred (1200) feet from the centerline on Route 125 (Calef Highway) to a point bordering Route 87 (Campground Road) thence turning and traveling westerly along the centerline of Route 87 (Campground Road) to a point bordering Route 125 (Calef Highway) and Old Nottingham Road, thence traveling westerly along the centerline on Old Nottingham Road to a point twelve hundred (1200) feet from the centerline on Route 125 (Calef Highway) thence turning and traveling southerly parallel to and twelve hundred (1200) feet from the centerline on Route 125 (Calef Highway) to a point bordering Fogg/Coffin Road, thence turning and traveling easterly along the centerline on Fogg/Coffin Road to a point **four hundred (400) feet** westerly of the centerline on Route 125 (Calef Highway), thence turning and traveling southerly parallel to and four hundred (400) feet from the centerline on Route 125 (Calef Highway) to a point bordering the Lamprey River, thence turning and traveling easterly along the centerline on the Lamprey River to a point bordering Route 125 (Calef Highway), thence turning and traveling southerly along the centerline on Route 125 (Calef Highway), to a point bordering the Boston and Maine Railroad (Portsmouth Branch) Right-of-Way, thence turning and traveling easterly along the centerline on the Boston and Maine Railroad (Portsmouth Branch) Right-of-Way to a point at the beginning.

1.2. **LOT DIMENSIONS AND SETBACK REQUIREMENTS:**

Minimum Lot Size.....	87,120 square feet
Minimum Front Setback	<u>100 feet from the centerline of all existing roads and 75 feet from the centerline for proposed (non-existing) internal roads of Class V or greater</u> (Adopted by the Town of Epping March 12, 1996)
Minimum Rear Setback.....	50 feet
Minimum Side Setback.....	25 feet
Minimum Frontage.....	200 feet
Maximum Building Height.....	35 feet
Maximum Lot Coverage.....	35%*
Green Space.....	30% (added 3/10/20)

*If the volume of the runoff from the property remains the same, the Lot Coverage can be increased to 50%. (Amended Town Meeting March 8, 2011)

1.3. **PERMITTED USES:**

1. Retail Stores.
2. Professional Establishments.
3. Essential Services.
4. Community Buildings - Meeting Halls.
5. Churches.
6. Motels and Hotels.
7. Restaurants.
8. Wholesale Establishments.
9. Convenience Stores.
10. Veterinary Clinics.
11. Private Schools.
12. Banks.
13. Auto ~~Repair and/or~~ Dealerships. (Amended Town Meeting 2007)
14. Commercial Planned Unit Developments which may include office buildings, complexes, malls, motels, hotels and restaurants.
15. Landscape, Nurseries and Garden Supplies Establishments.

16. Health Care Facilities.
17. Recreational Vehicle Sales Establishments.
18. Home Occupation (*for existing dwellings ONLY*)
19. Bed & Breakfast Establishments (*for existing residential dwellings ONLY*).
20. Expanded Home Occupation (*for existing residential dwellings ONLY*).
21. Industry (**Adopted by the Town of Epping March 12, 1996**)
22. Municipal Buildings (**Adopted by the Town of Epping March 12, 1996**)
23. Indoor Recreation (**Adopted by the Town of Epping March 12, 1996**)
24. Flexible Use Development by Conditional Use Permit (**Adopted 3/10/98**)
25. Commercial Excavation of Sand, Gravel, & Stone (**Adopted at Town Meeting 2002. Due to a clerical error, this use was not added to this section in the Zoning Ordinance until 2023.**)

1.4. **PERMITTED ACCESSORY USES:**

1. Any accessory use customarily incidental to the principal use.
2. Day Care Facilities.

1.5. **SPECIAL EXCEPTIONS:**

1. Expansion of Non-Conforming structures.
2. Dual Use (**Adopted by the Town of Epping March 12, 1996**)

1.6 **CRITERIA FOR SPECIAL EXCEPTIONS** -- see Article 13

1.7 **NON-CONFORMING USES** -- see Article 6

1.8 **EXPANDED HOME OCCUPATION USE REGULATIONS** -- see Article 6

1.9. **SUPPLEMENTARY USE REGULATIONS:**

Parcels Located in Multiple Zoning Districts (Rev. 2022)

Parcels located in multiple zoning districts (according to district boundary description and Town Zoning Map) – If a lot of record, in existence prior to the adoption of this Ordinance, is located in two (2) or more zones the most restrictive zoning district’s dimensional requirements for setbacks, frontage and lot size shall apply to the entire parcel.

Residential Lots in Commercial Zones - Owners of residential structures on substandard lots in the Highway-Commercial Zone may appeal to the Board of Adjustment for a change of use prior to Planning Board Site Plan Review, provided that the Planning Board has no objection to the proposed change of use.

1.10 **FLEXIBLE USE DEVELOPMENT (Adopted 3/10/98)**

Pursuant to RSA 674:21, the planning board is hereby authorized to grant a Conditional Use Permit to allow for a flexible use development in accordance with the restrictions and requirements of this section. A flexible use development may not permit the establishment of a use specifically prohibited by this section.

A. Purpose - This section is to provide a flexible method to permit commercial uses that are consistent with the intent of the underlying zoning district that are not specifically enumerated in the permitted use section. All developments seeking a conditional use permit shall be administered by the Planning Board to insure that flexible use development opportunities do not adversely impact neighboring properties, the citizens of Epping, or other business opportunities.

1. Conditional Use Permits. All Flexible Use Developments shall obtain a conditional use permit from the Planning Board. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approved use. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval.
2. Application Procedure. Applications for conditional use permits for a flexible use development shall be made in

accordance with the procedures set forth in the Site Plan Review Regulations of the Planning Board. Applications shall comply with all requirements of the Site Plan Review Regulations and Subdivision Regulations, as applicable.

3. Approval of Applications. A conditional use permit shall be issued only if a flexible use development complies with all of the requirements of this section. The Planning Board may condition its approval of planned unit developments on reasonable conditions necessary to accomplish the objectives of this section or of the Epping Master Plan, Zoning Ordinance, or any other federal, state, town resolution, regulation, or law, including a reduction in allowed density, or reasonable increase in required frontage, setbacks, or any other requirement if necessary to accomplish said objectives.
4. General. The flexible use development provisions of this ordinance provide applicants with an alternative development approach intended to promote flexibility and innovation in land planning. Within this context, the regulations that are established are intended to be a minimum consideration of allowable impacts. Each tract of land possesses different, unique development characteristics and limitations, and the use allowed on any particular tract will be a function of innovative land planning and building design interacting with the special characteristics and limitations of the site.
5. Thus these provisions shall not be construed as establishing any legal right to a given use. Those who wish to pursue their “rights” to a certain use of land should consider developing their land with the traditional, permitted use approaches, or through the variance procedure as provided for by New Hampshire law.
6. Standards for approval - All standards below must be met or impacts mitigated to the satisfaction of the Planning Board prior to the granting of a Conditional Use Permit.
 1. The permit is in the public interest.
 2. There will be no greater diminution of neighboring property values than would be created under any other use permitted in the zone by 1.3.
 3. That there are no existing violations of the Epping zoning ordinance on the subject property.
 4. That the character of the area shall not be adversely affected.
 - i. Architecture
 - ii. Transportation
 - iii. Scale of coverage
 - iv. Scale of building size
 - v. Consistency of uses
 5. That granting the permit will not result in undue municipal expense.
 6. That the proposed use will be developed in a manner compatible with the spirit and intent of the ordinance.
 7. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.
 8. That the general welfare of the Town will be protected.
 9. That the following impacts have been mitigated to the extent practical:
 - i. Noise
 - ii. Light
 - iii. Transportation
 - iv. Visual effects
 10. Landscaped or other appropriate buffers of sufficient opacity and materials shall be required if deemed reasonably necessary for the welfare of neighboring properties or the Town.
7. Any Conditional Use Permit shall expire if: (1) the use is not in place within one year of the date of issuance of such permit; or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a Conditional Use Permit must be completed.

2. RESIDENTIAL-COMMERCIAL ZONE (2013)

2.0. **PURPOSE:** To preserve the rural land uses by permitting residential development and still allow for future commercial expansion along Route 125.

2.1. Beginning at appoint twelve hundred (1200) feet easterly of the centerline on Route 125 (Calef Highway) and bordering the centerline on Route 87 (Campground Road), thence traveling northerly parallel to and twelve hundred (1200) feet from the centerline on Route 125 (Calef Highway) to a point bordering the Epping/Lee/Newmarket town line, thence turning and traveling westerly along the Epping/Lee/Newmarket town line to a point twelve hundred (1200) feet westerly of the centerline on Route 125 (Calef Highway) thence turning and traveling southerly parallel to and twelve hundred (1200) feet from the centerline on Route 125 (Calef Highway) to a point bordering Old Nottingham Road, thence turning and traveling easterly along the centerline on Old Nottingham Road to a point bordering Route 125 (Calef Highway) and Route 87 (Campground Road), thence traveling easterly along the centerline on Route 87 (Campground Road) to a point at the beginning.

2.2. **LOT DIMENSIONS AND SETBACK REQUIREMENTS:**

Minimum Lot Size.....	87,120 square feet
Minimum Front Setback	<u>100 feet from the centerline of all existing roads and 75 feet from the centerline for proposed (non-existing) internal roads of Class V or greater</u> (Adopted 3/10/98)
Minimum Rear Setback.....	50 feet
Minimum Side Setback.....	25 feet
Minimum Frontage.....	200 feet
Maximum Building Height.....	35 feet
Maximum Lot Coverage.....	35%*
Green Space.....	30% (added 3/10/20)

Multi-Family Lot Dimensions and Setback Requirements are set forth in the Multi-Family Use Regulations.

*If the volume of the runoff from the property remains the same, the Lot Coverage can be increased to 50%. (Amended Town Meeting March 8, 2011)

2.3. **PERMITTED USES:**

1. Single Family Detached Dwellings (including pre-site and manufactured housing – see Article 6.9) . *lot shall have frontage on a road other than route 125. (amended 3/12/19)
2. Essential Services
3. Community Buildings - Meeting Halls
4. Churches
5. Duplex Housing – see Article 6.11
6. Home Occupations
7. Day Care Facilities
8. Motels and Hotels
9. Wholesale Establishments
10. Commercial Planned Unit Developments which may include office buildings, complexes, malls, motels, hotels and restaurants
11. Retail stores
12. Professional Establishments
13. Restaurants
14. Convenience stores
15. Veterinary clinics
16. Banks
17. Multi-Family Housing – see Article 6.10
18. Landscape, nurseries and garden supplies establishments
19. Health Care Facilities
20. Light Industry (added 3/12/19)

- 2.4 **SPECIAL EXCEPTIONS**
 1. Expansion of Non-Conforming structures.
 2. Dual Use (**Adopted by the Town of Epping March 12, 1996**)

- 2.5. **PERMITTED ACCESSORY USES:**
 1. Any accessory use customarily incidental to the principal use.
 2. Bed & Breakfast Establishments.
 3. Expanded Home Occupations – see Article 6.8
 4. Accessory Dwelling Units – see Article 6.13

- 2.6 **CRITERIA FOR SPECIAL EXCEPTIONS** -- see Article 13
 2.7 **NON-CONFORMING USES AND STRUCTURES** -- see Article 6

2.8. **SUPPLEMENTARY USE REGULATIONS:**

Permissible Structure - Only one (1) principal structure shall be allowed on a single lot.

Multiple Uses of a Single Structure - will be allowed in the Residential-Commercial zone.

Parcels Located in Multiple Zoning Districts (Rev. 2022)

Parcels located in multiple zoning districts (according to district boundary description and Town Zoning Map) – If a lot of record, in existence prior to the adoption of this Ordinance, is located in two (2) or more zones the most restrictive zoning district’s dimensional requirements for setbacks, frontage and lot size shall apply to the entire parcel.

3. WEST EPPING COMMERCIAL BUSINESS ZONE

3.0. **PURPOSE:** To better serve the residents of West Epping by providing retail sales and services.

3.1. Beginning at a point on the centerline of Route 101 Right-of-Way and two hundred (200) feet easterly of the centerline on Beede Hill Road, thence traveling northerly parallel to and two hundred (200) feet from the centerline on Beede Hill Road to a point bordering Depot Road, thence traveling northerly parallel to and two hundred (200) feet from the centerline on Depot Road to a point bordering Route 27, thence traveling northerly to a point two hundred (200) feet from the centerline on Route 27, thence turning and traveling westerly parallel to and two hundred (200) feet from the centerline on Route 27 to a point bordering Folsom Lane, thence turning and traveling southerly along the centerline of Folsom Lane to a point bordering Route 27, thence turning and traveling easterly along the centerline of Route 27 to a point bordering Mill Road, thence turning and traveling southeasterly along the centerline on Mill Road to a point bordering Holt Road, thence turning and traveling along the centerline on Holt Road to a point bordering the Route 101 Right-of-Way, thence turning and traveling easterly along the centerline of the Route 101 Right-of-Way to a point at the beginning.

3.2. **LOT DIMENSIONS AND SETBACK REQUIREMENTS:**

Minimum Lot Size.....	40,000 square feet.
Minimum Front Setback.....	50 feet
Minimum Rear Setback.....	25 feet.
Minimum Side Setback.....	25 feet
Minimum Frontage (Rev. 3/00).....	200 feet
Maximum Lot Coverage.....	50%
Maximum Building Height.....	35 feet
Green Space.....	30% (added 3/10/20)

Multi-Family Lot Dimensions and Setback Requirements are set forth in the Multi-Family Use Regulations.

3.3. **PERMITTED USES:**

1. Retail and Personal Services (Adopted by the Town of Epping March 12, 1996)
2. Professional Establishments
3. Essential Services
4. Multi-Family Residential – see Article 6.10
5. Single-Family Residential
6. Duplexes – see Article 6.11
7. Veterinary Clinics
8. ~~Wholesale Establishments (Adopted by the Town of Epping March 12, 1996)~~ (Removed by Town Meeting - March, 2006).
9. ~~Motel/Hotel (Adopted by the Town of Epping March 12, 1996)~~ (Removed by Town Meeting – March, 2006).
10. Health Care Facilities
11. ~~Shopping Malls and Plazas (Adopted by the Town of Epping March 12, 1996)~~ (Removed by Town Meeting – March 2006).
12. Restaurants
13. Convenience Stores
14. Meeting Halls and Community Buildings
15. Banks (Adopted by the Town of Epping March 12, 1996)
16. Recreational Establishments/~~Campgrounds~~ (Adopted by Town of Epping 3/12/96) (Campgrounds Removed by Town Meeting – March 2006).
17. Home Occupations
18. Day Care
19. Churches

20. Private Schools (Adopted by the Town of Epping March 12, 1996)

21. ~~Gasoline and Service Stations in the following area:~~

~~Gasoline and Service Stations may only be located in an area bounded as follows: on the North the B&M Railroad (Fremont branch) right of way, on the East 1500' in from the center of Beede Road or to the depth of the parcel or whichever is greater, on the South Fremont town line, on the West Beede Road. This area is partly within the Industrial Commercial Zone and is referenced at Art III, Schedule II, #11. (3/18/97)~~

(Removed by Town Meeting – March 2006).

3.4. **PERMITTED ACCESSORY USES:**

- 1. Expanded Home Occupations – see Article 6.8
- 2. Accessory Uses customarily incidental to the principal use.
- 3. Bed and Breakfast Establishments.
- 4. Accessory Dwelling Units (“In-Law” type apartments).

3.5. **AQUIFER PROTECTION:**

- 1. Lot dimensions, setback requirements and permitted uses are subject to the Aquifer Protection Ordinance.
- 2. A zone over an aquifer shall comply to the Aquifer Protection Ordinance.
- 3. Any conflict between the Zoning Ordinance and the Aquifer Protection Ordinance, the more stringent shall apply.

3.6. **SPECIAL EXCEPTIONS:** (Adopted by the Town of Epping March 12, 1996)

- 1. TV/Radio.
- 2. Expansion of Non-Conforming structures.
- 3. Dual Use.

3.7. **CRITERIA FOR SPECIAL EXCEPTIONS**

-- see Article 13

3.8. **NON-CONFORMING USES**

-- see Article 6

3.9. **SUPPLEMENTARY USE REGULATIONS:**

Permissible Structure - Only one (1) principal structure shall be allowed on a single lot.

Multiple uses of a single structure - will be allowed in the West Epping Business Zone.

Parcels Located in Multiple Zoning Districts (Rev. 2022)

Parcels located in multiple zoning districts (according to district boundary description and Town Zoning Map) – If a lot of record, in existence prior to the adoption of this Ordinance, is located in two (2) or more zones the most restrictive zoning district’s dimensional requirements for setbacks, frontage and lot size shall apply to the entire parcel.

4. CENTRAL BUSINESS ZONE

4.0. **PURPOSE:** To provide for the continuation of establishments offering retail sales and service.

4.1. Beginning at a point three hundred and fifty (350) feet west of the centerline on Main Street and bordering the centerline on the Boston and Maine Railroad (Portsmouth Branch) Right-of-Way, thence traveling northerly parallel to and three hundred and fifty (350) from the centerline on Main Street to a point bordering Church Street, thence turning and traveling easterly along the centerline of Church Street to a point two hundred (200) feet west of the centerline on Main Street, thence turning and traveling northerly parallel to and two hundred (200) feet from the centerline on Main Street to a point bordering two hundred (200) feet westerly of Main Street at Bartlett Street, thence traveling easterly along the centerline on Bartlett Street to a point two hundred (200) feet east of the centerline on Main Street, thence turning and traveling southerly parallel to and two hundred (200) feet from the centerline on Main Street to its intersection with the Lamprey River and traveling in a southeasterly direction along the Lamprey River to its intersection with Route 125 (Calef Highway), thence turning southwesterly and traveling along the centerline of Route 125 (Calef Highway) to a point intersecting Main Street and thence turning and traveling across Main Street along the southerly boundary of Lot 294 on Map 292 to the southerly boundary point of lot 296 across the Boston and Maine Railroad (Portsmouth Branch) Right-of-Way, thence turning and traveling northerly along the boundary of the same Lot 296 of Map 292 to the centerline of Boston and Maine Railroad (Portsmouth Branch) Right-of-Way and turning easterly along the centerline to a point at the beginning. (Amended Town Meeting – March 2006).

4.2. **LOT DIMENSIONS AND SETBACK REQUIREMENTS:**

Minimum Lot Size per dwelling unit.....	20,000 square feet (amended 3/9/99)
Minimum Front Setback	15 feet
However, any property that has frontage on, or abuts, Route 125 (Calef Highway) shall have a minimum setback of 100 feet from the centerline of Route 125 (Calef Highway) . (3/18/97)	
Minimum Rear Setback	10 feet
Minimum Side Setback	10 feet
Minimum Frontage	100 feet
Maximum Lot Coverage	70%
Maximum Building Height	35 feet
Green Space.....	30% (added 3/10/20)

Multi-Family Lot Dimensions and Setback Requirements are set forth in the Multi-Family Regulations.

4.3. **PERMITTED USES:**

1. Retail Stores
2. Professional Establishments
3. Essential Services
4. Community Buildings and Meeting Halls
5. Churches
6. Motels and Hotels
7. Restaurants (drive-through windows shall not be permitted in the Central Business Zone for restaurants that do not have direct access to NH Route 125). (Amended Town Meeting - 3/10/2009)
8. Multi-Family Dwellings – see Article 6.10
9. Single Family Detached Dwellings (including pre-site and manufactured housing – see Article 6.9)
10. Convenience Stores
11. Veterinary Clinics
12. Private Schools
13. Banks
14. Home Occupations
15. Health Care Facilities
16. Duplex Housing – see Article 6.11

- 17. Recreational Vehicle Sales Establishment. (Adopted Town Meeting - 3/10/2009)
- 18. Traditional Tattoo Establishments (Specialty in Medical Camouflage Techniques) – see Article 6.17

4.4. **PERMITTED ACCESSORY USES:**

- 1. Expanded Home Occupations – see Article 6.8
- 2. Accessory Uses Customarily Incidental to the Principal Use.
- 3. Bed & Breakfast Establishments.
- 4. Accessory Dwelling Units (“In-Law” apartments) – see Article 6.13

4.5. **SPECIAL EXCEPTIONS:**

- 1. Expansion of non-conforming structures.
- 2. Dual Use (**Adopted by the Town of Epping March 12, 1996**)

4.6 **CRITERIA FOR SPECIAL EXCEPTIONS** — see Article 13

4.7 **NON-CONFORMING USES** — see Article 6

4.8 **SUPPLEMENTARY USE REGULATIONS:**

Permissible Structure - Only one (1) principal structure shall be allowed on a single lot.

Multiple uses of a single structure - will be allowed in the Central Business Zone.

Parcels Located in Multiple Zoning Districts (Rev. 2022)

Parcels located in multiple zoning districts (according to district boundary description and Town Zoning Map) – If a lot of record, in existence prior to the adoption of this Ordinance, is located in two (2) or more zones the most restrictive zoning district’s dimensional requirements for setbacks, frontage and lot size shall apply to the entire parcel.

5. HIGH DENSITY RESIDENTIAL ZONE

5.0. **PURPOSE:** To maintain the largely developed residential uses at a concentration requiring town water and sewer.

5.1. **TRACT I:**

Beginning at a point bordering Main Street and North River Road, thence traveling easterly to a point two hundred (200) feet from the centerline on Main Street, thence turning and traveling southeasterly parallel to and two hundred (200) feet from the centerline on Main Street to a point bordering Elm Street, thence traveling southeasterly parallel to and two hundred (200) feet from the centerline on Elm Street to a point four hundred (400) feet westerly of the centerline of Route 125 (Calef Highway), thence turning and traveling southerly parallel to and four hundred (400) feet from the centerline of Route 125 (Calef Highway) to a point bordering the Lamprey River, thence turning and traveling westerly along the centerline on the Lamprey River to a point bordering two hundred (200) feet easterly from the centerline on Main Street, thence turning and traveling northerly parallel to and two hundred (200) feet easterly of the centerline on Main Street to a point bordering Bartlett Street, thence turning and traveling westerly along the centerline on Bartlett Street to a point bordering Main Street, thence traveling to a point two hundred (200) feet westerly of the centerline on Main Street, thence turning and traveling northerly parallel to and two hundred (200) feet south- westerly of Prescott Lane, thence turning and traveling northwesterly parallel to and two hundred (200) feet from the centerline on Prescott Lane to a point bordering two hundred (200) feet southerly of Prescott Road, thence turning and traveling westerly parallel to and two hundred (200) feet from the centerline on Prescott Road to a point *twelve-hundred-and-fifty (1,250) feet* from the centerline on Main Street, thence turning and traveling northerly four hundred (40) feet to a point two hundred (200) feet northerly of the centerline on Prescott Road, thence turning and traveling easterly parallel to and two hundred (200) feet from the centerline on Prescott Road to a point bordering two hundred (200) feet northerly of the centerline on Academy Street, thence traveling easterly parallel to and two hundred (200) feet from the centerline on Academy Street to a point bordering two hundred (200) feet westerly of the centerline on Main Street, thence turning and traveling northerly parallel to and two hundred (200) feet from the centerline on Main Street to a point bordering two hundred (200) feet westerly of Main Street at North River Road, thence turning and traveling easterly two hundred (200) feet to a point at the beginning.

(Amended Town Meeting – March 2006).

TRACT II - Beginning at a point bordering Railroad Avenue and St. Laurent Street, thence traveling westerly to a point two hundred (200) feet from the centerline on St. Laurent Street, thence turning and traveling northeasterly parallel to and two hundred (200) feet from the centerline on St. Laurent Street to a point bordering two hundred (200) feet westerly of the centerline on Main Street, thence turning and traveling southerly parallel to and two hundred (200) feet from the centerline on Main Street to a point bordering Church Street, thence turning and traveling westerly along the centerline on Church Street to a point bordering three-hundred-and-fifty (350) feet westerly of the centerline on Main Street, thence turning and traveling southerly parallel to and three-hundred-and-fifty (350) feet from the centerline on Main Street to a point bordering the Boston & Maine Railroad (Portsmouth Branch) Right-of-Way, thence turning and traveling westerly along the centerline on the Boston & Maine Railroad (Portsmouth Branch) Right-of-Way to a point bordering Railroad Avenue, thence turning and traveling southwestwesterly along the centerline of Railroad Avenue to a point at the beginning.

(Amended Town Meeting – March 2006).

TRACT III - Beginning at a point two hundred (200) feet westerly of the centerline on Main Street and two hundred (200) feet northerly of the centerline on Pleasant Street, thence traveling westerly parallel to and two hundred (200) feet from the centerline on Pleasant Street for two- thousand-two-hundred-and-fifty (2,250) feet, thence turning and traveling southerly along a line perpendicular to the centerline on Pleasant Street for four hundred (400) feet, thence turning and traveling easterly parallel to and two hundred (200) feet from the centerline on Pleasant Street to a point two hundred (200) feet westerly from the centerline on Main Street, thence turning and traveling northerly parallel to and two hundred (200) feet from the centerline on Main Street to a point at the beginning.

5.2. **LOT DIMENSIONS AND SETBACK REQUIREMENTS:**

Minimum Lot Size.....	20,000 square feet (amended 3/9/99)
Minimum Front Setback	25 feet
	However, any property that has frontage on, or abuts, Route 125 (Calef Highway) shall have a minimum setback of 100 feet from the centerline of Route 125 (Calef Highway) . (adopted 3/18/97)
Minimum Rear Setback	25 feet
Minimum Side Setback	15 feet
Minimum Frontage	100 feet
Maximum Building Height	35 feet
Maximum Lot Coverage	40%
Green Space.....	30% (added 3/10/20)

Multi-Family Lot Dimensions and Setback Requirements are set forth in the Multi-Family Use Regulations.

5.3. **PERMITTED USES:**

1. Single Family Detached Dwellings (including pre-site and manufactured housing – see Article 6.9)
2. Churches
3. Multi-Family Housing – see Article 6.10
4. Duplex Housing – see Article 6.11
5. Municipal Buildings.
6. Essential Services.
7. Day Care Facilities.
8. Outdoor Recreation.
9. Home Occupation – see Article 6.7
10. Health Care Facilities.
11. Convenience Stores.

5.4. **PERMITTED ACCESSORY USES:**

1. Accessory Uses Customarily Incidental to the Principal Use.
2. Bed & Breakfast.
3. Accessory Dwelling Units (“In-Law” type apartments) – see Article 6.13
4. Expanded Home Occupations **(on Route 27 ONLY)**. see – Article 6.8

5.5. **SPECIAL EXCEPTIONS:**

1. Private Schools.
2. Group or Shared Homes (licensed by the State of New Hampshire).
3. Expansion of Non-Conforming structures.
4. Dual Use **(Adopted by the Town of Epping March 12, 1996)**

5.6 **CRITERIA FOR SPECIAL EXCEPTIONS** — see Article 13

5.7 **NON-CONFORMING USES** — see Article 6

5.8 **SUPPLEMENTARY USE REGULATIONS:**

Parcels Located in Multiple Zoning Districts (Rev. 2022)

Parcels located in multiple zoning districts (according to district boundary description and Town Zoning Map) – If a lot of record, in existence prior to the adoption of this Ordinance, is located in two (2) or more zones the most restrictive zoning district’s dimensional requirements for setbacks, frontage and lot size shall apply to the entire parcel.

Permissible Structures - Only one (1) principal structure shall be allowed on a single lot.

6. RESIDENTIAL ZONE

6.0. **PURPOSE:** To maintain the integrity of existing and future medium density developed parts of the town.

6.1. **TRACT I** - Beginning at a point bordering Epping/Raymond townline and Ham Road, thence traveling southerly along the centerline on Ham Road to a point bordering Pleasant Street, thence turning and easterly along the centerline on Pleasant Street, including Lot 208 on Map 27, to the centerline of the Lamprey River, thence turning and traveling northerly along the centerline of the Lamprey River to the centerline of the road known as Folsom Lane north of the Lamprey River and traveling north along the centerline to the centerline of Blake Road thence turning northerly along the centerline of Blake Road to the intersection of Prescott Road and thence turning easterly along the centerline of Prescott Road to a point bordering twelve hundred and fifty (1,250) feet westerly of the centerline on Main Street, thence turning and traveling southerly to a point two hundred (200) feet from the centerline on Prescott Road, thence turning and traveling easterly parallel to and two hundred (200) feet from the centerline on Prescott Road to a point bordering two hundred (200) feet southerly of the centerline on Prescott Lane, thence turning and traveling southeasterly parallel to and two hundred (200) feet from the centerline on Prescott Lane to a point two hundred (200) feet westerly of the centerline on Main Street, thence turning and traveling southerly parallel to and two hundred (200) feet from the centerline on Main Street to a point two hundred (200) feet westerly of the centerline on Main Street and two hundred (200) feet northerly of the centerline on Pleasant Street, thence turning and traveling westerly parallel to and two hundred (200) feet from the centerline on Pleasant Street for ***two thousand-two hundred-and-fifty (2,250) feet*** thence turning and traveling southerly along a line perpendicular to the centerline on Pleasant Street for ***four hundred (400) feet*** thence turning and traveling easterly parallel to and two hundred (200) feet from the centerline on Pleasant Street to a point two hundred (200) feet westerly from the centerline on Main Street, thence turning and traveling southerly parallel to and two hundred (200) feet from the centerline on Main Street to a point two hundred (200) feet from the centerline on St. Laurent Street, thence turning and traveling southwesterly parallel to and two hundred (200) feet from the centerline on St. Laurent Street to a point bordering two hundred (200) feet westerly of the centerline of Railroad Avenue, thence turning and traveling easterly to a point bordering Railroad Avenue and St. Laurent Street, thence turning and traveling northeasterly along the centerline of Railroad Avenue to a point along the north-easterly border of Lot 299 on Map 27 thence turning and traveling east and south along the said lot so as to include this lot to the centerline on the Boston & Maine Railroad (Portsmouth Branch) Right-of-Way to a point bordering Boston & Maine Railroad (Fremont Branch) Right-of-Way, thence turning and traveling southwesterly along the centerline on the Boston & Maine Railroad (Fremont Branch) Right-of-Way to a point bordering Route 101 (East-West Highway), thence turning and traveling westerly along the centerline on Route 101 (East-West Highway) to a point bordering Beede Hill Road, thence turning and traveling southerly along the centerline on Beede Hill Road to a point bordering Epping/Fremont/Raymond town lines, thence turning and traveling westerly along the Epping/Fremont/Raymond town lines to a point bordering Epping/Raymond/Nottingham town lines, thence turning and traveling northerly along the Epping/Raymond/Nottingham town lines to a point at the beginning.
(Amended Town Meeting – March 2006).

TRACT II: Beginning at a point twelve hundred (1,200) feet easterly of the centerline on Route 125 (Calef Highway) and fifteen hundred (1,500) feet northeasterly of the centerline of Route 27, thence traveling northerly parallel to and twelve hundred (1,200) feet from the centerline on Route 125 (Calef Highway) to a point bordering Route 87 (Campground Road), thence turning and traveling easterly along the centerline on Route 87 (Campground Road) to a point bordering the Epping/Newmarket/Newfields town lines, thence turning and traveling southerly along the Epping/Newmarket/Newfields town lines to a point bordering the Boston & Maine Railroad (Portsmouth Branch) Right-of-Way, thence turning and traveling westerly along the centerline on the Boston & Maine Railroad (Portsmouth Branch) Right-of-Way, to a point fifteen hundred (1,500) feet easterly of the centerline of Route 27, near Mast Road, and traveling parallel to Route 27 a distance of fifteen hundred (1,500) feet from the centerline thereof back to a point at the beginning. **(Amended Epping Town Meeting 2007).**

6.2. **LOT DIMENSIONS AND SETBACK REQUIREMENTS:**

Minimum Lot Size	60,000 square feet. (Adopted 3/10/98)
Minimum Front Setback	25 feet.
Minimum Rear Setback	20 feet.
Minimum Side Setback	25 feet.
Minimum Frontage	200 feet.
Maximum Building Height	35 feet.
Maximum Lot Coverage	30%
Green Space.....	30% (added 3/10/20)

Multi-Family Lot Dimensions and Setback Requirements are set forth in the Multi-Family Use Regulations.

6.3. **PERMITTED USES:**

1. ~~Excavation of Sand, Gravel and Stone~~ (removed 3/02)
2. Single Family Detached Dwellings (including pre-site built housing & manufactured housing – see Article 6.9).
3. Churches
4. Duplex Housing – see Article 6.11
5. Municipal Buildings.
6. Essential Services.
7. Day Care Facilities.
8. Outdoor Recreation.
9. Kennels.
10. Health Care Facilities.
11. Farms, farm uses and customary farm occupations.
12. Golf Courses, Tennis Clubs and Public Swimming Pools.

6.4. **PERMITTED ACCESSORY USES:**

1. Bed & Breakfast.
2. Accessory dwelling units (“In-Law” apartments) – see Article 6.13
3. Home Occupation – see Article 6.7
4. Expanded home occupation (**ROUTE 27 ONLY**), – see Article 6.8
5. Farm buildings for storage, products or equipment.
6. Roadside stands in connection with display and sale of farm products.

6.5. **SPECIAL EXCEPTIONS:**

1. Private Schools.
2. ~~Multi Family Housing – see Article 6.10~~ (removed 3/12/19)
3. Expansion of non-conforming structures.
4. Dual Use (Adopted 3/12/96).

6.6. **CRITERIA FOR SPECIAL EXCEPTIONS** — see Article 13

6.7. **NON-CONFORMING USES** — see Article 6

6.8. **SUPPLEMENTARY USE REGULATIONS:** (adopted 3/9/99)

Conditional Use Permit for Excavation of Sand, Gravel, and Stone-- Pursuant to 674:21, the Planning Board is hereby authorized to grant a Conditional Use Permit to allow for excavation in accordance with the restrictions and requirements of this section. The purpose of this section is to permit excavation in the Residential Zone in circumstances where impacts to existing and proposed residential development and uses are minimized. No excavation shall occur without the required permit.

Approvals - The Planning Board may only approve an application for a Conditional Use Permit after consideration of the criteria of this section. The Planning Board may require additional measures from any applicant notwithstanding any other town ordinance or regulation to address adverse impacts. These measures may be in excess of regulations and ordinances and may be conditions of approval.

Criteria for approval - Each of the following criteria must be addressed or mitigated to the satisfaction of the Planning Board prior to the granting of a Conditional Use Permit.

- Granting the permit will not adversely affect abutting property owners or uses.
- Adequate buffers of sufficient opacity shall protect from visual impacts.
- Hours of operation shall be set that take into account the residential character of the surrounding neighborhood.
- The time-frame for completion of the operation shall be minimized to protect from long term negative impacts.
- Traffic routes for trucking shall not interfere with regular residential traffic and character.
- Setbacks from neighboring property lines or structures shall be sufficient to minimize adverse impacts.
- There shall be no discharge of airborne particles onto neighboring parcels.
- There shall be no negative impact to water resources for the neighboring parcels.
- There will be no diminution of neighboring property values than would be created under any other use permitted in the zone.
- The Planning Board may reasonably consider any other impact created as part of granting the permit that may be related to the unique character of the land and the surrounding community.

Any Conditional Use Permit shall expire if: (1) the use is not in place within one year of the date of issuance of such permit; or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new permit must be acquired.

Parcels Located in Multiple Zoning Districts (Rev. 2022)

Parcels located in multiple zoning districts (according to district boundary description and Town Zoning Map) – If a lot of record, in existence prior to the adoption of this Ordinance, is located in two (2) or more zones the most restrictive zoning district’s dimensional requirements for setbacks, frontage and lot size shall apply to the entire parcel.

Permissible Structure - Only one (1) principal structure shall be allowed on a single lot.

7. RURAL RESIDENTIAL ZONE.

7.0. **PURPOSE:** To preserve the customary rural land uses by permitting only lower density residential developments and customary farm uses.

7.1. **TRACT I:** Beginning at a point bordering the Epping/Raymond/Nottingham town lines and Blake Road, thence traveling southerly along the town line to the centerline of Ham Road and traveling southeasterly to a point along the centerline of Pleasant Street excluding Lot 208 on Map 27 and continuing along the centerline to the centerline of the Lamprey River and thence turning and traveling northerly to the centerline of the northern portion of the road known as Folsom Lane and traveling north to the centerline of Blake Road and traveling north along the centerline of Blake Road to a point bordering Prescott Road, thence turning and traveling easterly along the centerline on Prescott Road to a point bordering twelve-hundred-and-fifty (1250) feet westerly of the centerline on Main Street, thence turning and traveling northerly to a point two hundred (200) feet from the centerline on Prescott Road, thence turning and traveling easterly parallel to and two hundred (200) feet northerly of the centerline on Academy Street, thence traveling easterly parallel to and two hundred (200) feet from the centerline on Academy Street to a point bordering two hundred (200) feet westerly of the centerline on Main Street, thence turning and traveling northerly parallel to and two hundred (200) feet from the centerline on Main Street to a point bordering two hundred (200) feet westerly of the centerline on North River Road at Main Street, thence turning and traveling northeasterly four hundred (400) feet to a point two hundred (200) feet northeasterly of the centerline on North River Road at Main Street, thence turning and traveling southeasterly parallel to and two hundred (200) feet from the centerline on Main Street to a point bordering Elm Street, thence traveling southeasterly parallel to and two hundred (200) feet northerly from the centerline on Elm Street to a point four hundred (400) feet northwesterly of the centerline on Route 125 (Calef Highway), thence turning and traveling northerly parallel to and four hundred (400) feet from the centerline on Route 125 (Calef Highway) to a point bordering Fogg/Coffin Road, thence turning and traveling westerly along the centerline on Fogg/Coffin Road to a point twelve-hundred (1,200) feet westerly to the centerline on Route 125 (Calef Highway), thence turning and traveling northerly parallel to and twelve-hundred (1,200) feet from the centerline on Route 125 (Calef Highway) to a point bordering the Epping/Lee/Nottingham town lines, thence turning and traveling westerly along the Epping/Lee/Nottingham town lines to a point bordering the Epping/Raymond/Nottingham town lines, thence turning and traveling along the Epping/Raymond/Nottingham town lines to a point at the beginning.
(Amended Town Meeting – March 2006).

TRACT II: Beginning at a point bordering Route 87 (Campground Road) and twelve hundred (1200) feet easterly of the centerline on Route 125 (Calef Highway), thence traveling northerly parallel to and twelve hundred (1200) feet from the centerline on Route 125 (Calef Highway) to a point bordering the Epping/Lee/Newmarket town lines, thence turning and traveling easterly along the Epping/Lee/Newmarket town lines to a point bordering the Epping/Newmarket/Newfields town lines, thence turning and traveling southerly along the Epping/Newmarket/Newfields town lines to a point bordering Route 87 (Campground Road), thence turning and traveling westerly along the centerline on Route 87 (Campground Road) to a point at the beginning.

7.2. **LOT DIMENSIONS AND SETBACK REQUIREMENTS:**

Minimum Lot Size		88,000 sq ft (Adopted 3/10/98)
Minimum Front Setback	30 feet	
Minimum Rear Setback		25 feet
Minimum Side Setback		25 feet
Minimum Frontage		200 feet
Maximum Height		35 feet
Maximum Lot Coverage		25% (Amended 3/8/11)
Green Space.....		30% (added 3/10/20)

***Multi-Family Lot Dimensions and Setback Requirements are set forth in the Multi-Family Use Regulations.

7.3. **PERMITTED USES:**

1. Single Family Detached Dwelling, (including pre-site built housing and manufactured housing – see Article 6.9)
2. Farms, Farm Uses and Customary Farm Occupations.
3. Churches.
4. Essential Services.
5. Kennels.
6. ~~Excavation of sand, gravel or stone.~~ (removed 3/02)
7. Sawmills.

7.4. **PERMITTED ACCESSORY USES:**

1. Accessory Dwelling Units (“In-Law” type apartments) – see Article 6.13
2. Farm Buildings for storage, products or equipment.
3. Roadside stands in connection with display and sale of farm products.
4. Other Accessory Building or use customarily incidental to the principal use.
5. Home Occupation – see Article 6.7
6. Bed and Breakfast.

7.5. **SPECIAL EXCEPTIONS:**

1. Outdoor recreation.
2. Golf courses, tennis clubs and public swimming pools.
3. Expansion of Non-Conforming structures.
4. Dual Use (*Adopted by the Town of Epping March 12, 1996*)

7.6. **CRITERIA FOR SPECIAL EXCEPTIONS** — see Article 13

7.7. **NON-CONFORMING USES** — see Article 6

7.8. **SUPPLEMENTARY USE REGULATIONS:**

Permissible Structure - Only one (1) principal structure shall be allowed on a single lot.

Parcels Located in Multiple Zoning Districts (Rev. 2022)

Parcels located in multiple zoning districts (according to district boundary description and Town Zoning Map) – If a lot of record, in existence prior to the adoption of this Ordinance, is located in two (2) or more zones the most restrictive zoning district’s dimensional requirements for setbacks, frontage and lot size shall apply to the entire parcel.

ARTICLE 3
INDUSTRIAL/COMMERCIAL ZONE
(Revised to 2007 & 2015 Town Meeting)

- 3.1. **AUTHORITY**: This Section is enacted in accordance with the provisions of RSA 675:3.
- 3.2. **PURPOSE**: The purpose of this ordinance is to provide for the orderly development of an Industrial/Commercial zone and encourage the highest and best use of the land.
- 3.3. **OBJECTIVES**: The objectives are to attract industry and commerce to our Town, to broaden the tax base, expand employment opportunities and increase the activity of existing business establishments.
- 3.4. **BOUNDARIES**: The Industrial/Commercial Zone consists of a single contiguous area bounded on the southerly side by the Epping/Brentwood town line beginning at the southeasterly corner of the Town of Epping, thence running westerly along the town line for its entire length and continuing along the Epping/Fremont town line to the centerline of Beede Hill Road, thence northerly along the centerline of Beede Hill Road to the southerly boundary of Route 101, thence easterly along the southerly boundary of Route 101 to the centerline of the Boston & Maine Railroad (Fremont Branch), thence northerly along said centerline to the westerly boundary of land shown as Lot 292 on Epping Tax Map 29, thence along the boundary of this lot so as to include this lot in the Industrial/Commercial Zone, thence to the centerline of Main Street southerly to the centerline of Route 125 and thence northerly along the centerline of 125 to its intersection of the centerline of the Boston & Maine Railroad (Portsmouth Branch), thence turning easterly along the railroad line twelve hundred (1200) feet, thence turning and traveling northeasterly to a distance of fifteen hundred (1500) feet from the centerline of Route 27, thence turning and traveling easterly to the centerline of the Boston & Maine Railroad (Portsmouth Branch), thence turning and traveling easterly along the centerline of the Boston and Maine Railroad (Portsmouth Branch) until the Epping/Newfields town line, thence turning southerly along the Epping/Newfields and Epping/Exeter town lines to the point of the beginning. (Amended Town Meeting – March 2006).
- 3.5. **PERFORMANCE STANDARDS**:
- 3.5.1. **Sound** - The volume, duration, intermittence and frequency of sound and noise shall be controlled so as not to become objectionable or a nuisance to surrounding uses.
- 3.5.2. **Vibrations** - No operation shall be permitted which creates intense vibration discernible beyond property lines of the industry.
- 3.5.3. **Radioactivity** - No operation shall be permitted which will cause radioactivity in violation of Title 10, Chapter 1, Part 20, Code of Federal Regulations, “Standards for Protection Against Radiation”, dated June 16, 1957, or any subsequent revision or amendment.
- 3.5.4. **Odor** - No emission of odorous gas or other odorous matter in such quantity as to be readily detectable at any point along lot lines without use of instruments, shall be permitted.
- 3.5.5. **Toxic or Noxious Matter** - No discharge, storage, transfer, or treatment of any toxic or noxious matter in such quantity as to be detrimental to or endanger public health, safety, comfort or welfare, or cause injury or damage to property or business shall be permitted. In addition, any proposed use for the disposal and/or storage of waste matter (including garbage, refuse and any other solid and liquid waste, other than subsurface sewage disposal with State and local approval) shall be subject to Town Meeting approval in accordance with Warrant Article 28 adopted in March of 1979.
- 3.5.6. **Glare** - No direct or reflected glare shall be detectable from any residential zone.
- 3.5.7. **Dust or Fly Ash** - No solid or liquid particles shall be emitted in any such quantity as to be readily detectable at any point along lot lines or as to produce a public nuisance or hazard beyond the lot lines or

boundaries of the zone.

- 3.5.8. **Smoke** - No smoke shall be emitted from commercial or industrial uses in such quantity as to become a nuisance.

3.6. BUILDING DESIGN:

- 3.6.1. All structures shall be designed with due consideration of existing and proposed neighboring structures. The design of structures shall take advantage of the topography and reflect the character, scale and purpose of the area of which it is a part. All structures shall be faced with an aesthetic material.
- 3.6.2. All electrical and telephone connections and wires and all other utilities shall be located underground unless otherwise approved by the Planning Board in writing.
- 3.6.3. **Roads** - Roads within the Industrial/Commercial Zone shall be built to the specifications set forth in the Town of Epping Land Subdivision Regulations.
- 3.6.4. **Traffic Access** - All proposed site traffic access ways shall be adequate (including adequacy of adjacent streets and not excessive in number, adequate in grade, width, corners and with due consideration for safety and access for pedestrians, emergency vehicles and fire protection.
- 3.6.5. **Storage Area** - No materials, supplies, or equipment, including company owned or operated trucks and motor vehicles shall be stored in any area on a site except inside a closed building, or behind a visual barrier approved by the Planning Board, screening such areas from the street and from view of adjoining properties. Barriers shall be located on the rear portions of the sites, unless other locations are specifically approved by the Planning Board. No storage area shall extend past street setback lines established herein.
- 3.6.6. **Proper Landscaping** - The proposed site shall be landscaped, the purpose of which is to further enhance the natural qualities of the land. This shall be accomplished within ninety (90) days of occupancy or completion of the building, whichever occurs first, weather or season permitting, and shall be properly maintained by the occupant thereafter. Where adjacent land use dictates, proper screening and buffer zones may be required.
- 3.6.7. **Certificate of Occupancy** - No Certificate of Occupancy shall be issued for such building or buildings, unless the same conforms in all respects to such site plan and unless all facilities included in the site plan have been in accordance with said site plan. If a hardship exists, application may be made to the Planning Board for waiver of such discrepancies from the site plan. The waiver must be granted before construction may proceed.
- 3.6.8. **Construction Operations** - After commencement of any improvement, the work shall be diligently prosecuted so that the structure shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof.
- 3.6.9. **Excavation and Oil Drilling** - No excavation, mining or prospecting or drilling for oil, natural gas, or kindred substances shall be made on, and no sand, gravel, or soil shall be removed from, any site, except in connection with the construction of improvements, and upon completion thereof. Exposed opening shall be backfilled and disturbed ground shall be graded, leveled, and paved or landscaped in accordance with RSA:155-E.
- 3.6.10. **Signs** - See Article 19 - Sign Ordinance adopted March 8, 1994.
- 3.6.11. **Setbacks etc.** - Are as shown on Schedule I, Permitted Principal Uses and Accessory Uses are shown on Schedule II.
- 3.6.12. **Height Limitations (as adopted by the Town March 14, 1995/March 13, 2018)** – Thirty-five (35) feet - Buildings may have architectural details that exceed 35 feet. The maximum height of a building including these details shall not exceed 40 feet.

3.7. DUAL/TRANSITIONAL USES

To accommodate the transition of this zone from residential to industrial/commercial, any existing non-conforming residential use is allowed to site a dual use on the lot. The provisions of this are as follows:

1. Any added use must be a permitted use in the Industrial/Commercial Zone.
2. The residence must be owner occupied.
3. The owner must receive site plan review approval by the Planning Board.
4. Once a building permit is issued for the added use, the residential use must be removed after a period of thirty (30) years.

3.8 FLEXIBLE USE DEVELOPMENT (Adopted 3/10/98)

Pursuant to RSA 674:21, the planning board is hereby authorized to grant a Conditional Use Permit to allow for a flexible use development in accordance with the restrictions and requirements of this section. A flexible use development may not permit the establishment of a use specifically prohibited by this section.

A. Purpose - This section is to provide a flexible method to permit commercial uses that are consistent with the intent of the underlying zoning district that are not specifically enumerated in the permitted use section. All developments seeking a conditional use permit shall be administered by the Planning Board to insure that flexible use development opportunities do not adversely impact neighboring properties, the citizens of Epping, or other business opportunities.

1. Conditional Use Permits. All Flexible Use Developments shall obtain a conditional use permit from the Planning Board. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approved use. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval.
2. Application Procedure. Applications for conditional use permits for a flexible use development shall be made in accordance with the procedures set forth in the Site Plan Review Regulations of the Planning Board. Applications shall comply with all requirements of the Site Plan Review Regulations and Subdivision Regulations, as applicable.
3. Approval of Applications. A conditional use permit shall be issued only if a flexible use development complies with all of the requirements of this section. The Planning Board may condition its approval of planned unit developments on reasonable conditions necessary to accomplish the objectives of this section or of the Epping Master Plan, Zoning Ordinance, or any other federal, state, town resolution, regulation, or law, including a reduction in allowed density, or reasonable increase in required frontage, setbacks, or any other requirement if necessary to accomplish said objectives.
4. General. The flexible use development provisions of this ordinance provide applicants with an alternative development approach intended to promote flexibility and innovation in land planning. Within this context, the regulations that are established are intended to be a minimum consideration of allowable impacts. Each tract of land possesses different, unique development characteristics and limitations, and the use allowed on any particular tract will be a function of innovative land planning and building design interacting with the special characteristics and limitations of the site.
5. Thus these provisions shall not be construed as establishing any legal right to a given use. Those who wish to pursue their "rights" to a certain use of land should consider developing their land with the traditional, permitted use approaches, or through the variance procedure as provided for by New Hampshire law.
6. Standards for approval - All standards below must be met or impacts mitigated to the satisfaction of the Planning Board prior to the granting of a Conditional Use Permit.

- a) The permit is in the public interest.
- b) There will be no greater diminution of neighboring property values than would be created under any other use permitted in the zone by § 1.3.
- c) That there are no existing violation of the Epping zoning ordinance on the subject property.
- d) That the character of the area shall not be adversely affected.
 - i. Architecture
 - ii. Transportation
 - iii. Scale of coverage
 - iv. Scale of building size
 - v. Consistency of uses
- b) That granting the permit will not result in undue municipal expense.
- c) That the proposed use will be developed in a manner compatible with the spirit and intent of the ordinance.
- d) That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.
- e) That the general welfare of the Town will be protected.
- f) That the following impacts have been mitigated to the extent practical:
 - i. Noise
 - ii. Light
 - iii. Transportation
 - iv. Visual effects
- b) Landscaped or other appropriate buffers of sufficient opacity and materials shall be required if deemed reasonably necessary for the welfare of neighboring properties or the Town.

7. Additional provisions for Multi-family in the Industrial-Commercial District. The purpose of these provisions is to meet the obligations of the Town of Epping to provide a reasonable and realistic opportunity for workforce housing that is not only affordable to build but also stable in its costs to own and operate. **(All of Section 7 was Adopted, Town Meeting – March 9, 2010)**

- a. The developer shall submit evidence and a written report to the Planning Board showing that the proposed units will assist the Town of Epping in insuring compliance with the mandate of RSA 674:58-61. The report shall provide evidence that the conditional use permit has provided a reasonable and realistic opportunity for the development of workforce housing, including rental and multi-family housing.
- b. All structures shall be in compliance with the provisions of Article 22 as if the facility were a commercial building.
- c. Shared facilities, including but not limited to parking, green space, and recreation facilities shall be required and constructed on the site.
- d. Public water and sewer shall be available to the site.
- e. All proposed developments shall be constructed with adequate facilities to address concerns related to off site impacts such as noise, visual impacts, odors, etc.
- f. Pedestrian access networks shall be constructed within the development and shall connect with

current and future planned networks and developments off site.

g. The Planning Board may consider existing and reasonable future uses and impact resulting from these uses when considering the appropriateness of the residential developments. Mitigation for such impacts may be considered by the Board but not all locations are suitable for multi-family developments.

8. Any Conditional Use Permit shall expire if: (1) the use is not in place within one year of the date of issuance of such permit; or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a Conditional Use Permit must be completed.

****** ARTICLE 3, ALL SECTIONS, “THE PLANNING BOARD MAY REQUIRE SPECIAL BUFFERING OF EXISTING RESIDENTIAL AREAS.”**

****** (VOTED BY THE TOWN OF EPPING MARCH 12, 1996)**

SCHEDULE I

ZONING SCHEDULE OF BULK AND COVERAGE CONTROLS FOR THE INDUSTRIAL/COMMERCIAL ZONE

Minimum Lot Area.....	<u>Three (3) Acres</u>
Minimum Lot Width	<u>Two Hundred (200) feet.</u>
Minimum Front Yard Setback: ****(*)	<u>One Hundred (100) feet from the centerline of all existing roads and Seventy-Five (75) feet from the centerline for proposed (non-existing) internal roads of Class V or greater</u>
Existing Roads	<u>Seventy-Five (75) feet.</u>
Proposed Internal Roads of Class V classification or higher.	<u>Fifty (50) feet.</u>
Minimum Side Yard Setback	<u>Twenty Five (25) feet</u>
Minimum Rear Yard Set	<u>Thirty Five (35) feet.</u>
Maximum Building Height:*****	<u>Thirty Five (35) feet</u>

******Buildings may have architectural details that exceed 35 feet. The maximum height of a building including these details shall not exceed 40 feet (Added March 13, 2018).**

Fifty (50) feet or five (5) stories (excluding roof). All buildings over thirty five (35) feet must provide fire suppression plan approved by Town of Epping Fire Department and Planning Board. Removed March 13,2018

Maximum Lot Coverage	<u>Thirty (30%) percent*.</u>
Green Space.....	<u>Thirty (30%) (added 3/10/20)</u>

Minimum Setback from Residential Area.....**One hundred (100) feet.**

Parking Spaces:

- (a) Offices **One (1) space/250 square feet of floor space.**
- (b) Manufacturing, Industrial and Warehousing **One (1) space/2 workers on the largest working shift, plus appropriate visitor parking.**
- (c) Retail Sales **One (1) space/200 square feet of floor space.**

***** (Adopted by the Town of Epping March 14, 1995.)

**** (Adopted by the Town of Epping March 12, 1996.)

*If the volume of the runoff from the property remains the same, the Lot Coverage can be increased to 45%(Amended Town Meeting March 8, 2011)

SCHEDULE II
ZONING SCHEDULE OF USES FOR THE INDUSTRIAL/COMMERCIAL ZONE.

INDUSTRIAL:

PERMITTED PRINCIPAL USES:

1. Manufacturing and Assembly Plants. ****(Remove the word “Light”)
2. Research and Development Laboratories.
3. Office Buildings.
4. Warehouses for the enclosed storage of goods.
5. Distribution Plants.
6. Wholesale Businesses.
7. Storage, Packing, or Treatment of articles of merchandise from previously prepared materials.
8. Radio/TV Stations and Transmitters.
9. Municipal Buildings. ****
10. Banks. ****
11. Flexible Use Development by Conditional Use Permit (3/10/98)
12. Kennels (2016)
13. Gasoline Station and Service Stations in the following area:
 Aside from #12 below, Gasoline and Service Stations may only be located in an area bounded as follows:
 on the North-the B&M Railroad (Fremont Branch) right-of-way, on the East-1500’ in from the center of Beede Road or to the depth of the parcel or whichever is greater, on the South-Fremont town line, on the West Beede Road. This area is partly within the West Epping Business district and is referenced at Article II 3.3 #21. (3/18/97) **(Amended Epping Town Meeting 2007).**
14. Commercial Excavation of Sand, Gravel, & Stone **(Adopted at Town Meeting 2002. Due to a clerical error, this use was not added to this section in the Zoning Ordinance until 2023.)**

PERMITTED ACCESSORY USES:

1. Customary Accessory Uses incidental to a Permitted Use.
2. Essential Services.
3. Expansion of a non-conforming use.
4. Self-Storage & Warehouses for the enclosed storage of goods. (adopted 3/9/99)

COMMERCIAL:

PERMITTED USES:

1. Retail and Personal Services.
2. Professional Offices.
3. Wholesale Establishments.
4. Motels.
5. Health Care Facilities.
6. Shopping Malls and Plazas.
7. Restaurants.
8. Radio/TV Stations and Transmitters.
9. Municipal Buildings.****
10. Banks. ****
11. Indoor Recreation
12. Flexible Use Development by Conditional Use Permit (3/10/98)
13. Self-Storage & Warehouses for the enclosed storage of goods. (adopted 3/9/99)
14. Gasoline Station and Service Stations in the following area:
 (Aside from #12 above, parcels or sites where a Gasoline or Service Station is located may only be located in an area bounded as follows: on the North-Mast Road, on the East and West a line 1300’ in from the centerline of Route 27 or to the property line, whichever is greater, on the South-Epping / Brentwood town line. (3/18/97) **(Amended Epping Town Meeting 2007).**

PERMITTED ACCESSORY USES:

1. Customary Accessory Uses Incidental to a Permitted Use.
2. Expansion of a non-conforming lot.

**** Adopted by Town on March 14, 1995.

ARTICLE 4
Amended to Town Meeting 2005
CONDOMINIUM CONVERSION

- 4.1. **AUTHORITY AND PURPOSE:** In order to promote the health, safety and general welfare of the community, the following Ordinance is hereby enacted by the voters of Epping, New Hampshire. This Ordinance is in accordance with Chapters 356 and 674, New Hampshire Revised Statutes Annotated.
- 4.2. **DEFINITIONS:**
- 4.2.1. **Condominium** - Real property and any interest therein, in which undivided interests in common area are vested in the unit owners and as further described in RSA: 356b.
- 4.2.2. **Condominium Instruments** - A collective term referring to the declaration, by-laws, site plan and floor plan, recorded pursuant to RSA:356b.
- 4.3. **CONVERSION:** In any district, conversion to condominiums ownership shall require Planning Board approval following a public hearing. Approval shall be granted only if all the following conditions are met:
- 4.3.1. A complete set of site plans and floor plans, as well as a complete set of all condominium documents are on file with the Planning Board.
- 4.3.2. Documentation reflecting Office of the Attorney General approval of all condominium instruments as called for in RSA:356b.
- 4.3.3. The septic system standards of the New Hampshire Water Supply & Pollution Control Division existing as of the date of the request for condominium conversion are met or exceeded by all systems used by; the units associated with the condominium conversion, and a certificate to that effect is filed with the Planning Board based on review of town records by the Building Inspector and on-site inspection of systems and soil conditions by a professional engineer or soils scientist.
- 4.3.4. The off-street parking requirements of the Town of Epping existing as of the date of the request for condominium conversion are met.
- 4.3.5. The proposed conversion to condominium ownership shall not adversely affect surrounding properties.
- 4.3.6. A plan is submitted to the Planning Board showing the location of all utilities on the site, the location of all water connections and locations where the shutoff valve will be located for each unit. The plan shall indicate whether or not additional meters other than those existing or additional lines from the street will be required as a result of the condominium.
- 4.3.7. The commercial or residential units subject to the request for condominium conversion, legal units pursuant to town ordinances. The burden shall be on the petitioner to demonstrate that the units to be converted have legal status.

ARTICLE 5
COMMERCIAL PLANNED UNIT DEVELOPMENT (CUPD)
Amended to Town Meeting 2005

5.1. **PURPOSE:** The purpose of Commercial Planned Unit Development (CUPD) is to encourage flexibility in the design and development of land in order to promote its most appropriate use, to facilitate the adequate and economical provision of streets, utilities and public spaces, and to preserve the natural and scenic qualities of open areas. The procedure is intended to permit diversification in the location of structures and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety, welfare and convenience, both in the use and occupancy of buildings and facilities in planned groups.

5.3. **REGULATIONS GOVERNING COMMERCIAL PLANNED UNIT DEVELOPMENT:**

5.3.1. **Minimum Area** - A CPUD shall include no less than ten (10) acres of contiguous land.

5.3.2. **Open Space** - A minimum of twenty-five (25%) percent of the developed site area shall be open space. Parking areas and vehicle access facilities shall not be considered in calculating open space. A landscape buffer may be required.

5.3.3. **Density** - A CPUD development shall have an overall density no greater than that permitted in the zones in which they are located.

5.3.4. **Land Use** - Proposed land uses shall not adversely affect surrounding development.

5.3.5. **Utilities** - All utilities including electrical and telephone shall be underground and not within the width of the traveled way.

5.3.6. **Community Water & Sewer** - All buildings shall be served by community water and sewer systems approved by the New Hampshire Water Supply & Pollution Control Division.

5.4. **PERMITTED USES** - All uses permitted in the zone within which the CPUD lies.

5.5. **MAXIMUM AND MINIMUM REQUIREMENTS** - The total acreage, measured in square feet, exclusive of the surface of existing water bodies, very poorly drained soil, and exposed ledge shall be divided by the minimum number of square feet per building unit. These may be located, grouped, or dispersed over the area of the CPUD in any fashion within the minimum and maximum criteria specified in Section 5.5.1. and Section 5.5.2. below.

5.5.1. **External Boundaries of CPUD:**

Frontage.....	200 feet.
Front Yard	100 feet.
Side and Rear Yard	200 feet.**

** No parking to be located within fifty (50) feet of a side or rear boundary.

** Where an external boundary of a CPUD abuts any residential zone which, in fact, is used primarily by single family dwellings.

5.5.2. **Minimum Lot Dimensions and Setback Requirements for Each Building:**

Frontage	20 feet
Side Yard	20 feet
Rear	20 feet

5.5.3. Maximum height of any building shall be thirty five (35) feet unless otherwise specified in this ordinance.

5.6. **COMMON AREAS** - In the event the CPUD is to be of the co-operative type, the common areas shall be governed in accordance with the requirements of the State of New Hampshire RSA 479:A1-28, inclusive as amended.

5.6.1. In the event the development contains a common open space area of one (1) acre or more, regardless of the form of ownership of the structures the following provisions shall apply:

(a) In addition to any applicable provisions of RSA 479:A1-28 inclusive, common open space area shall mean a parcel of land or area of water or combination thereof, designed and intended for the use of the owners or tenants or persons who frequent the development.

(b) Areas developed to street Rights-of-Way, vehicular parking or utility services shall not be considered as common space.

(c) If common open space is not permanently dedicated to public use, it shall be protected by legal arrangements, satisfactory to the Planning Board on advice of Counsel, sufficient to assure its permanent maintenance and preservation as open space in perpetuity. Covenants or other legal arrangements approved by the Planning Board on advice of Counsel shall specify ownership of the open space, method of maintenance, responsibility of maintenance, maintenance taxes and insurance guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Planning Board and any other specifications deemed necessary by the Planning Board.

5.6.2. **Common Open Space shall be owned by one of the Following:**

(a) A private, non-profit corporation, association or other non-profit legal entity established by the applicant for the use of the tenants.

5.6.3. A landscape buffer may be required.

5.6.4. The proposed site shall be properly landscaped, the purpose of which is to further enhance the natural qualities of the land. This shall be accomplished within ninety (90) days of occupancy or completion of the building, whichever occurs first, weather or season permitting, and shall be properly maintained by the occupant thereafter. Where adjacent land dictates, proper screening may be required.

5.7. **OTHER REQUIREMENTS:**

Whether or not actual subdivision of the tract is contemplated, all pertinent portions of the Land Use Subdivision Regulations shall be complied with, including but not limited to, street design and construction standards, the filing of a Letter-of-Credit for improvements, and the preliminary and final plans.

In the event the CPUD is designed in such a fashion that the individual structures and the land upon which they are sited could be sold separately, a plot plan shall be drawn up demonstrating a logical method of doing so which would provide front, side and rear yards as required in Section 5.5.2. herein. In addition, at least twenty (20) feet of frontage on a street, or a twenty (20) feet Right-of-Way to such street, no portion of which shall lie in any other required yard setback.

No lot shown on a plan for which a permit is granted under this ordinance may be further subdivided and a note to this effect shall be placed on the final plan.

5.8. **EXHIBITS** - Exhibits shall include all those required by the Land Use Subdivision Regulations, the Site Plan Review Regulations and the zoning ordinance as applicable. The plan shall show the location of common open space.

The appropriate legal agreements shall be presented if ownership is to be of the co-operative, condominium or other similar legal form or if there is to be common open space of one (1) acre or more and shall be approved by the Planning Board on advice of Town Council.

- 5.9. **MODIFICATION - ABANDONMENT** - Plans for a CPUD may be modified in accordance with the requirements for conditional approval. Failure to diligently pursue construction thereof for a period exceeding four (4) years shall constitute abandonment of the plan or pertinent portion thereof and shall render all permits issued for that portion null and void.

ARTICLE 6
SUPPLEMENTARY REGULATIONS FOR CERTAIN USES
(Revised to 2008 & 2014 Town Meeting)

6.1. **AMUSEMENT USES:**

6.1.1. **Amusement Centers, and Similar Places of Amusement:**

6.1.1.1. Such uses when not conducted entirely within an enclosed structure may be required to be enclosed by appropriate fencing or landscaping.

6.1.1.2. Off-street parking areas shall be screened from adjoining residential properties.

6.1.1.3. A principal structure shall be not less than fifty (50) feet from any property line. A landscape buffer may be required.

6.1.1.4. No bowling alley or commercial skating rink or similar use shall be maintained or operated within three hundred (300) feet of an entrance or exit of a public or private school, public library, church, hospital, housing for children, or for the elderly or other similar public or semi-public institutions.

6.1.1.5. **Illuminated Signs** - See Article 19 - Sign Ordinance adopted March 8, 1994.

6.1.1.6. No public address systems shall be permitted except where such system is inaudible at any property line.

6.2. **COMMUNITY FACILITIES:**

6.2.1. **Essential Services, Enclosed or Permanent Structures** - Such uses when in a residential zone shall be subject to the following regulations:

6.2.1.1. Such facility shall not be located on or under a residential street (unless no other site is available) and shall be located so as to draw a minimum of vehicular traffic to and through such streets.

6.2.1.2. The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.

6.3. **CAMPGROUNDS:** The following shall apply to all recreational camping parks:

6.3.1. **Minimum Size** - A campground shall have an area of not less than fifteen (15) acres.

6.3.2. **Camp Sites:**

6.3.2.1. A campground shall provide for individual trailer spaces and/or tenting sites, adequate access driveways, and parking facilities.

6.3.2.2. No recreational camping area shall contain more than two-hundred-and-forty (240) campsites, and each group of not more than sixty (60) campsites shall be separated from all other campsites by buffer zones at least one-hundred-and-fifty (150) feet wide.

6.3.2.3. Each individual campsite shall contain at least three-thousand-five-hundred (3,500) square feet, and shall have at least fifty (50) feet of frontage on an access roadway.

6.3.2.4. No campsite shall be occupied by more than six (6) persons.

6.3.2.5. An electrical source supplying at least 30-amps at 120 volts with weatherproof outlets shall be provided for each trailer or recreational vehicle space. The installation shall comply with all applicable State and Town electrical laws and regulations.

6.3.3. **Roadways:**

6.3.3.1. No new recreational camping area will be permitted unless all town roads comprising the principal route of access to the lot are built to town specifications as set forth in Article 6, Section 6.4. of the Land Use Subdivision Regulations of the Epping Planning Board.

6.3.3.2. Private access roadways shall be at least twenty-two (22) feet wide, except roadways signed for "One-Way Traffic Only" shall be at least twelve (12) wide. All access roadways shall conform to Epping Fire Department requirements for emergency vehicle use as well as to the Life Safety Code of the State of New Hampshire.

6.3.4. **Setbacks:**

6.3.4.1. No facilities shall be located within one hundred (100) feet of any property line. A landscape buffer may be required.

6.3.4.2. No campsites shall be located within one-hundred (100) feet, nor any service or sanitary facility within three-hundred (300) feet of the mean high water mark of any body of water.

6.3.5. **Winter Operation** - No water supply or sewage disposal service shall be provided to any campsite or common facility between December 1 and March 15,

6.3.6. **Sewage Disposal:**

6.3.6.1. Every campground shall have a dumping station for sewage disposal which meets all applicable State and Town laws and regulations.

6.3.6.2. Covered containers for the disposal of solid waste shall be provided.

6.3.7. **Water Supply** - The water supply source must be ample and meet all State and Town regulations.

6.3.8. **Service Building Requirements** - Each recreational camping park shall provide one (1) or more service buildings in accordance with the following specifications:

6.3.8.1. **Toilets** - Flush type toilets shall be placed in a building that is not more than five hundred (500) feet from any recreational vehicle or tend space not less than twenty five (25) feet from any recreational vehicle or tent. No service building shall be located within eighty (80) feet of any public street or highway.

6.3.8.2. **Lighting Requirements** - The building shall be lit with a light intensity of at least five (5) foot candles measured at the darkest corner of the room.

6.3.8.3. **Construction Requirements** - The building shall be a permanent structure sheathed with impervious material, adequately ventilated and with all opening to the outside effectively screened. It shall be supplied with a floor drain, and shall comply with all applicable State and Town requirements.

6.3.8.4. **Toilet Requirements** - Separate toilet areas shall be provided for males and females in accordance with all applicable State and Town laws. Toilet rooms shall contain one (1) lavatory with hot and cold running water for each two (2) toilets, but in no case shall any toilet room be without at least one (1) lavatory with hot and cold running water.

6.3.8.5. **Shower Requirements** - Each service building shall have shower facilities with hot and cold

running water.

6.4. **GROUP OR SHARED HOMES** - Group homes licensed by the State of New Hampshire will be permitted by Special Exception granted by the Zoning Board of Adjustment, provided that they meet all applicable site plan review regulations.

6.5. **MISCELLANEOUS USE:**

6.5.1. **Extraction of Stone, Sand, Gravel, Clay & Topsoil** - No extractive operations shall be carried out except in accordance with the regulatory provisions provided for in RSA:155-E and the Town of Epping Earth Excavation regulations.

6.5.2. **Signs - Exterior** - See Article 19 - Sign Ordinance adopted March 8, 1994.

6.6 **NON-CONFORMING USES AND STRUCTURES (Revised and relocated section--3/00; Rev. 2022)**

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

Reconstruction of: If the non-conforming structure is being replaced by the owner and the replacement structure cannot meet the required setbacks due to lot restrictions (grading, wetlands, existing structures, etc.) a similar structure which has the same building footprint dimensions and meets the setbacks of the previously existing structure may be constructed.

The owner has one year after obtaining a demo permit to begin construction of the new structure and two years for completion.

If the non-conforming structure has suffered a casualty loss (fire, flood, etc.) a similar structure which has the same building footprint dimensions and meets the setbacks of the previously existing structure provided such construction is started within one year of the casualty loss and complete within two years of the casualty loss.

The provisions of the Town of Epping Building Code, as amended, shall apply to any reconstruction. The Building Inspector may require a foundation certification before and after to ensure the new structure is in the same footprint. (2016)

Alteration or Expansion of Non-conforming Uses or Structures: Alteration or expansion of non-conforming structures or uses shall only be permitted by Special Exception by the Zoning Board of Adjustment if it finds that:

1. The proposed expansion or alteration must intrude no further into any setback area than does the existing structure.
2. The expansion or alteration must have no further adverse impact on the view, light, odor and air of any abutter.
3. The expansion must not impede existing rights of access or egress.
4. That portion of the proposed expansion or alteration, which will intrude into the setback, must, in no event, exceed the footprint square footage of that portion of the structure which presently intrudes into the setback, regardless of the number of applications made over time under this subsection.
5. In the event the non-conforming structure or use is a commercial use, there must be no adverse impact on access, traffic, parking, lighting or other safety or visibility features of the existing structure.
6. A special exception under this subsection may be granted only as to expansions or alterations into the side, front, and rear setbacks, and is not available for expansions which violate height restrictions of this ordinance.

Discontinuance of non-conforming uses and structures: In the event that a non-conforming use or structure is voluntarily discontinued for a period of one year, such nonconforming use or structure shall be deemed abandoned and shall not be able to resume without compliance with the zoning ordinance or, alternately, without a variance from the zoning board of adjustment.

Continuance of: All non-conforming structures and uses which predate the adoption or amendment of this ordinance may continue in their present use. These uses shall run with the land and may be transferred by sale or lease by present owner to

future owners or lessees, subject to the other terms of this Ordinance which limit such nonconforming uses.

All new uses, changes of uses, expansion of uses or resumption of uses previously discontinued shall not be permitted until the property owner or authorized lessee has first made application to the Town of Epping Code Enforcement Officer for an administrative decision seeking a determining whether a permit is required for such new, change, expansion or resumption of the non-conforming use or nonconforming structure under the terms of this ordinance. If a permit or other application is required, such use may not proceed until such application has been made a processed as required by town regulations and ordinances.

6.7 **HOME OCCUPATION (adopted 3/13/2012)**

6.7.1 Definition: A home occupation is a professional or service occupation or business carried out from the home which is clearly accessory and subordinate to the residential use of the property.

6.7.2 Where Permitted: Home occupations are allowed in any dwelling unit by permit only. The Board of Selectmen will issue a Home Occupation Permit.

1. A home occupation is to be located within the principle dwelling unit or in a building structure which is accessory to the principle dwelling unit.
2. The exterior of the building must not create or display any evidence of the home occupation, except a permitted sign. Variation from the residential character is prohibited.
3. A home occupation must not utilize more than twenty-five percent (25%) of the gross floor space area, including basement and accessory structures of the principle structure.
4. No more than two (2) non-residents may be employed with the Home Occupation.
5. No more than two (2) commercial motor vehicles may be parked overnight.
6. No more than two (2) pieces of large/heavy commercial equipment (frontend loader, bulldozer, excavator, skid steer, backhoe, etc.) may be parked overnight.
7. Adequate off-street parking must be provided for the Home Occupation.
8. The Home Occupation must be owned and operated by the resident of the dwelling.
9. The Home Occupation must not offend by emitting smoke, dust, odor, noise, gases of any type, fumes of any type, glaring lights, refuse matter of any type or stockpile material.

6.7.3 Permitted Uses: Not more than one Home Occupation is permitted as part of the residential dwelling unit or its accessory structure. Such use shall be clearly accessory and subordinate to the principle dwelling unit.

1. Professional offices: medical, dental, legal, engineering, architectural offices, bookkeepers, accountants, secretarial services, insurance offices.
2. Tailor or seamstress.
3. Daycare centers (childcare or elderly)
4. Sale and display of arts and crafts.
5. Barber shops and beauty shops.
6. Hobby and antique shops.
7. Plumbers, electricians, heating/air conditioning, communication, computer, carpentry, and landscaping businesses.
8. Occupations not listed above that are of a similar nature and only if the Board of Selectmen find that the occupation meets the provisions of this section.

6.7.4 Signage: Prior to the installation of a sign, a permit must be obtained and approved through the Community Development and Planning Office. The sign must meet all sign regulations for the zone in which the Home Occupation is located.

6.7.5 Permit Required: All Home Occupations must obtain a permit from the Board of Selectmen prior to opening.

6.8 **EXPANDED HOME OCCUPATION USE REGULATIONS: (Relocated section—3/00)**

Requirements for the expansion of Home Occupations are as follows:

1. Applicant must seek site plan review with the Planning Board as per the Town of Epping Site Plan Review Regulations.
2. The Planning Board may waive submission requirements as required for site plan review.
3. Exterior displays are permitted but must not outweigh the residential nature of the property.
4. The expanded Home Occupation must not use more than forty (40%) percent of the gross floor area.
5. The expanded Home Occupation must not employ more than four (4) non-residential employees on the premises.

*6. The expanded home occupation must have a driveway access and property frontage on Route 27.

* High Density Residential Zone only.

6.9 A. **MANUFACTURED HOUSING USE REGULATIONS*: (Relocated section—3/00)**

1. All permanent Manufactured Housing shall be placed on a permanent foundation or on foundation piers and skirted.
2. The design and construction of the permanent foundation or permanent foundation piers shall comply with current amended Building Codes at the time of construction.
3. The temporary placement or manufactured housing on conforming lots may be permitted by the Board of Selectmen.
4. The Board of Selectmen shall set the conditions and criteria by which the temporary placement of manufactured housing shall be permitted on a conforming lot.
5. Because the Town of Epping allows manufactured housing throughout the town, manufactured housing parks will not be permitted.
6. All manufactured housing to be placed on lots within the Town of Epping shall be certified as meeting the manufactured home construction and safety standards of the Department of Housing and Urban Development (HUD).
7. All manufactured housing shall comply with Lot Dimensions and Setback Requirements of the zone in which the parcel is located.
8. All manufactured houses (mobile homes) located on any lot within the Town of Epping shall be placed, established, used and/or occupied as a single family detached dwelling.
9. All manufactured homes shall be certified HUD Zone II homes. Epping is located within this zone per the International Residential Code (IRC) wind speed table. R 301.2(4)

*These regulations shall apply to existing manufactured housing units in the High Density Residential and the Central Business Zone, and replacements for units that are destroyed by fire or other disaster, or replaced by reason of unsafeness or hazardousness, or upgraded homes at the discretion of the owner. Provided however that if a manufactured home is removed from the site for longer than one year a replacement unit may not be established. No new manufactured housing units may be established in the High Density Residential and Central Business Zone. (Adopted 3/10/98)

B. RECREATIONAL VEHICLES (Travel Trailers) 3/8/17: It shall be unlawful for any person to park a camping trailer, pickup coach, travel trailer, and/or motor home on any property except in locations and in accordance with the following:

1. In an approved recreational camping park;
2. In an approved recreational vehicle sales lot;
3. The resident landowner may store a recreational vehicle owned by the landowner on their premises provided that said storage is in the rear or side yard, not in the front yard. A vehicle so parked shall not be used as living quarters.

6.10 **MULTI-FAMILY HOUSING & DUPLEX HOUSING REGULATIONS: (Relocated section—3/00 – amended 3/12/19)**

1. **Definitions:**

- a. Dwelling Unit: One (1) or more rooms, including cooking facilities, and sanitary facilities in a building, designed as a unit for living and sleeping purposes.
- b. Multi-family: A single residential structure so designed containing three (3) or more separate dwelling units whether new construction or conversion of existing construction.
- c. Duplex: A single residential structure so designed to contain two (2) separate dwelling units whether new construction or conversion of existing construction.
 - i. A single duplex on a single lot shall comply with the following:
 1. Minimum Frontage - One-and-one-half (1-1/2) times the required frontage of the zone in which the duplex is to be located.
 2. Minimum Off-Street Parking - Two-and-a-half (2-1/2) spaces per dwelling unit.
 3. Lot Size - One-and-a-half (1-1/2) times the requirement of the zone in which the duplex is to be located.
 4. This does not require Planning Board approval unless a condominium form of ownership is proposed.

2. **Building Requirements:**

- a. Minimum Enclosed & Heated Areas:
 - Studio Unit – 450 square feet net floor area.
 - One Bedroom Unit – 600 square feet net floor area.
 - Each Additional Bedroom - 100 square feet net floor area.
- b. Area Below Grade - Floor levels of all habitable spaces shall be above adjacent grade on at least twenty-five (25%) percent of the perimeter of each unit, and shall not be more than four (4) feet below grade at any point.
- c. Maximum Height (please see Article 12)- Thirty-five (35) feet ~~measured vertically from lowest adjacent grade to highest point of roof.~~ (removed 3/12/19)
- d. Maximum Number of Stories Containing Habitable Space - Two (2) ~~except by Special Exception from the Board of Adjustment.~~ (removed 3/12/19)
- e. Minimum Area per Building - One thousand (1,000) square feet net floor area.

3. **Projects** - Every project containing three (3) or more dwelling units on a single lot, whether new construction or conversion of existing construction, or both, shall comply with the following: (amended 3/9/99)

- a. Single family detached dwelling shall not be a housing type within these projects. (added 3/12/19)

b. **Maximum Density**

- One (1) unit per forty thousand (40,000) square feet. Wetlands, as defined by state law, shall not be included in calculating allowable density.

-3 or more dwelling units, ten thousand (10,000) square feet per unit—**High Density Residential Zone only.**

c. **Minimum Frontage**

One-and-one-half (1-1/2) times the required frontage of the zone in which the development is to be located. ~~except by Special Exception by the Board of Adjustment.~~ (Amended Town Meeting 2008). (removed 3/12/19)

d. **Minimum Setbacks - Buildings (NEW CONSTRUCTION ONLY)** - as far as reasonably necessary for maximum visual and acoustical screening from adjacent property and public ways, fifty (50) feet from all property lines. (amended 3/12/19)

e) **Minimum Setbacks PARKING AREAS)** - twenty-five (25) feet from front, side, and rear property lines. (amended 3/12/19)

f) **Minimum Off-Street Parking** - Two-and-one-half (2-1/2) spaces per dwelling unit. ~~except by Special Exception granted by the Board of Adjustment.~~ (removed 3/12/19)

g) **Minimum Space for Outdoor Activities** - Six hundred (600) square feet per dwelling unit, including lawns, terraces, woodlands (from which underbrush has been removed), but not including driveways, parking areas, wetlands, or uncleared woodlands etc.

h) **Driveway Connections to Town Roads** - Connections shall be made only after the following:

- (1) Driveway access shall be reviewed by the Planning Board as part of the site plan application process. (Added Town Meeting – 3/10/20)
- (2) Application to the Public Works Department showing driveway access designed in accordance with the standards for rural roads contained in the manual “Policy and Procedure for Driveways and other Access to the State Highway System” and Town Regulations.
- (3) Tender of an application fee payable to the Town of Epping. (Amended Town Meeting – 3/10/20)
- (4) Granting of a permit by the Public Works Department. (Amended Town Meeting – 3/10/20)
- (5) All waivers are granted by the Board of Selectmen. (Added Town Meeting – 3/10/20)

i) **Review of Site Plan** - A site plan of the proposed development shall be submitted to the Planning Board for review showing lot areas, lot frontages, size and location of all buildings, driveways, parking areas, outdoor activity areas, wetlands, provisions for visual and acoustical screening, drainage, architectural and any other information required by the Planning Board to determine compliance with the foregoing regulations.

j) Multi-Family projects may have more than one principal structure per lot. (Added Town Meeting – 3/10/20)

Special Exceptions:

~~_____The Board of Adjustment may grant a Special Exception to any or all of the above requirements
_____relating to the number of stories, frontages, setbacks and off street parking where:~~

~~1. Ground coverage by buildings, driveways, parking areas and other paved or impervious surfaces do not exceed twenty five (25) percent (50% for the Central Business Zone) of the site.~~

~~2. The Board of Adjustment finds the proposed development maintains standards of public health, safety, welfare, convenience and amenity at least equal to those required elsewhere in these regulations.~~

~~3. The Planning Board has reviewed and found no objection to the proposed development. (Removed Town Meeting - 3/9/10 & 3/12/19)~~

6.11 **DUPLEX HOUSING USE REGULATIONS: (Relocated section—3/00 - 3/12/19 merged with section 6.10)**

~~**Dwelling Units** Each building containing two (2) dwelling units whether new construction or conversion of existing construction, and wherever located in the Town of Epping, shall comply with the following:~~

~~**1. Minimum Frontage** One and one half (1 1/2) times the required frontage of the zone in which the duplex is to be located.~~

~~**2. Minimum Off-Street Parking** Two and a half (2 1/2) spaces per dwelling unit.~~

~~**3. Lot Size** One and a half (1 1/2) times the requirement of the zone in which the duplex is to be located.~~

6.12 **EXISTING LOTS OF RECORD (Relocated section—3/00)**

A structure may be constructed on any existing lot of record even if said lot is less than the minimum area required for building lots in which it is located providing the following conditions exist or are met:

1. Availability of Adjacent Vacant Land - No structure shall be erected on any non-conforming lot if the owner of said lot owns any adjoining vacant land which would create a conforming lot if said vacant land were merged with the lot deficient in area. Said merger of lots shall not result in a new non-conforming lot.

2. Side Yards - No structure shall be constructed on a non-conforming lot unless it shall have a minimum side yard of ten (10) feet on either side.

3. Front & Rear Yards - No structure shall be constructed on a non-conforming lot unless it shall have front and rear yards conforming to the minimum required for the zone in which said lot is located, or at such front yard setback distance as shall conform to the line of existing buildings on adjacent properties.

6.13 **DIMENSIONAL REGULATIONS (Relocated section—3/00)**

General Application - No building or structure shall have a greater number of stories nor have an aggregate height of a greater number of feet than is permitted in the zone in which such building or structure is located except as noted elsewhere in this ordinance.

Exceptions to Height Regulations - Chimneys, cooling towers, elevators, bulkheads, radio towers, gas tanks, fire towers, grain elevators, steeples, water towers, ornamental towers or necessary mechanical appurtenances may be erected to the height in accordance with the existing or hereafter adopted Ordinance of the Town of Epping, provided no tower shall exceed the height regulations by more than forty (40) percent except as noted elsewhere in this ordinance. No sign, nameplate, display or advertising device of any kind whatsoever shall be inscribed upon or attached to a chimney, tower, tank or other structure which extends above the height limitations.

Side Yards of Corner Lots - The side yard of any corner lot of record at the time of the adoption of this ordinance

shall have a width equal to, but not less than, one-half (1/2) the required minimum front yard setback of any adjoining lot fronting on the side street. Any corner lot delineated by subdivision after the adoption of this ordinance shall have a side yard equal in width to the minimum front yard setback of any adjoining lot.

Transition Yard Requirements -Where a residential zone abuts a non-residential zone on a street line there shall be provided in the non-residential zone for a distance of fifty (50) feet from the zone boundary line, a front yard not to be used for parking, at least equal in depth to that required in the residential zone.

Where the side or rear yard in a non-residential zone abuts a side or rear yard in a residential zone, a side or rear yard, not to be used for parking, shall be provided which is at least equal in depth to that required in the residential zone. In no case however, shall the abutting side yard be less than twenty (20) feet and the abutting rear yard be less than twenty (20) feet.

Maximum Coverage - Land coverage by principal and accessory buildings or structures on each zone lot shall not be greater than is permitted in the zone where such principal and accessory buildings are located.

Accessory Structures - Accessory structures shall comply with front, side and rear yard requirements for the principal structure to which they are accessory.

Accessory Dwelling Unit (ADU) 3/8/17 (Rev. 2021): a residential living unit that is within or attached to a detached single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies

1. The ADU shall be no larger than one-third of the living areas of the single-family dwelling unit. If this is less than 750 square feet, the applicant may increase the ADU's square footage to 750 square feet.
2. An applicant may request a smaller unit however, the unit shall be no less than four-hundred-and-fifty (450) square feet in size.
3. The ADU shall not exceed 2 bedrooms.
4. No more than one ADU shall be permitted per detached single-family dwelling.
5. An interior door shall be provided between the ADU and the principal dwelling unit.
6. One (1) of the dwelling units shall be owner occupied
Any added external entrances for the ADU shall be located on the side or rear of the structure.
7. Adequate off-street parking is required.
8. Adequate water and sewage disposal capability must be demonstrated. The applicant must show that the lot can support a new septic system adequate for the increased size and that the water supply can meet the setbacks required by the NHDES
9. The unit may be located in a detached structure if that structure is at least 10 years old and the applicant can meet all the other requirements of this section, except #5. The applicant will have to prove the date of the detached structure with a building permit or tax card.

6.14 **Gasoline Stations and Service Stations / Auto Dealerships. (Adopted Epping Town Meeting 2007).**

In addition to the following zoning provisions, the Planning Board may adopt additional regulations applicable to these uses.

1. Gasoline Stations and Service Stations.
 - a. Additional uses proposed for the site shall require site plan review irrespective of their size.

- b. Lighting shall be minimized and must be on a timer for reduced lighting during off-hours.
- c. Expansion of non-conforming uses for these facilities is prohibited unless in compliance with Article 22 (if adopted at Town Meeting).

2. ~~Auto Dealerships and Recreational Vehicle Sales Establishments.~~ (Removed Town Meeting 3/10/2009)

- a. Location restriction. This restriction is intended to protect the aesthetic development of the commercial districts by limiting a proliferation of dealerships, provide for a diverse range of commercial uses, and minimize traffic impacts in the commercial areas of town.
 - (1) ~~No new facility of either type shall be located within 2,000 feet of an existing facility of either type.~~ (Removed Town Meeting 3/10/2009 – removed entirely 3/10/2015)
 - (1) Expansion within the 2,000 foot radius is permitted upon satisfaction of the following:
 - (i) Compliance of existing site with all codes, regulations and approvals.
 - (ii) Quantification and clear delineation of limits to the area devoted to sales and outdoor storage.
 - (iii) The expansion is onto land directly abutting and under common ownership and facilities of the existing use.
 - (iv) A one-time expansion is permitted and limited to 25% of existing area devoted to the use in place at the time of adoption of this section.
- b. Outdoor storage other than as delineated on the plan shall be prohibited.
- c. Auto repairs shall be permitted as an accessory use to sales provided the repairs take place in an enclosed area and are subordinate and incidental to the sales use.
- d. Lighting shall be minimized and shall be from full cut-off fixtures and on a timer to reduce lighting during off-hours.
- e. Expansion of non-conforming uses shall be prohibited.
- f. All loading, unloading, and trailer parking shall occur on site during normal business hours.

6.15 Hours of Operation and Construction

As part of any site plan approval required under the regulations of the Planning Board and in accordance with RSA 674:43, the Planning Board shall be authorized to adopt regulations to limit the hours of operation for any commercial use developed in the Town of Epping and the hours of construction for the development of approved site plans in order to protect the health safety and welfare of abutting persons and preserve the quiet enjoyment of land.

In adopting these regulations, the Board shall specifically consider the zone where the site is located and the site’s location with respect to abutting land and land uses and may adopt default hours. (Adopted Town Meeting – 3/10/2009)

6.16 Sheds

Sheds equal to or greater than 200 square feet shall require a building permit and shall meet all setback requirements for the zone in which they are located. Sheds less than 200 square feet and not on a permanent foundation shall not require a permit and shall meet the front setback requirements for the zone in which they are located. A shed is defined as: a simple roofed structure typically made of wood or metal, used as a storage space. This definition does not include the use of the structure for animal husbandry. Metal shipping container or truck trailer boxes are prohibited as permanent sheds in the following zones: Residential, Rural Residential, Residential Commercial, West Epping Business District, High Density Residential, and Central Business District. (2016)

6.17 **Traditional Tattoo Establishments with a Specialty in Medical Camouflage Techniques 3/8/17.**

A) Interpretation of Certain Terms - For the purpose of this ordinance, the following words and phrases when used herein shall be construed as follows:

- 1) Tattoo - Shall mean to mark or color the skin by pricking in coloring matter so as to form indelible marks or figures or by the production of scars.
- 2) Medical Tattoo- Shall mean to mark or color the skin by pricking in color matter as to correct or camouflage scars, melanin deficiencies, hair replication, and areola pigmentation for cancer survivors.
- 3) Tattoo Establishment - Shall mean any room or space where tattooing is practiced or where the business of tattooing is conducted or any part thereof.
- 4) Private - Meaning by appointment only, and will not advertise for walk-in business.

B) Location Restrictions - Tattoo Establishment shall be subject to all regulations, requirements and restrictions for the zone in which the tattoo establishment is permitted and shall be subject to the following requirements:

1. The Tattoo establishments shall all operate as a private business.
2. The tattoo establishment in operation shall be required to offer medical camouflage techniques as well as traditional tattoo methods as part of the business model.
3. No tattoo establishment shall be permitted within 1000 feet of another tattoo establishment, and no other tattoo establishment shall be permitted within a building, premise, structure or any other facility that contains another tattoo establishment.
4. Signage will meet town regulations and will not include the word “tattoo”.

6.18 **Temporary Structures** (Adopted March 14, 2023)

A) Purpose: The purpose of this ordinance is to regulate the placement of temporary structures on lots within the Town of Epping. As defined in Article 12, a temporary structure is any structure not on a permanent foundation nor permanently attached to a fixed location in any manner. Said structure to be used for a specified period of time.

B) Requirements:

1. Permits shall be required for all temporary structures. Prior to the placement or construction of a temporary structure, the Building Inspector shall certify to the safety of the structure.
2. All temporary structures shall meet all setback requirements of permanent primary buildings within the applicable zoning district.

3. Any vehicle placed on a lot and used in a manner other than the purpose for which it is customarily intended, whether or not powered and whether or not inspected, shall be considered to be a temporary structure. Vehicles prohibited by this provision include, but are not limited to, those used primarily for advertising or warehousing purposes.
4. Lighting associated with all temporary structures shall comply with the light requirements within Epping's Site Plan Regulations.
5. Signage associated with all temporary structures shall comply with the provisions of Article 19.
6. All temporary structures must be completely removed upon expiration of their permits. Residing in any temporary structure, or a basement, or foundation before completion of a permanent structure shall not be permitted.
7. Temporary structures on non-residential lots are allowed for a period of up to one year by permit issued by the Building Inspector. Temporary structures may not receive extensions on permits and temporary structures may not receive new permits unless a minimum of 120 days have passed since the expiration of the last permit issued.
8. The Building Inspector shall certify to the safety of the structure before the structure may be occupied. If a temporary structure becomes unsafe or the public health, welfare or safety is endangered, the Building Inspector shall immediately revoke the permit. The unsafe structure will then be removed from the site or the unsafe conditions eliminated and/or repaired.

ARTICLE 7

GROUNDWATER PROTECTION DISTRICT

(Voted by the Town of Epping Special Town Meeting, November 6, 1984 & Town Meeting 2013,
2015, 2023)

- 7.1. **AUTHORITY** - Pursuant to RSA 674:16, the Town of Epping adopts a Groundwater Protection District.

As authorized in RSA 674:21, a Conditional Use Permit [“CUP”] shall be required for uses listed in Article 7.5. All conditions specified for applicable CUPs shall be met. Any person aggrieved by a Planning Board decision on a CUP application may appeal to the Superior Court as provided in RSA 677:15. These Planning Board decisions cannot be appealed to the Zoning Board of Adjustment (cf., RSA 676:5.III). Conditional Use Permits approved under this ordinance shall meet general criteria and applicable criteria for specific conditions that are provided in Article 7.5.

- 7.2. **PURPOSE:**

The purpose of this ordinance and accompanying regulations in order to protect, preserve and maintain potential groundwater supplies and related groundwater recharge areas within a known aquifer identified by the Town. The objectives of the Groundwater Protection District are:

- to protect the public health and general welfare of the citizens of Epping;
- to preserve, maintain, and protect from contamination existing and potential groundwater supply areas
- to promote future growth and development of the Town, in accordance with the Master Plan, by insuring the future availability of public and private water supplies;
- to encourage uses that can appropriately and safely be located in the aquifer recharge areas;
- and to protect surface waters that are fed by groundwater.

- 7.3. **DISTRICT BOUNDARIES:**

7.3.1 **Location** - The Groundwater Protection Areas are depicted as the shaded areas on the map entitled “Groundwater Protection District” which is hereby adopted as part of the official Zoning Map of the Town of Epping. The Groundwater Protection District includes the boundaries of the following:

- A. Stratified-Drift Aquifers in the Exeter, Lamprey, and Oyster River Basins - US Geological Survey Open-File Report 92-95, “Geohydrologic and Ground-Water-Quality Data for Stratified-Drift Aquifers in the Exeter, Lamprey, and Oyster River Basins, Southeastern New Hampshire.
- B. All Wellhead Protection Areas for Public Water Systems as defined by this ordinance as defined by the New Hampshire Department of Environmental Services.

7.3.2 **Appeals** - Where the bounds of the identified aquifer or recharge area as delineated, are in doubt or in dispute, any landowner aggrieved by such delineation may appeal the boundary location to the Planning Board. Upon receipt of such appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall engage, at the landowner’s expenses, a qualified hydrogeologist to prepare a report determining the proper location and extent of the aquifer

and recharge area relative to the property in question. The aquifer delineation shall be modified by such determination subject to review and approval by the Planning Board.

7.4. **DEFINITIONS:** For the purpose of this Ordinance, the following terms shall have the meaning given herein:

- 7.4.1 **Animal Feedlot** - A commercial agricultural establishment consisting of confined feeding areas and related structures used for the raising of livestock. An animal feedlot shall be considered one on which more than five (5) adult animals are raised simultaneously.
- 7.4.2 **Aquifer** - For the purpose of this ordinance, aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for public or private water supplies.
- 7.4.3 **Direct Recharge Area**: The land area immediately over lying the aquifer. The boundary of the direct recharge area is the contact between the stratified drift and adjacent till or bedrock.
- 7.4.4 **Dwelling Unit** - A building or that portion of a building consisting of one or more rooms designed for living and sleeping purposes, including kitchen and sanitary facilities and intended for occupancy by not more than one family or household.
- 7.4.5 **Flood hazard areas**: Areas that result in flood waters that often carry hazardous and toxic materials, including raw sewage, animal wastes, oil, gasoline, solvents, and chemicals such as pesticides and fertilizer. Flood waters that enter a well can contaminate the groundwater and make the well water unsafe to drink or to use by businesses. The effects may last long after the flood waters have receded.
- 7.4.6 **Gasoline station**: Means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of gasoline.
- 7.4.7 **Groundwater** - All the water below the land surface in the zone of saturation or in rack fractures capable of yielding water to a well.
- 7.4.8 **Groundwater Recharge** - The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.
- 7.4.9 **Hydrogeologic Study**: A hydrogeologic study or investigation is a study of the subsurface hydrologic and geologic conditions in an area or location.
- 7.4.10 **Impervious**: not readily permitting the infiltration of water.
- 7.4.11 **Impervious surface**: a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Earthen; wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.
- 7.4.12 **Leachable Wastes** - Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.
- 7.4.13 **Junkyard**: An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard. The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.
- 7.4.14 **Mining of Land** - The removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone.
- 7.4.15 **Non-Conforming Use or Structure** - A use or structure lawfully existing at the time of adoption of this ordinance or any subsequent amendment which does not conform to one or more provisions of this ordinance.
- 7.4.16 **Non-Municipal Well** - Any well not owned or operated by the Town of Epping or its agent.
- 7.4.17 **Outdoor storage**: Storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.
- 7.4.18 **Public water system**: a system for the provision to the public of piped water for human consumption,

if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

- 7.4.19 **Petroleum bulk plant or terminal**: Means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container.
- 7.4.20 **Recharge Area** - The land surface area from which groundwater recharge occurs.
- 7.4.21 **Regulated substance**: Petroleum, petroleum products, regulated contaminants for which an ambient groundwater quality standard has been established under RSA 485-C:6, and substances listed under 40 CFR 302, 7-1-05 edition, excluding substances used in the treatment of drinking water or waste water at department approved facilities.
- 7.4.22 **Sanitary protective radius**: The area around a public water supply well which must be maintained in its natural state as required by Env-Dw 301 or 302 (for community water systems); Env-Dw 373.12 and Env-Dw 372.14 (for other public water systems).
- 7.4.23 **Seasonal high water table**: The depth from the mineral soil surface to the upper most soil horizon that contains 2 percent or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a licensed Hydrogeologist, Soils Scientist, Wetlands Scientist, Civil or Environmental Engineer or other qualified professional approved by the Planning Board or the shallowest depth measured from ground surface to free water that stands in an unlined or screened borehole for at least a period of seven consecutive days.
- 7.4.24 **Sludge** - Residual materials produced by the sewer treatment process.
- 7.4.25 **Snow dump**: For the purposes of this ordinance, a location where snow, which is cleared from roadways and/or motor vehicle parking areas, is placed for disposal.
- 7.4.26 **Solid Waste** - Any discarded or abandoned material including refuse, putrescible material, septage, or sludge as defined by the New Hampshire Solid Waste Rules He-P 1901.03. Solid waste includes solid, liquid, semi--solid, or contain gaseous waste material resulting from residential, industrial, commercial, mining, and agricultural operations and from community activities.
- 7.4.27 **Stratified-drift aquifer**: A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.
- 7.4.28 **Structure** - Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground. For the purpose of this ordinance, buildings are structures.
- 7.4.29 **Toxic or Hazardous Materials** - Any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this town. Toxic or hazardous materials include without limitation, volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids or alkalis, and include products such as pesticides, herbicides, solvents and thinners, and such other substances as defined in New Hampshire Water Supply & Pollution Control Rules He-P 1901.03(v), and in the Code of Federal Regulations 40 CFR 261. Wastes generated by; the following commercial activities are presumed to be toxic and hazardous:
- Vehicle and Engine service and repair;
 - Chemical and bacteriological laboratory operation;
 - Dry Cleaning;
 - Electronic circuit manufacturing;
 - Metal plating, finishing and polishing;
 - Motor and machinery service and assembly;
 - Painting, wood preserving and furniture stripping;
 - Pesticide and herbicide application;
 - Photographic processing;

- Printing.

7.4.30 **Wellhead protection area:** The surface and subsurface area surrounding a water well or wellfield supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

7.5. **USE REGULATIONS:**

7.5.1 **Minimum Lot Size** - The minimum lot size for each dwelling unit if a residential use, or each principal building if a non-residential use, shall be 2 acres.

7.5.2 **Maximum Lot Coverage** -, no more than ten (10%) percent of a single lot, including the portion of any new street abutting the lot, may be rendered impervious to groundwater infiltration.

7.5.3 **Site Drainage:** The Maximum Lot Coverage limits noted in 7.4.2. above within the Groundwater Protection District may not be exceeded unless the following standards are met and the plans are approved by the Planning Board or its designated agent:

- i. The applicant shall submit a stormwater drainage plan consistent with the requirements of Epping's Site Plan and Subdivision Regulations.
- ii. All runoff from impervious surfaces shall be recharged on the site and diverted, to the extent possible, towards areas covered with vegetation for surface infiltration. This includes roof and foundation drains, if present.
- iii. Low Impact Development practices, which are designed to mimic natural hydrology by reducing impervious surfaces and stormwater runoff and increasing groundwater recharge and pollutant removal, shall be used to the extent practicable unless the applicant can document infeasibility to the satisfaction of the Planning Board.
- iv. The stormwater drainage plan shall provide for removal of oil and gasoline from parking lot runoff by the use of treatment swales, oil/gas separators or other devices, prior to retention and percolation of the runoff.
- v. Runoff shall be pretreated prior to infiltration. Pretreatment to the extent practicable shall be in accordance with Epping's Site Plan and Subdivision Regulations and Best Management Practices as recommended by NHDES. French drain designs, with or without overflow to Town storm drains, must be reviewed and approved by the Planning Board.

7.5.4 **Performance Standards:**

- i. Maintain a minimum of four feet vertical separation between the bottom of a stormwater practice that infiltrates or filters stormwater and the average seasonal high water table as determined by a licensed hydrogeologist, soil scientist, engineer or other qualified professional as determined by the Planning Board.
- ii. Spill Prevention, Control and Countermeasure (SPCC) Plan: All Conditional Uses, as listed under Section 2.5.4.G using, storing or handling regulated substances shall submit a spill control and countermeasure (SPCC) plan to the Fire Department, or appointed designee, who shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods or fires that may cause large releases of regulated substances. It shall include:
 - 1. A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.
 - 2. Contact list and phone numbers for the current facility response coordinator(s), cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment.
 - 3. A list of all regulated substances in use and locations of use and storage.

4. A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure.
 5. A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.
 6. List of positions within the facility that require training to respond to spills of regulated substances.
 7. Prevention protocols that are to be followed after an event to limit future large releases of any regulated substance.
 8. Require that the SPCC is reviewed by the property owner or property manager periodically (at least once every three years) and/or after any major storm event.
 9. Identify prevention protocols and best management practices that should be implemented prior to a storm/emergency event.
- iii. Use of Deicing Chemicals: There shall be minimal use of deicing chemicals on all public and private roads, and parking lots within this District, and those compounds used shall be free of sodium and chloride to the extent possible.
- iv. Hydrogeologic Study: The Planning Board shall determine, on a case-by-case basis, the need for a hydrogeologic study for any development within the Groundwater Protection District. This determination shall consider the sensitivity of the site including, but not limited to, areas that have septic systems in close proximity to wells -- including public supply wells, irrigation wells, residential wells, and monitoring wells -- or that may contain excessively drained soils or steep slopes. Costs for the above mentioned services shall be charged to the applicant. Requirements for a hydrogeologic study shall include the following:
1. The hydrogeologic study shall be performed by a NH licensed geologist specializing in hydrogeology.
 2. The hydrogeologic study shall evaluate the development's impact on groundwater within both the parcel to be developed and surrounding land. Beyond the property lines of said site groundwater quality shall not be degraded by polluting substances such as, but not limited to, nitrates, phosphates, bacteria, etc. Larger lots may be required based on the findings of this study.
 3. The proposed use may necessitate the installation of upgradient and downgradient monitoring wells under the direction of a New Hampshire certified professional hydrogeologist if the Planning Board determines such installation is necessary for groundwater protection. Installation shall be performed at the expense of the applicant.

7.5.5 **Prohibited Uses** - The following uses are prohibited except where permitted to continue as a non-conforming use:

- i. The development or operation of a solid waste land fill.
- ii. Storage and disposal of hazardous waste.
- iii. Subsurface storage of petroleum and other refined petroleum products.
- iv. The development or operation of a petroleum bulk plant or terminal;
- v. Disposal of liquid or leachable wastes, except from residential subsurface disposal systems, or State approved commercial or industrial systems which discharge human wastes only.
- vi. Industrial uses which discharge process waters on site.
- vii. bulk storage of road salt or other deicing chemicals, unless fully enclosed, stored on

impervious surface, and covered.

- viii. Dumping of snow containing deicing chemicals brought from outside the district.
- ix. Animal feedlots.
 - x. Automotive service and repair shops, junk and salvage yards.
 - xi. Waste and water injection wells.
 - xii. The development or operation of gasoline stations. Development or expansion of other uses or activities on the site that do not involve the dispensing of petroleum products for retail purposes are permitted provided they comply with the Town of Epping's Zoning Ordinance.

7.5.6 **Permitted Uses** - The following activities may be permitted provided they are conducted in accordance with the purpose and intent of this ordinance:

- i. Single and two-family residential development.
- ii. Normal operation and maintenance of existing water bodies and dams, splash boards and other water control, supply and conservation devices.
- iii. Maintenance, repair of any existing structure, provided there is no increase in impermeable surface above the limit established in Section 7.4.2. of this article.
- iv. Farming, gardening, nursery, forestry, harvesting and grazing, provided that fertilizers, herbicides, pesticides, and other leachables applied using Best Management Practices (BMPs), at levels that will not cause groundwater contamination and are stored under shelter. BMPs may include, but are not limited to, those published by the NH Department of Agriculture, Markets & Food or the University of New Hampshire Cooperative Extension.

7.5.7 **Conditional Use Permits** - The Planning Board may grant a Conditional Use Permit for those uses listed below only after written findings of fact are made that all of the following are true:

- i. The proposed use will not detrimentally affect the quality of the groundwater or drinking water resources by directly contributing to pollution or by increasing the long term susceptibility of the aquifer to potential pollutants;
- ii. The proposed use will not cause a significant reduction in the long term volume of water contained in the aquifer or in the storage capacity of the aquifer;
- iii. The proposed use will discharge no waste water on site other than that typically discharged by domestic waste water disposal systems and will not involve on-site storage or disposal of toxic or hazardous wastes as herein defined;
- iv. The proposed use complies with all other applicable sections of this article.
- v. Prior to rendering a decision regarding the possible approval of any Conditional Use Permit application, the Planning Board shall afford the Conservation Commission an opportunity to provide written comment. After consideration and review of an application for a Conditional Use Permit, the Conservation Commission may recommend the Planning Board to deny the application or to impose conditions of approval, if deemed necessary, to mitigate the potential for adverse effects caused by the proposed activity or use. If the Planning Board decides to grant a conditional use permit that does not include the Conservation Commission's recommendations, the Planning Board is encouraged to provide the reason for their conclusion as part of the Notice of Decision.

7.5.8 The Planning Board may require that the applicant provide data or reports prepared by a professional engineer or qualified groundwater consultant to assess any potential damage to the aquifer that may result from the proposed use. The Planning Board shall engage such professional assistance as it requires to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria. The following uses are permitted by Conditional Use Permit:

- i. Industrial and Commercial Uses not otherwise prohibited in Section 7.5 of this article.
- ii. Multi-Family development.
- iii. Sand and gravel excavation and other mining provided that such excavation or mining is not carried out within eight (8) vertical feet of the seasonal high water table and that periodic inspections are made by the Planning Board or its agent to determine compliance.

7.5.9 **Septic System Design and Installation:**

- i. In addition to meeting all local and state septic system siting requirements, all new on-lot waste water disposal systems installed in the district shall be designed by a New Hampshire licensed designer and installed by a licensed installer.
- ii. The Building Official or its agent may inspect the installation of each new system prior to covering, and shall certify that the system has been installed as designed.

7.6. **DESIGN AND OPERATION GUIDELINES:** Except for single and two (2) family dwellings, the following design and operation guidelines shall be observed:

- 7.6.1 **Safeguards** - Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as: spill control provisions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or dissolvable materials. For operations which allow the evaporation of toxic or hazardous materials into the interiors of any structures, a closed vapor recovery system shall be provided for each structure to prevent discharge of contaminated condensate into the groundwater.
- 7.6.2 **Location** - Where the premises are partially outside of the Overlay Zone, potential pollution sources such as on-site waste disposal systems shall be located outside the zone to the extent feasible.
- 7.6.3 **Inspection** - All conditional use permits granted under Section 7.5 of this article shall be subject to twice-annual inspections by the Building Inspector or other agent designated by the Selectmen. The purpose of these inspections is to ensure continued compliance with the conditions under which approvals were granted. A fee for inspections shall be charged to the owner according to a fee schedule determined by the Selectmen.

7.7. **NON-CONFORMING USES:**

- 7.7.1 In the event of the destruction or damage by fire, storm or Act of God of any building not conforming to these ordinances, said building may be rebuilt or refurbished to its former non-conforming use, provided that such construction is started within two (2) years of the damage or destruction and is completed within two (2) years after rejuvenation is commenced. The new structure shall not be expanded beyond its former size and height prior to such event and shall conform to the International Building Code as amended. The alteration of any building for use for a purpose or in a manner which is substantially different for the use to which it was put before alteration is prohibited.
- 7.7.2 Any non-conforming Lot of Record existing before the effective date of this article and not adjoined by other land of the same ownership may be used in accordance with Section 7.5 of this article.

7.8. **ADMINISTRATION:**

- 7.8.1 **General** - The provisions of the District shall be administered by the Planning Board. All development proposals, other than single or two-family residential construction not involving the subdivision of land, shall be subject to subdivision and/or site plan review and approval in accordance with Planning Board rules and regulations. Such review and approval shall precede the issuance of any building permit by the town.

7.8.2 **Enforcement** - The Board of Selectmen shall be responsible for the enforcement of the provisions and conditions of the Aquifer Protection District and Wellhead Protection Area and shall act in accordance with Article IX of the Epping Zoning Ordinance.

7.8.3 **Savings Clause** – If any provision of this ordinance is determined to be unenforceable by a court of competent jurisdiction, that provision shall be considered separate and shall not be interpreted to invalidate any other provision of this ordinance.

7.9. **EFFECTIVE DATE**: This Article shall become effective upon the date of passage.

ARTICLE 8
FLOODPLAIN DEVELOPMENT ORDINANCE
Amended to Town Meeting 2005
Amended to Town Meeting 2011

8.0. The following regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency in its "Flood Insurance Study for the County of Rockingham, NH" together with the associated Flood Insurance Rate Maps, dated May 17, 2005 which are declared to be a part of this ordinance.

8.1. DEFINITION OF TERMS:

- 8.1.1. **"Area of Special Flood Hazard"** is the land in the floodplain within a community subject to a one (1%) percent or greater chance of flooding in any given year. The area is designated as Zone A and AE on the FIRM.
- 8.1.2. **"Base Flood"** means the flood having a one (1%) percent chance of being equaled or exceeded in any given year.
- 8.1.3. **"Basement"** means any area of the building having its floor subgrade (below ground level) on all sides.
- 8.1.4. **"Building"** see STRUCTURE.
- 8.1.5. **"Development"** means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- 8.1.6. **"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which FEMA has delineated both the special hazards areas and the risk premium zones applicable to the community.
- 8.1.7. **"Flood Insurance Study"** - means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood related erosion hazards
- 8.1.8. **"Floodplain" or "Flood Prone Area"** means any land area susceptible to being inundated by water from any source.
- 8.1.9. **"Flood Proofing"** means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- 8.1.10. **"Floodway"** - see "Regulatory Floodway".
- 8.1.11. **"Highest Adjacent Grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

8.1.12 "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.

- 8.1.13. **“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 enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- 8.1.14. **“Mean Sea Level”** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.
- 8.1.15. **“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” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one-hundred-and-eighty (180) consecutive days. For insurance purposes the term “Manufactured Home” does not include park trailers, travel trailers, and other similar vehicles. This includes manufactured homes located in a manufactured home park or subdivision.
- 8.1.16. **“Manufactured Home Park or Subdivision”** means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.
- 8.1.17. **“New construction”** means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- 8.1.18. **“100 Year Flood”** - see “Base Flood”.
- 8.1.19. **“Recreational Vehicle”** means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use. **(Adopted by the Town, March 8, 1994)**
- 8.1.20. **“Regulatory Floodway”** means the channel of a river or other water course 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 one (1) foot at any point.
- 8.1.21. **“River Line”** means relating to, formed by, or resembling a river (including tributaries), stream, brook etc.
- 8.1.22. **“Special Flood Hazard Area”** (See Area of Special Flood Hazard).
- 8.1.23. **“Structure”** means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

- 8.1.24. **“Start of Construction”** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one-hundred-and-eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a 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 not part of the main structure.
- 8.1.25 **“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.
- 8.1.26. **“Substantial Improvement”** means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty (50%) percent of the market value of the structure. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”
- 8.1.27 **“Violation”** means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under Sections 8.5, 8.9, 8.10, and 8.13.2 of this ordinance is presumed to be in violation until such time as that documentation is provided.
- 8.1.28. **“Water Surface Elevation”** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

- 8.2. All proposed development in any special flood hazard areas shall require a permit.
- 8.3. The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a special flood hazard area, all new construction and substantial improvements shall (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 8.4. Where new and 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 new and replacement sanitary sewage 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.
- 8.5. The Building Inspector shall maintain for public inspection, and furnish upon request, any

certification of flood proofing and the as built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and include whether or not such structures contain a basement. If the structure has been flood proofed, the as built elevation (in relation to mean sea level) to which the structure was flood proofed. This information must be furnished by the applicant.

- 8.6. The Building Inspector shall review proposed developments to ensure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. It shall be the responsibility of the applicant to certify these assurances to the Building Inspector prior to the granting of a building permit.
- 8.7. In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.
- 8.8. Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse can and will be maintained.
- 8.9. Along watercourses that have a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other developments are allowed within the designated Regulatory Floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.
- 8.10. Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
- 8.11. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from a Federal, State, or other source as criteria for requiring that development located in Zone A meet the following floodway requirement:

"No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."
- 8.12. In special flood hazard areas the Building Inspector shall determine the 100 year flood elevation in the following order of precedence according to the data available:
 - 8.12.1. In zone AE, refer to the elevation provided in the communities Flood Insurance Study and accompanying FIRM.
 - 8.12.2. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any 100 year flood elevation data available from Federal, State, development proposals submitted to the community (example subdivisions, site approvals etc.) or other source.
- 8.13. The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in Zones A and AE that:
 - 8.13.1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level.

8.13.2. That all new construction and substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:

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

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

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

8.13.3. All Manufactured Homes to be placed or substantially improved within special flood hazards areas shall be elevated on a permanent foundation such that the lowest floor of a manufactured home is at or above the base floor level; and be securely anchored to resist flotation collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

8.13.4. Recreational vehicles placed on sites within Zones A and AE shall either (I) be on the site for fewer than 180 consecutive days, (II) be fully licensed and ready for highway use, or (III) meet all standards of Section 8.13.3 of this ordinance. **(Adopted by Town March 8, 1994).**

8.13.5. For all new construction and substantial improvement, fully enclosed areas below the lowest floor that are subject to flooding are permitted providing the enclosed areas meet the following requirements:

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

(2) The area is not a basement.

(3) Shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirements must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria; A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices providing that they permit the automatic entry and exit of floodwaters;

8.14 VARIANCES AND APPEALS

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

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

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

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

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

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

a. the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

b. such construction below the base flood level increases risks to life and property.

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

8.14.4. The community shall:

a. maintain a record of all variance actions, including the justification for their issuance, and

b. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE 9
RIVERBANK PROTECTION DISTRICT
As Amended to Town Meeting 2005

- 9.1. **AUTHORITY AND PURPOSE** - By the authority granted in New Hampshire RSA 674:16-17 and 674:20-21 and in the interest of protecting our rivers, and providing corridors for wildlife, the Epping Riverbank Protection District is hereby enacted to regulate the uses of land adjacent to the several rivers.
- 9.2. **DISTRICT DEFINITION** - The Riverbank Protection District is defined as all land within 150 (one-hundred and fifty) feet if the banks of the Lamprey River, North River, Pawtuckaway (Stingy) River, and the Piscassic River. Banks to be determined by mean Spring High Water.
- 9.3. **PERMITTED USES:**
- 9.3.1. No permanent structure shall be built within the Riverbank Protection District except those which are necessary for the legitimate use of the rivers by Special Exception of the Zoning Board of Adjustment, subject to the following conditions:
1. No structure to be built on water.
 2. No structure to have running water.
 3. No structure to have a septic system.
 4. No structure to be used for human habitation.
- 9.3.2. Commercial enterprises with river frontage may have one (1) access point which is not to exceed twenty (20%) percent of the total frontage.
- a.3.3 No septic system, stormwater drainage structure, outfall, or other conveyance of water that will degrade water quality shall be permitted within the 150 foot Riverbank setback.

ARTICLE 10
EPPING WETLANDS ORDINANCE
Amended to Town Meeting 2006

10.1. **PURPOSE AND INTENT:** The purpose of this Article is to protect the public health, safety and general welfare by controlling and guiding the use of the land areas which have been found to be subjected to high water tables for extended periods of time (including established and seasonal wetlands)

10.2. No person shall excavate, remove, fill dredge or construct any structure or alter in any way or on any bank, flat, marsh, swamp, bog or waters in, or within the required setback to any wetlands within the Town of Epping. (amended 3/9/99)

10.2.1 Setbacks

a. Setbacks from wetlands shall be the same as the side setback of the underlying zone or 15 feet, whichever is greater.

b. For wetlands greater than 10,000 square feet in area the setback for construction shall be 50 feet.

c. For wetlands greater than one acre in area or for wetlands that that are contiguous with the shoreline of the Lamprey River, North River, Pawtuckaway (Stingy) River, and the River the setback for structures shall be 75 feet.

Piscassic

by

d. For all wetlands located within the area of the Piscassic River bounded on the north and east NH Route 101, on the west by NH Route 125, and on the south by the Epping/Brentwood town line, setbacks shall be 150 feet. (Adopted Town Meeting – March 2006).

emergency
fighting

e. No surface water withdrawal shall be permitted from any wetland resource. This section does not cover surface water withdrawals for public water supplies or that are necessary for situations (such as to prevent flooding or the spread of pollution or to assist in fire-efforts). (Adopted Town Meeting – March 2006).

10.2.2 Conditional Use Permits

wetland after

a. The Planning Board may grant a Condition Use Permit to permit for a reasonable reduction of the required setback or to permit a fill, dredge, or construction operation within a considerations of the following conditions.

1. Perpetual protection of other wetlands within the Town of Epping through legally binding restrictions. Variables to be considered include but are not limited to; size, environmental value, hydrologic value, significant natural value, scenic concerns, hydrologic association with another waterbody (including ponds and rivers), provision of public access.
2. Mitigation methods and efforts accepted by the State of New Hampshire Wetlands Bureau and The Epping Conservation Commission.
3. Comment of the Epping Conservation Commission as to the relative value of preserving the wetland under consideration for alteration or mitigation.
4. Size and environmental value of the wetland in question.
5. For any waiver requested from the requirements of 10.2.1(d), the applicant shall be required to provide direct mitigation in the creation of new wetlands on a 3:1 basis for

the creation of new wetland resources, or the restoration of impacted wetlands on a 5:1 ratio basis. For mitigation of setback reduction, the applicant shall provide direct mitigation in the permanent protection of uplands adjacent to wetlands in the Town of Epping on a 20:1 ratio. (Adopted Town Meeting – March 2006).

10.3. The replacement or repairs of existing structures in or adjacent to any wetlands within the Town of Epping not involving excavation, removal, filling or dredging in any wetlands or of any bank, flat, marsh, bog, swamp or waters are exempt from the provisions of Article 10, Section 1.

10.4. **DEFINITIONS:**

10.4.1. The word “person” as it appears in Section 10.2. shall mean any person, firm, partnership, association, corporation, company, organization or legal entity of any kind including municipal corporations, governmental departments or agencies or subdivisions thereof.

10.4.2. The following words: bank, flat, marsh, swamp, bog, waters, wetlands shall have the same meaning and definitions as required by New Hampshire State law and as in RSA:483-A or any other relevant statute.

ARTICLE 11
ADMINISTRATION
Amended to Town Meeting 2005, 2011, 2017

- 11.1. **DUTY AND AUTHORITY** - It is the duty of the Board of Selectmen and the board is hereby given the power and authority to enforce the provisions of this ordinance.
- 11.2. **ADMINISTRATIVE RESPONSIBILITY** - Authority to administer these ordinances is hereby vested in the Board of Selectmen who shall also appoint a Code Enforcement Officer and a Building Official.
- 11.3. **PLANNING AND BUILDING DEPARTMENT**
- 11.3.1 **Responsibilities** - The Planning and Building Department shall be responsible for the performance of duties listed hereafter and such other duties pertinent to the enforcement of the Zoning Ordinance, Building, Plumbing and Wiring Codes, Life safety Code, and Health Regulations as may be required by said Codes and Ordinances.
- 11.3.2 **Duties of the Building Official** – This Official shall receive applications and fees for permits for the erection, remodeling, and demolition of buildings, the installation of, or alteration to electrical wiring and plumbing. S/He shall keep a record of all applications and any actions taken. The Official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed. . All fees as prescribed by ordinance or regulation shall be deposited with the Town Treasurer. S/He may approve the issuance of a permit for the erection, alteration, remodeling of all buildings and the use of such building and land, if, in his/her opinion, the proposed complies with the Codes of the State, this ordinance, and other Town Ordinances and such by-laws, rules, and regulations as are applicable. The Official's approval of any permit shall not constitute an approval which by law, ordinance, rule or regulation may be obtained from any other proper authority. S/He shall perform such other duties as are set forth in the International Building Code and the International Residential Code as adopted by the Town of Epping. S/He shall perform such inspections of new construction, reconstruction, alteration, remodeling or demolition code. S/He shall advise the Planing Board and Zoning Board of Adjustment of the Town of Epping and consult with them when requested. As required, the Building Official shall be authorized to seek outside review for matters beyond the legal and technical expertise of the Official. Reasonable costs for such review shall be borne by the applicant.
- 11.3.3 **Duties of the Code Enforcement Officer** - S/he is responsible for enforcing the Town's Ordinances and Regulations as well as, answer any concerns or questions about Permitted Uses in the Town's various Zoning Districts. The Officer will also provide assistance to property owners as they try to remain compliant with the the Town's Ordinances and Regulations. S/He shall advise the Planing Board and Zoning Board of Adjustment of the Town of Epping and consult with them when requested. As required, the Officer shall be authorized to seek outside review for matters beyond the legal and technical expertise of the Official. Reasonable costs for such review shall be borne by the applicant.
- 11.4. **PERMITS NOT VALID** - No permit issued by the Planning and Building Development shall be valid if subdivision or site plan review approval is required from the Planning Board or a Special Exception or Variance is required from the Zoning Board of Adjustment and such approvals have not been received. The same is true of any other permits or approvals required by law, ordinance, rule or regulation.
- 11.5. **COOPERATION WITH OTHER OFFICIALS** - S/he shall inspect all new buildings being erected and those being altered, remodeled or demolished for the purposes of enforcing this ordinance and shall perform such other duties as prescribed by law. S/He shall act in cooperation with any other duly authorized person or officer in any matter in which their duties as prescribed by law, ordinance, rule and regulation which may coincide with his. S/he shall take such action in the enforcement of this ordinance as the Board of Selectmen may direct.

11.6. **GENERAL PROVISIONS:**

11.6.1. Should the Planning and Building Department or Board of Selectmen fail to take action on an application for a building permit within thirty (30) days of the filing of the application, the applicant may apply to the Zoning Board of Appeals for a building permit in accordance with the provisions of the International Building Code and the International Residential Code .

11.6.2. A building permit, once issued, shall not be assignable nor shall it be revocable except as provided hereafter.

11.6.3. No building permit shall be required for repairs of maintenance necessitated by ordinary wear and tear.

11.6.4. Plans for the provision of sewage disposal facilities for all buildings requiring such facilities shall be approved by the Town Health Officer or other Town Agent designated by the Board of Selectmen.

11.6.5. No person required to submit subdivision plans or site plans shall commence clearing of land thereof of natural vegetation, placing any artificial fill thereon, or otherwise altering the land, nor shall he do any other acts which will alter the natural state of the land or environment, unless the subdivision/site plan relating thereto has been submitted and approved in accordance with the requirements of the Town of Epping Planning Board.

Nothing in the above paragraph shall be construed to prevent the taking of test borings, the digging of test pits or any other preliminary testings and inspections necessary to comply with the requirements of the NH Water Supply & Pollution Control Division and the Town of Epping Planning Board relative to information necessary for review and approval of the subdivision/site plan.

11.7. **VIOLATIONS** - Upon on any well founded information that this ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any other legal action.

11.8. **PENALTIES** - Any person violating the provisions of this ordinance shall be subject to a fine as provided in RSA 676:17 as amended. The Board of Selectmen or the Code Enforcement Officer are hereby designated as the proper local authority of the Town to institute appropriate action under the provisions of RSA 676:17, as amended.

11.9. **PERMITS REQUIRED** - The Town of Epping adopts the current International Building and International Residential Code recognized by the State of New Hampshire as the official building code of the town. (03/2005).

11.10. **APPLICATION FORM** - Applications shall be as prescribed in the International Building Code, the International Residential Code, and/or as revised by the Planning and Building Department. . (03/2005).

11.11. **REVOCAION OF LAPSE OF BUILDING PERMITS:**

11.11.1. Any violation of, or variation from the terms, conditions or authorization of a building permit by the holder thereof or his agent, architect or contractor shall be cause for the revocation of said permit. Such revocation shall be made at the discretion of the Board of Selectmen and an appeal from such action may be made as provided in the International Building Code and the International Residential Code .

11.11.2. At the expiration of twelve (12) months during which no earnest or substantial effort has been made to carry out the construction or alterations authorized in the building permit, that building permit shall lapse. A new application shall be required for all lapsed building permits. Such permits shall comply with all ordinances and regulations in place at the time of application.

11.12. **CERTIFICATE OF OCCUPANCY** - It shall be unlawful to use or occupy, or permit the use or occupancy of any land, structure, or part thereof created, erected, changed, converted or altered in its use of structure until a Certificate of Occupancy is issued therefore by the Building Official stating that the proposed use of the structure or land conforms to the requirements of all applicable Town regulations. A Certificate of Occupancy shall not be required for the normal repair or re-decorating of structures.

ARTICLE 12
DEFINITIONS
(Amended to Town Meeting 2007)

ABANDONMENT: The visible or otherwise apparent intention of an owner to discontinue the use of a building or premise, or the removal of characteristic equipment or furnishings used in the performance of any non-conforming use without its replacement by similar equipment or furnishings. The replacement of any non-conforming use or building by a conforming use or building.

ABUTTER: Any person whose property is located in New Hampshire and adjoins, or is directly across a street, or a river from land under consideration by the local Land Use Board. For purposes of receiving testimony only and not for purposes of notification the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.

ACCESSORY DWELLING UNIT: An apartment style unit subordinate to a single family dwelling, located in the principal structure. (See Article 6.13)(Amended Town Meeting - 3/13/2012)

ACCESSORY USE OR STRUCTURE: A building or use subordinate and customarily incidental to the principal building, structure, or use on the same lot. Sheds see article 6.16. (Amended Town Meeting - 3/13/2012)

ADULT USES/SEXUALLY ORIENTATED BUSINESSES: See Article 18, Section 2.

APARTMENT: An individual dwelling unit offered for rental occupancy within an apartment house or other structure.

AUTO DEALERSHIPS: a retail automobile dealership that is primarily housed in a structure and characterized by a mixture of secondary supporting uses; however, the principal use of the site shall be the marketing and display of new or used automobiles, whether by sale, rental, lease or other commercial or financial means. Secondary supporting uses may include an inventory of vehicles for sale or lease on-site and on-site facilities for the repair and service of automobiles previously sold, rented, or leased by the dealership as defined under "Service Stations". No abandoned vehicles shall be stored on the premises.

BED & BREAKFAST ESTABLISHMENT: Owner occupied building. Also used by owner for rental of eight (8) or fewer rooms to transient guests, the owner and owner's family.

BOARD OF ADJUSTMENT: The Zoning Board of Adjustment for the Town of Epping.

BORDERING: "To touch at the edge of boundary" - (Webster).

BUFFER ZONE - Strip of land established to protect one type of land use from another which is incompatible.

BUILDING HEIGHT: The vertical distance measured from the mean level of the ground surrounding the building to the highest point of the building, but not including chimneys, spires, towers, silos, tanks or similar projections.

BUILDING: Any covered structure having a roof supported by columns or walls, that is intended for supporting or sheltering any use or occupancy. (Amended Town Meeting – 3/13/2012)

CAMPGROUND: A plot of ground upon which two (2) or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes. A campground shall be designed for seasonal occupancy, as opposed to permanent year round occupancy and shall not be constructed to mean a Manufactured Housing (Mobile Home) Park.

CHURCH: Buildings used or intended for use as places of worship, or for other religious uses such as meetings, training or instruction.

CODE ENFORCEMENT OFFICER: The administrative officer charged with the duty of enforcing the provisions of the ordinances. (Amended Town Meeting - 3/13/2012)

COMMERCIAL PLANNED UNIT DEVELOPMENT: A structure or group of structures used for commercial purposes. Developed and designed to be maintained and operated as a unit in single ownership or control, by an individual, partnership, co-operative, condominium or corporation and which has certain facilities “in common”, such as yards, parking areas and utilities.

COMMERCIAL USE: Activity involving the sale of goods or services carried out for profit. *(Adopted March 8, 1994).*

COMMON OPEN AREA: Open space land set aside for the benefit and enjoyment of the residents of a subdivision/site plan. Development of the land may be restricted by deed or other legal arrangements.

COMMUNITY BUILDING: A building used by members of the community for social, cultural or recreational purposes.

CONVENIENCE STORE: A store not exceeding one thousand, five hundred (1,500) square feet of floor area, including grocery, drug and variety stores.

COVERAGE: That percentage of the plot of land area covered by; the principal and accessory building area.

DAY CARE FACILITIES: A private establishment enrolling four (4) or more unrelated children between two (2) and five (5) years of age, where tuition fees, or other forms of compensation for the care of the children is charged and which is state licensed or state approved to operate as a Child Care Facility.

DUAL USE: A use of land where a single parcel, site, or property is used for two distinct uses, both of which are permitted uses in the zone and meet all other town and zoning requirements. A dual use designation cannot be used to expand a non-conforming or non-permitted use or be acquired through the variance process. **(Adopted 3/18/97).**

DUPLEX: A single residential structure so designed to contain two (2) separate dwelling units.

DWELLING: Any building or portion thereof designed or used exclusively as the residence or sleeping place of one (1) or more persons.

DWELLING UNIT: One (1) or more rooms, including cooking facilities, and sanitary facilities in a building, designed as a unit for living and sleeping purposes. (Amended Town Meeting - 3/13/2012)

ESSENTIAL SERVICES: The erection, construction, alteration or maintenance by public utility companies, town or other governmental agencies of underground or overhead gas, electrical, water transmission or distribution systems, to include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories, in connection therewith and reasonably necessary for the furnishing of adequate services by such public utilities, town or other governmental agencies for the public health, safety and general welfare, but not including buildings.

EXPANSION OF NON-CONFORMING USES OR STRUCTURES: When the expansion is a natural activity, closely related to the manner in which a piece of property is used at the time of the enactment of this ordinance.

EXCAVATION - which shall mean:

1. The land area from which the earth materials are excavated; or
2. The act of removing earth materials for commercial taking, sale or use on other premises for the purpose of enhancing the value of the land to which earth materials are transported.

FARM: A parcel of land used principally in the raising or production of agricultural products, and/or keeping livestock, the necessary or usual dwellings, farm structures, storage and equipment.

FLOOD HAZARD AREA: The areas designated by the Federal Emergency Management Agency, through the Federal Flood Insurance Program as those subject to inundation during the one hundred (100) year flood.

FORESTRY: (See Silviculture).

FRONTAGE: Frontage is the width of the lot at the boundary on town approved streets.

GARAGE - PRIVATE RESIDENTIAL: A structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof and that is not a separate commercial enterprise available to the general public. *(Adopted March 14, 1995)*

GARDEN SUPPLIES: A retail business that's primary business is selling plants and products related to gardens. (Adopted March 8, 2011)

GASOLINE STATION: A building, other structure or tract of land used exclusively for the storage and sale of gasoline or other motor fuels and any other uses accessory thereto.

GREEN SPACE: A permeable area of vegetated ground surface. Greenspace. In all zoning districts, greenspace shall comprise no less than 30% of the total lot area, exclusive of wetlands, waterbodies, 100 year floodplain.

GROUP OR SHARED HOME: A residence, with common living areas, used as a living space for unrelated people. (Adopted March 8, 2011)

HEALTH CARE FACILITY: An establishment for the care of human health including hospitals, clinics, nursing homes and convalescent homes.

HEIGHT, BUILDING: The vertical distance from grade plane to the maximum height of the highest roof surface. Building height for the purposes of this definition shall be an average of measurements taken at least every five feet around the entire perimeter of a building. (Adopted March 14, 2023).

HOME OCCUPATION: A Home Occupation is a professional or service occupation, or business carried out from the home which is clearly accessory and subordinate to the residential use of the property. *(Adopted March 8, 1994).*

INDOOR RECREATION: A permanent structure containing facilities for recreational activities, such as movies, tennis, platform games, swimming, exercise rooms, handball and similar activities. *(Adopted March 14, 1995).*

INDUSTRY: An area for scientific research, development and training. Offices, manufacturing and assembly of products and related supply activities. It is designed to accommodate a broad spectrum of clean industries operating under high performance standards.

JUNK YARD: Any business and place of storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) or more unregistered motor vehicles which are no longer intended, or in condition for legal use on public highways. Used parts of motor vehicles, old iron, metal, glass, paper, cordage, other waste, discarded or secondhand material which has been a part, or intended to be a part of any motor vehicle, the sum of which parts or material shall be equal in bulk to two (2) or more motor vehicles. Junk yard shall also include any place of business, storage or deposit of motor vehicles for parts or for use of the metal for scrap where it is intended to burn material(s) which are parts of a motor vehicle or to cut up the parts thereof.

KENNEL: Any structure or premise in which house pets are kept, groomed, boarded, bred or trained for commercial use. If this is the primary use in the residential or rural residential zone Site Plan Approval shall be required. If this is in addition to a single family use, a dual use will be required. (2016)

LANDSCAPE BUFFER: A buffer required to provide adequate transition between the development and abutting land uses or existing town roads.

LIGHT INDUSRTY: A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging incidental storage, sales and distribution of such products; but excluding basic industrial processing such as casting and forging. It should not result in significant noise, glare, odor, dust, smoke, or vibration which could be detectable beyond the building. (added 3/12/19)

LOT: A piece or parcel of land occupied or intended to be occupied by a principal building, or group of such buildings and accessory buildings. Utilized for a single operation thereof together with such open spaces as required by this ordinance and having frontage on a road, street, or Right-of-Way:

1. LOT - Corner: A lot abutting two (2) or more streets at their intersection, or upon two (2) parts of the same street forming an interior (internal) angle of less than one-hundred-and-thirty-five (135) degrees. The point of intersection of the street lot lines is the “corner”.

2. LOT - Depth: The mean horizontal distance between the front and rear lot lines.

3. LOT - Line: A line dividing one lot from another, as road, street, or Right-of-Way.

4. LOT - Width: The distance between the two (2) side lot lines measured at the required setback line, or along the lot line at the road, street, or Right-of-Way.

5. LOT - Non-Conforming: Any zone lot where the owner(s) of said lot does not own any adjoining property, the subdivision of which would create one or more non-conforming lots, which do not conform with the minimum width, depth, and area dimensions specified for the zone in which said lot is located.

6. LOT-OF-RECORD: Any lot or deed which has been recorded in the office of the Rockingham County Registry of Deeds.

LUMBERYARD: A business engaged in the sale of, or production of lumber and related products.

MANUFACTURED HOUSING - Mobile Homes or House Trailers: Any structure transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width and forty (40) body feet, or more in length, or when erected on site, is three-hundred-and twenty (320) square feet or more, and which is built on a permanent chassis or designated to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein in conformance with state and federal regulations.

MANUFACTURED HOUSING PARKS: Any tract of land on which two (2) or more manufactured housing units are parked or placed and are occupied for living purposes, whether or not a charge is made for such accommodation. The term “Manufactured Housing Park” shall not include sales lots on which unoccupied manufactured housing, whether new or used, are parked for the purpose of inspection or sale.

MANUFACTURED HOUSING - Space Lot: A plot of ground within a manufactured housing park designed for the accommodation of one manufactured house/home.

MANUFACTURING AND ASSEMBLY PLANTS: A factory or manufacturing plant is an industrial building where laborers manufacture goods or supervise machines processing one product into another. (Amended March 8, 2011)

MEETING HALL: A building used for public assembly.

MOTEL/HOTEL: A building or group of buildings which contain four (4) or more living units and which primarily constitutes the temporary abode.

MULTIPLE FAMILY - Multi-Family Dwellings: Any building or structure containing more than two (2) dwelling units.

MUNICIPALITY: To mean the Town of Epping.

NATURAL ACTIVITY: An activity which does not change the nature of the use, does not make the property proportionately less adequate, and does not have a substantially different impact on the neighborhood.

NON-CONFORMING USE: A use lawfully existing at the time of adoption of this ordinance or any subsequent amendment which does not conform to one or more provisions of this ordinance.

NON-CONFORMING LOT: A lot lawfully existing at the time this or any previous zoning ordinance became effective and which does not conform with the regulations of the district in which it is located.

NURSERIES: place where plants are propagated and grown to usable size. (Adopted March 8, 2011)

OFFICIAL MAP: The adopted street or base map of the Town of Epping as defined in RSA 674:9.

OFFICE BUILDINGS: A place of business where professional or clerical duties are performed.(Adopted March 8, 2011)

OUTDOOR RECREATION: Leisure time activities usually performed with others, often requiring equipment and taking place at a prescribed place, site or field.

PERSONAL SERVICES: Establishments providing frequent or recurrent services related to personal needs, and including accessory retail sales of products related to the services offered. Examples include beauty and barber shops, nail salons, tanning salons, clothing rental, tailors, dry cleaning pick-up shops, garment and shoe repair shops, and similar businesses. (Adopted March 8, 2011)

PIGGERY: An operation for the raising and/or breeding of pigs in which six (6) or more pigs are kept simultaneously.

PLANNING BOARD: The Planning Board of the Town of Epping.

PRE-SITE BUILT HOUSING - Modular: Any structure designed primarily for residential occupancy which is wholly, or in substantial part, made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with US Department of Housing and Urban Development (HUD) minimum property standards of local building codes, for installation or assembly on the building site.

PRINCIPAL STRUCTURE/USE: The primary use of land or buildings as distinguished from accessory uses or subordinate buildings. To be considered a principal structure, the structure must be at least 400 square feet. In any residential district/zone a dwelling shall be deemed to be the principal structure on the lot. (Amended Town Meeting - 3/13/2012)

PROFESSIONAL ESTABLISHMENTS: An office for an accountant, architect, attorney, chiropractor, physician, dentist, psychologist, social worker, or any other similar profession.

PROFESSIONAL OFFICES: A space or room in which there is no display of unrelated stock or wares in trade commodity sold, nor any commercial use conducted other than the professional offices of a doctor, dentist, lawyer, architect, engineer and related laboratories, insurance agent, Realtor, or other similar professional services. (Adopted March 8, 2011)

RECREATIONAL ESTABLISHMENTS: any institution used for sports, games, or physical training. (Adopted March 8, 2011)

RECREATIONAL VEHICLE SALES ESTABLISHMENT: a retail vehicle (including ~~but~~ and limited to boats, snow mobiles, motorcycles, off highway recreational vehicles (OHRV), campers, and camper trailers) dealership that is ~~primarily~~ exclusively housed in a structure and characterized by a mixture of secondary supporting uses; however, the principal use of the site shall be the marketing and display of new vehicles, whether by sale, rental, lease or other commercial or financial means. Primary and Secondary supporting uses may include an inventory of used vehicles for sale or lease on-site and on-site facilities for the repair and service of vehicles previously sold, rented, or leased by the dealership as defined under

"Service Station" and shall be carried out on the site within the structure, no outdoor storage, display or other activity shall be permitted under this definition without specific site plan approval for limited areas and activities. No abandoned vehicles shall be stored on the premises. Recreational vehicle sales establishments with outdoor storage and/or activities shall be considered "Auto Dealerships" as defined in the ordinance. (Amended Town Meeting - 3/10/2009)

RESEARCH LABORATORIES: An establishment or other facility for carrying out investigations into the natural, physical, special sciences, or engineering and development as an extension of investigation with the objective of creating end products.

RESIDENTIAL CONVERSION: The conversion of a single family residential building to more than two (2) dwelling units, providing that the structure was in existence prior to date of the adoption of this ordinance.

RESTAURANT: Restaurant or any other establishment where food and/or beverages are consumed on the premises.

RETAIL BUSINESS: Retail Business: Establishment engaged in providing goods and merchandise to the general public and rendering services incidental to the sale of such goods. (Added 3/00)

RETAIL STORE: Establishment engaged in selling goods or merchandise to the general public for personal or house hold consumption and rendering services incidental to the sale of such goods.

RETIREMENT COMMUNITY: Planned development designed to meet the needs of, and exclusively for, the residence of senior citizens.

RIGHT-of-WAY: Means and includes all present and proposed town, state and federal highways and the land on either side of same, as covered by statutes to determine the widths of Right-of-Way.

SAWMILL: An establishment, either permanent or portable, established to machine-cut timber into boards, planks, structural members or similar wood products.

SCHOOL: A public or private institution for general education, including nursery schools, kindergartens, elementary, junior high, high schools, colleges, universities, or post-graduate schools and schools for teaching technical skills, trades or arts.

SERVICE STATION: means any building, structure, improvements, or land used for the replacement of any part, or repair of any part, to an automobile including, but not limited to the general repair, adjusting, overhauling, removing, replacing, rebuilding, or reconditioning of automobiles and engines, cooling, electrical, fuel and exhaust systems, wheel alignment and balancing, brake adjustment, relining and repairs, mufflers, batteries, tire services and sales, shock absorbers, installation of stereo equipment, car alarms or cellular phones, but excludes dismantling or salvage of automobiles, in whole or in part. No abandoned vehicles shall be stored on the premises.

SHOPPING MALL/CENTER: Two (2) or more commercial zone units on a single lot available for purchase (condominium style), rent or lease.

SIGN: See Article 19, Section 2.

SILVACULTURE - Forestry: The practice of scientifically based and sound management of forest land and cultivation of forest trees.

SITE PLAN: A site development plan for non-residential multi-family uses (rental units, condominiums and condominium conversions) and expanded home occupations drawn to adequate scale on a permanent medium, showing such information about the proposed development, including lot dimensions, size and location of facilities and site conditions, as are required in the Planning Board Site Plan Review Regulations.

SPECIAL EXCEPTION: A use permitted within a zone only after determination by the Board of Adjustment that certain conditions specified in the zoning ordinance have been met.

STREET: Shall mean a state highway, highway, boulevard, avenue or road which is lawfully existing in the two for vehicular travel. Streets shall also include the entire Right-of-Way and private roads that are built to town standards.

STRUCTURE: Anything constructed, the use of which requires permanent location on or in the ground, or attachment to something having permanent location on or in the ground, including stationary or portable carports and swimming pools:

1. **STRUCTURE - Frontage**: The length of the structure facing a road, street or Right-of-Way.
2. **STRUCTURE - Setback**: The mean horizontal distance from the lot line and the structure frontage.

SUBDIVISION: The division of a lot, tract or parcel of land into two (2) or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominiums conveyance or building development. It includes re-subdivision and when appropriate to the context, relates to the process of subdivision, or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under these regulations.

TEMPORARY STRUCTURE: Any structure not on a permanent foundation nor permanently attached to a fixed location in any manner. Said structure to be used for a specified period of time. (Adopted March 14, 2023).

VARIANCE: A variance from the requirements of this ordinance, not otherwise permitted within a particular zone and allowable only after a public hearing and determination by the Zoning Board of Adjustment.

VETERINARY CLINICS: A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

WHOLESALE ESTABLISHMENTS: A business that sells goods and materials to customers who are other business entities or that sells by mail. It does not include retail sales or direct sales to consumers. (Adopted March 8, 2011)

YARD: Any open space which lies between the principal building or group of buildings, and the nearest lot line, and is unoccupied by any structure, except as herein permitted:

1. **YARD - Front**: An open space which lies between the principal building or group of buildings and the front lot line occupied by any structure.
2. **YARD - Rear**: An open space extending the full width of the lot between a principal building and the rear lot line unoccupied by any structure.
3. **YARD - Side**: An open space extending from the front yard to the rear yard between a principal building and the nearest side lot line, unoccupied by any structure.

ZONE: A region or area set off as distinct from surrounding or adjoining parts or created for a particular purpose.

ARTICLE 13
ZONING BOARD OF ADJUSTMENT
Revised to Town Meeting 2005 & 2014

13.1 **ESTABLISHMENT OF BOARD** - There shall be a Zoning Board of Adjustment as provided by the Statutes of the State of New Hampshire, appointed by the Board of Selectmen as voted by the Town of Epping Special Town Meeting October 12, 1968.

13.2 **CRITERIA FOR SPECIAL EXCEPTIONS: (Relocated section—3/00, Amended 3/05)**

1. That the use is so designed, located and proposed to be operated so that the public health, safety, welfare and convenience will be protected.
2. That the use will be compatible with adjoining development and the proposed character of the zone where it is to be located.
3. That adequate off-street parking and loading is provided. Ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.
4. That the use conforms with all applicable regulations governing the zone where located, except as may otherwise be determined for large-scale developments.
5. That the applicant for a Special Exception agrees as a condition of the Special Exception to obtain Planning Board approval of the site plan (if required for the development in question), prior to applying for a building permit.
6. That if the application for a Special Exception is for the expansion of a Non-Conforming use, the granting of such exception will not adversely effect abutting or nearby property values, and that the Non-Conforming Use is not hazardous by its nature.
7. For any Dual Use related special exception, an added use must be a Permitted Use in the zone. (Adopted by the Town of Epping March 12, 1996)

13.3 **VARIANCES (Rev. 3/00) RSA 674:33**

The Board of Adjustment shall hear and decide requests to vary the terms of this Ordinance. At the hearing on the application, the applicant shall present testimony and other evidence to establish that all five conditions for a variance have been met. The decision of the Board shall be based on the evidence presented at the hearing, not on allegations contained in the application. Abutters and residents shall be entitled to present testimony and other evidence to establish that the applicant either has or has not met all five of the listed conditions below. No variance shall be granted unless all of the following conditions are met.

1. The variance will not be contrary to the public interest;
2. The spirit of the ordinance is observed;
3. Substantial justice is done
4. The values surrounding properties are not diminished; and
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

13.4 Time Tables per RSA 674:33 (amended 3/12/19)

1. Variances:

- a. shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the Zoning Board of Adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.

b. variances issued before August 19, 2013 that have not been exercised shall expire on March 12, 2022 per posting requirements in RSA 674:33 I-a (b).

2. Special exceptions:

a. shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the Zoning Board of Adjustment for good cause, provided that no such special exception shall expire within 6 months after the resolution of a planning application filed in reliance upon the special exception.

b. special exceptions issued before August 19, 2013 that have not been exercised shall expire on March 12, 2022 per posting requirements in RSA 674:33 IV(c).

ARTICLE 14
ADOPTION CLAUSE

- 14.1. These ordinances shall take effect upon passage. The presently existing zoning ordinances, as enacted in October 1968, readopted October 1979, adopted in 1971, 1974, 1982, 1984, 1987, 1988 and 1989, as amended, shall continue in effect excluding Article #4 - Supplementary Lot Regulations adopted March 1989; Article #6 - Residential Expanded Home Occupations adopted March 1989; Article #8 - Residential Cluster Zoning adopted March 1987, amended March 1989, and Article #10 - Multi-Family Housing adopted September 1974, amended March 1989 which are hereby repealed upon passage of this ordinance. Article #12 - Supplementary Regulations for Certain Uses and Article #18 - Definitions are hereby amended.

The Planning Board is hereby authorized to number the articles as follows:

- Article 1 - Preamble, Title and Purpose.
- Article 2 - Establishment of Zones with Use Regulations.
- Article 3 - Industrial/Commercial Zone.
- Article 4 - Condominium Conversion.
- Article 5 - Commercial Planned Unit Development.
- Article 6 - Supplementary Regulations for Certain Uses.
- Article 7 - Aquifer Protection District.
- Article 8 - Flood Plain Development.
- Article 9 - Riverbank Protection District.
- Article 10 - Epping Wetlands Ordinance.
- Article 11 - Administration.
- Article 12 - Definitions.
- Article 13 - Zoning Board of Adjustment.
- Article 14 - Adoption Clause, Validity, BOCA, Fire Safety Code and Saving Clause.
- Article 15 - Residential Cluster Development Ordinance.
- Article 16 - Waste Matter Disposal and Storage Ordinance.
- Article 17 - Cemetery and Burial Site Ordinance.
- Article 18 - Adult Uses/Sexually Oriented Businesses Ordinance.
- Article 19 - Sign Ordinance.

- 14.2. **VALIDITY** - This ordinance shall take effect upon its passage and the presently existing zoning ordinance, as amended, excluding Article IX - Floodplain Development; and Article IV - Condominium Conversion; the BOCA Basic Building Code; and the National Fire Safety Code are hereby repealed.
- 14.3. **SAVING CLAUSE** - Should any section or provision of this ordinance be declared by a Court of competent jurisdiction to be invalid, such decision shall not effect the validity of the ordinance as a whole or any other part thereof.

ARTICLE 15
Amended to Town Meeting 2004 & 2013
RESIDENTIAL OPEN SPACE DEVELOPMENT BY
CONDITIONAL USE PERMIT

REPEALED 2014

ARTICLE 16
WASTE MATTER DISPOSAL and STORAGE ORDINANCE

- 16.1. This ordinance shall be known as the Waste Matter Disposal and Storage Ordinance.
- 16.2. The purpose of this ordinance is to protect the public health and safety, the health of living organisms, and the environment from the effect of the improper, inadequate, or unsound management of waste matter.
- 16.3. **DEFINITIONS:**
- 16.3.1. **“Disposal”** means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste material into or on to any land or water so that such waste matter or any constituent thereof may enter the environment or be emitted into the air or be discharged into any waste including groundwaters.
- 16.3.2. **“Person”** means any individual, entity, or organization of any kind.
- 16.3.3. **“Storage”** means the containment of waste matters either on a permanent basis or on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such waste matter.
- 16.3.4. **“Waste Matter”** means garbage, refuse, solid or liquid waste, ashes, rubbish, commercial or industrial waste, and all other refuse of every description, whether loose, in containers, compacted, baled, bundled, or otherwise.
- 16.3.5. **“Waste Facility”** means sanitary landfill, chemical facility, waste-to-energy conversion facility, waste processing facility, or any combination of these whose operation includes the storage or disposal of waste matter as defined herein.
- 16.4. No person shall deposit, store, or permit the storage of, any waste matter in any structure or on any land within the Town of Epping, except as follows:
- 16.4.1. The Town of Epping pursuant to the operation of any duly authorized municipal waste facility.
- 16.4.2. Household waste originating on, or for use on the property on which it is deposited or stored.
- 16.4.3. Agricultural waste originating on, or for use on the property on which it is deposited or stored.
- 16.4.4. Any person operating a waste facility that has been duly authorized by a ballot vote of the governing body of the Town of Epping at any annual or special Town Meeting and having an affirmative vote of the majority of total number of votes cast.
- 16.5. Any waste facility authorized in Section 16.4.4. of this ordinance that engages in the storage or disposal of waste matter, classified as (hazardous) by the New Hampshire Department of Health and Welfare, Division of Public Health Services, Bureau of Solid Waste Management, or by the United States Environmental Protection Agency shall be operated in full compliance with all applicable regulations of these agencies, and until such regulations are adopted, shall be operated in full compliance with the proposed regulations of the United States Environmental Protection Agency as published in the Federal Register, Part IV, dated Monday, December 18, 1978.
- 16.6. Any waste facility whose existence pre-dates the adoption of this ordinance shall be operated in full compliance with Section 16.5. of this ordinance.
- 16.7. No radioactive waste matter of any type may be stored or disposed of within the Town of Epping.
- 16.8. Any person who shall violate this ordinance shall be guilty of a violation punishable by a fine of not more than \$100.00 per day.

16.8.1. Each day that the violation continues shall be deemed a separate offense and is therefore punishable by a separate fine of \$100.00.

16.9. The administration of this ordinance shall be the responsibility of the Town of Epping Health Officer under the direction of the Town of Epping Board of Health.

16.10. **EFFECTIVE DATES:**

16.10.1. This ordinance, except Section 16.6. shall take effect upon passage.

16.10.2. Section 16.6. of this ordinance shall take effect sixty (60) days after its adoption.

16.11 **PETITION AMENDMENT - 3/10/98**

The stockpiling and landspreading of Class B sewage sludge containing heavy metals, pathogens, parasites, radioactivity and hazardous organic compounds; and the stockpiling and landspreading of industrial paper mill sludge containing cyanide, dioxins, furans, and other toxic chemicals, is not allowed in the Town of Epping. This shall not apply to any facility owned and/or operated by the Town of Epping for the disposal of sewage/septage generated within the Town of Epping, NH.

ARTICLE 17
CEMETERY and BURIAL SITE ORDINANCE
(Adopted March 12, 1991)

- I. No person, without the written authorization of the owner of a burial plot, or the lineal descendent of the deceased, if such owner or lineal descendant is known, or the written authorization of the Town of Epping, if the owner or lineal descendent is unknown, shall:
- (a). Purposely or knowingly destroy, mutilate, injure or remove any tomb, monument, gravestone, marker, or other structure, or any portion or fragment thereof, placed or designed for a memorial of the dead, or any fence, railing, gate, curb, or plot delineator or other enclosure for the burial of the dead.
 - (b). Purposely or knowingly disturb the contents of any tomb or grave in any cemetery or burial ground.
- II. The Town of Epping shall not grant approval for the removal or disturbance of a tomb, monument, gravestone, marker, or plot delineator without first giving thirty (30) days notice, together with a report of the full circumstances, that such approval has been requested. The Town of Epping shall maintain a record of the date, circumstances, and disposition of the request for removal or disturbance.
- III. **UNLAWFUL POSSESSION OR SALE OF GRAVESTONES AND GRAVESITE ITEMS (RSA 635):**
- No person shall possess or sell, offer for sale or attempt to sell, or transfer, or dispose of any monument, gravestone, marker, or other structure, or any portion or fragment thereof, placed or designed for a memorial of the dead, or any fence, railing, gate, plot delineator, or curb, knowing or having reasonable cause to know that it has been unlawfully removed from a cemetery or burial ground.
- IV. **LOCATION OF BURIAL SITE (RSA 289:3):**
- Burials on private property, unless in an existing burial ground, shall comply with all Town of Epping zoning ordinances and shall require site plan approval from the Town of Epping Planning Board. Such burial sites shall comply with the following:
- (a). All burial sites shall be not less than fifty (50) feet from the right of way of any class of state highway and not less than 35 feet from the right of way of any class of town road or private way. *(Adopted March 21, 1995).*
 - (b). All burial sites shall be not less than one hundred (100) feet from an existing dwelling house, schoolhouse, or school lot, store or other place of business without the consent of the owner of the same. *(Adopted March 21, 1995).*
 - (c). All burial site(s) shall be not less than thirty-five (35) feet from any existing septic system, ***to include, but not limited to*** septic tank, leachfield, trenches and drywells etc.
 - (d). All burial site(s) shall be not less than fifty (50) feet from any existing or known source of water.
 - (e). All burial site(s) shall be recorded in the deed to the property and carried in such deed upon transfer of said property to another person, company, or corporation etc. All sites shall be recorded on Town of Epping Tax Maps.
 - (f). The Epping Planning Board may require additional information, make additional restrictions where deemed necessary, in order to preserve and safeguard against any violation(s) of this, and other ordinances and/or regulations of the Town of Epping.

(g). All burial site(s), after being declared “abandoned” by the Epping Board of Selectmen, may be maintained by the Town of Epping at its discretion. The town shall have access onto said site(s) for the sole purpose of repair and maintenance of any and all burial site(s) (see Section VII).

V. **SUBSURFACE EXCAVATION AND/OR DEVELOPMENT:**

(a). No excavation or development shall be conducted within thirty-five (35) feet of any known or proposed burial site, whether or not such burial site was properly recorded in the deed to the property.

(b). Any proposed subdivision or site plan containing a burial site or cemetery shall separate said site from the remainder of the subdivision or site plan by means of a fence or stone wall. This fence shall be placed not less than twenty-five (25) feet from any grave, monument or tomb.

(c). All existing or planned burial site(s) or cemetery(s) shall be shown on any new subdivision or site plans as separate lot(s), which may be deeded to the Town of Epping, and as such, shall be under the care of, and responsibility of the Town of Epping, at its discretion. Access for maintenance shall also be shown on the subdivision or site plan(s).

VI. **CEMETERY RECORDS** - The Town of Epping or other body charged with the responsibility of operation and administration of any cemetery, shall keep a record of every burial in any cemetery under their control, showing the date of burial and the name of the person buried, when these particulars can be obtained, and the lot, plot, or part of such plot or lot, in which the burial was made.

Such records shall also be kept of every private burial site within the Town of Epping. In cases where cremation is used it shall be so stated on any or all records.

A copy of such record, duly certified, shall be furnished to any person on demand and payment of a fee of \$0.50 (50 cents). The fee shall be for the use of the Town of Epping.

VII. **DECLARING A PRIVATE FAMILY BURIAL SITE ABANDONED** - Whenever a private family burial site within the boundaries of the town has been neglected for a period of twenty (20) years, the town may declare it abandoned for the purposes of maintenance or restoration.

(a). **TO DECLARE A CEMETERY ABANDONED** - The town shall place an advertisement in at least one (1) newspaper having general distribution in the town and surrounding area. The advertisement will state the intent of the town, identifying the cemetery by name (if known), and by names and dates of the oldest stones in the cemetery, with a request for any direct descendant to contact the Selectmen’s office. If the cemetery contains no stones with legible inscriptions, the site may be identified by a detailed description of its location.

(b). Not less than sixty (60) days nor more than ninety (90) days after the notice of intent has been published it will be read at a regularly scheduled meeting of the Board of Selectmen.

(c). If any descendants are located and grant permission, or if no descendants are located, then the town may declare the cemetery abandoned by a majority vote by those Selectmen present and voting.

Any cemetery declared abandoned under the provisions of this ordinance shall be under the care of the town through its Board of Cemetery Trustees.

ARTICLE 18
ADULT USES/SEXUALLY ORIENTED BUSINESSES
(Adopted March 8, 1994)

- 18.1. **PURPOSE AND INTENT** - It is the purpose of this section to regulate the adverse secondary effects of sexually oriented businesses in the interest of the public health, safety and welfare including, but not limited to, protection of property values, separation of incompatible land uses, location of such uses near major regional highways, and prevention of blight and crime; and, provisions of this section have neither the purpose nor the effect of imposing imitations or restrictions on the content of any communicative materials, including sexually oriented materials; and, it is not the intent nor the effect of this section to restrict or deny access by adults or sexually oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market; and, neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.
- 18.2. **ADULT USES/SEXUALLY ORIENTED BUSINESSES DEFINED** - The terms “Adult Use” and “Sexually Oriented Business” shall mean and include any business where more than twenty-five (25%) percent of the goods or other items on display, or presentation time of live or recorded performances, are characterized by depiction, description, or display of, or use in connection with, “sexual conduct” as defined in RSA 650:1, or where more than twenty-five (25%) percent of the revenue of the business is from such goods or presentations. Such goods or other items include, but are not limited to, books, magazines, videos, films, photographs, recordings and computer software. Such presentations include, but are not limited to, theaters, motion picture displays, night clubs, bars, or similar establishments, nude modeling studios, massage parlors, or escort agencies.
- 18.3. **WHERE ALLOWED** - Adult uses shall be allowed in the Industrial-Commercial and Highway-Commercial Zones along Route 125 from the Brentwood Town line north to Fogg/Coffin Road, as a Special Exception only, provided that the following locational standards and site appearance criteria are complied with:
- a. No structure containing an adult use shall be allowed within Epping’s designated Drug Free School Zone, within 1,000 feet of the property line of a church, cemetery, school, day care center, or within 500 feet of a residential structure, and shall not be located in excess of 300 feet from the front property line.
 - b. No sexually explicit material or advertising shall be visible from outside the building or town boundary line.
 - c. No private viewing rooms or booths shall be constructed unless one side is always open to a public central area.
 - d. No one under the age of 18 shall be permitted inside such a use and a procedure shall be developed to keep those under 18 from entering the building.
 - e. All operators and employees shall be of good moral character, meaning, among other things, no operator or employee shall have been convicted of a misdemeanor or felony of a sexually related nature within the previous 5 years.
- 18.4. **SEVERABILITY** - The invalidity of any provision of this article shall not affect the validity of any other provision, of the article, nor of the zoning ordinance as a whole.

ARTICLE 19
TOWN OF EPPING - SIGN ORDINANCE
(Adopted March 8, 1994, Amended March, 2007)

- 19.1. **PURPOSES** - The intent of this ordinance, is to regulate the erection of signs, for the purposes of providing information and advertising in an orderly, effective, and safe manner. Restrictions on type, location, and size of signs protect the public from hazardous and distracting displays and to create an attractive environment for the citizens and visitors alike which is conducive to business, industry, and tourism.

New permanent signs associated with non-residential uses or properties are to be regulated by the Planning Board as part of their authority under RSA 674:44 to insure the compatibility of the entire site in terms of health, safety, and aesthetics for the entire community and surrounding land uses (see Site Plan Regulations).

19.2. **DEFINITIONS:**

- A. Sign: A sign is a name, identification description, display or illustration or any other visual display which is affixed to, painted, or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business. However, a sign shall not include any display of official court or public office notices nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, state, county, municipality, school or religious group.
- B. Area: The area of one (1) side of a NOT MORE THAN TWO (2) SIDED SIGN.
- C. Free-Standing: Unattached to any building. Sandwich boards and similar installations shall be considered free standing signs for purpose of regulation in this ordinance.
- D. Permanent Sign: Any sign, unless specifically prohibited, meeting the provisions of this ordinance and with permanent frost resistant anchoring to the ground.
- E. Temporary Sign: A banner, pennant, poster or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, wood, metal or other like materials and without permanent frost resistant anchoring to the ground (see 5 d below).
- F. Valid, Pre-existing Non-Conforming Sign: A sign lawfully existing at the time of adoption of this ordinance or any subsequent amendment which does not conform to one (1) or more provisions of this ordinance.

19.3. **APPLICABILITY AND VALID PRE-EXISTING NON-CONFORMING SIGNS:**

- A. Any non-conforming sign existing at the time of adoption or amendment of this ordinance will be allowed to continue to exist with the exception of portable signs. Facade and text replacement of such signs shall be permitted by the Building Official and Town Planner through the issuance of a building permit provided all applicable structural and electrical codes are in compliance for the sign.
- B. New signs, signs where area is increased, or signs where changes in lighting shall require review and approval by the Town Planner. Any waivers shall require Planning Board approval.
- C. Any permanent sign conforming to this ordinance existing at the time of adoption or amendment of the ordinance shall be allowed to exist without a permit (verification of same will be required).

19.4. **PROHIBITED SIGNS & MATERIALS: The following signs are prohibited:**

- a. Animated, moving, flashing, or brightly lighted signs.
- b. Signs that emit sound or visible matter (e.g. smoke, bubbles, water, etc)
- c. Fabric signs attached to a vertical pole (feather signs) are prohibited.

- d. Blow up signs or balloons.
- e. Searchlights and rotating signs.
- f. Signs which imitate or may be confused with and official traffic control sign or signal or and emergency or road equipment vehicle
- g. Signs located on public property or over or across any public street or right-of-way or which block from view and traffic or street sign or traffic signal. Special permission for such signs may be granted by the Board of Selectmen where a public benefit can be ascertained.
- h. Signs, which by reason of locations, size, color, or design interfere with public traffic or be confused with, or obstruct the view or effectiveness of any official traffic signal or traffic marking
- i. Signs shall not be attached or painted to fences, trees, or other natural features, utility poles, or the like and shall not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public.

19.5 GENERAL REGULATIONS & APPLICABILITY:

- A. Signs – Non-residential Uses: Signs that are associated with non-residential uses and/or installed on land that is used for non-residential purposes shall be approved as part of the Site Plan Review Regulations.
 - 1. The Planning Board shall be authorized to adopt regulations for the approval, denial, or conditional approval of sign permits regulating the number, location, construction, placement, materials, lighting, and all other aspects of signage as part of the Site Plan Review Regulations.
 - 2. New businesses or businesses replacing a sign may use a temporary mobile sign (or trailer mounted sign) while awaiting the arrival of a permanent sign that has been approved by the Planning Board. Such signs shall be allowed only until the permanent sign(s) is installed, or for ninety (90) days, whichever is shorter. A permit shall be secured from the Building Inspector for the placement of such signs.
- B. Sign Permits: Signs that are associated with residential uses or home occupations and on land that is used residentially shall not be erected or placed without a permit issued by the Building Official and Town Planner in accordance with the provisions of this ordinance. An externally lit sign may be permitted provided it is approved by the Planning Board. Temporary signs also require a permit with the date to be installed and the date to be removed stated on the permit (see restrictions below section d)
- C. Internally illuminated signs may be permitted only by the Planning Board in accordance with its Site Plan Review Regulations in the Highway-Commercial Zone, Industrial-Commercial Zone, and the Central Business Zone.
- D. Temporary, Mobile and/or Portable Signs: The purpose of a temporary sign is not to be additional building signage; it is to bring attention to a business for a certain event. The signs require a permit from the Building Department
 - 1. Single tenant properties are allowed one (1) temporary sign.
 - 2. Multi-tenant properties are allowed four (4) temporary signs however; no business shall have more than one sign at a time.
 - 3. These signs shall be removed by the person(s) who posted the signs within forty-eight (48) hours after fulfilling its function. These signs are allowed for a two week period. There can be up to four, two week periods per year.
 - 4. Sandwich boards/a-frame/sidewalk signs shall be no larger than six square feet (can be double sided)
 - 5. Other temporary signs shall be no larger than 24 square feet.

6. Signs shall not be lit.
7. Signs shall only be allowed from May 15 to November 1.

E. Exempt Signs – The following Signs do not require a permit.

1. One Sign – when offering a property for sale, lease, rent or a notice of “Open House”
 - a. The sign shall not exceed four square feet in the R, RR, WEBD, and HDR nor 32 square feet in all other zones.
 - b. The sign advertises only on the premises on which it is located and is removed within seven days after completion of sale or rental.
 - c. The sign shall not be lit.
2. Signs directed at commercial transition signs (grand opening/now open/coming soon/etc.) – Signs are permitted for up to 90 days and shall show the date of installation in the lower right hand corner of the sign. The sign may be 32 square feet in area and shall not be lit.
3. Signs located at the entrance for residential developments may be installed until the roadway is accepted by the Town or the last lot is developed, whichever is earlier. The sign may be 32 square feet in area and shall not be lit.

F. Maintenance and Obsolescence: All signs and sign structures shall be properly maintained and kept in neat and proper state of maintenance and appearance. All signs of any type and located within any zone which are found by the Building Inspector to be in a state of disrepair or are considered dangerous, shall be repaired or removed on order of the Building Inspector and upon failure to comply with this order within the time specified within the order, the Building Inspector is hereby authorized to cause removal of this sign and any expense resultant thereto shall be borne by the owner/lessee.

- 19.5. **SIGNS IN THE HISTORICAL DISTRICT:** In addition to the preceding provisions, properties within the boundaries of the Historic District must comply with the Historic District Ordinance, and receive review from the Historic District Commission in accordance with their requirements.
- 19.6. **SEVERABILITY:** The invalidity of any provision of the article shall not affect the validity of any other provision, of the article, nor of the zoning ordinance as a whole.

ARTICLE 20
Personal wireless services facilities Ordinance

I. AUTHORITY

This ordinance is adopted by the Town of Epping at the (YEAR) Town Meeting, in accordance with the authority as granted in New Hampshire Revised Statutes Annotated 674:16 and 674:21, procedurally under the guidance of 675:1, II and in accordance with RSA 12-K.

II. PURPOSE AND GOALS

This Ordinance is enacted in order to effectuate the following goals and standards in permitting the siting of Personal Wireless Services Facilities (PWSF) in accordance with federal and state law:

- (a) To facilitate the review and approval of personal wireless services facilities by the Town's Planning Board in keeping with the Town's existing ordinances and established development patterns, including the size and spacing of structures and open spaces. This ordinance is intended to be applied in conjunction with other ordinances and regulations adopted by the Town, including historic district ordinances, site plan review regulations and other local ordinances designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development.
- (b) Preserve the authority of Epping to regulate and to provide for reasonable opportunity for the siting of PWSF.
- (c) Reduce adverse impacts such facilities may create, including, but not limited to; impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values. To minimize the visual and environmental impacts of personal wireless services facilities by avoiding the deployment of PWSF's that service substantially the same service area.
- (d) Require, where technically feasible, co-location and minimal impact siting options through an assessment of technology, current locational options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town.
- (e) Permit the construction of new PWSF only where all other reasonable opportunities for co-location have been exhausted.
- (f) Require the configuration of PWSF in a way that minimizes the adverse visual impact of the facilities and antennas.
- (g) Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town of Epping.
- (h) Provide constant maintenance and safety inspections for any and all facilities.
- (i) Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and code compliance. Provide a mechanism for the Town of Epping to remove these abandoned towers to protect the citizens from imminent harm and danger.
- (j) Provide for the removal or upgrade of facilities that are technologically outdated.

- (k) The regulation of personal wireless services facilities is consistent with the purpose of the Epping Master Plan to further the conservation and preservation of developed, natural and undeveloped areas, wildlife, flora and habitats for endangered species; the preservation and protection of the natural resources of Epping; balanced economic growth; the provision of adequate capital facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the preservation of historical, cultural, archaeological, architectural and recreational values.

III. APPLICABILITY

- (a) Public Property.

Antennas or towers located on property owned, leased, or otherwise controlled by the Town may be exempt from the requirements of this ordinance. This partial exemption shall be available if a license or lease authorizing such antenna or tower has been approved by the governing body and the governing body elects subject to state law and local ordinance, to seek the partial exemption from this Ordinance and provided that the facility will be at least partially available for public purpose.

- (b) Amateur Radio; and/or Receive-Only Antennas.

This ordinance shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. This ordinance adopts the provisions and limitations as referenced in RSA 674:16, IV.

Modification of existing amateur radio facilities for commercial use shall require full town review in accordance with this ordinance.

- (c) Essential Services & Public Utilities.

PWSF shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for PWSF is a use of land, and is addressed by this ordinance.

IV. DEFINITIONS

- a) "Above Ground Level (AGL)" A measurement of height from the natural grade of a site to the highest point of a structure.
- b) "Alternative tower structure" Innovative siting techniques that shall mean man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
- c) "Antenna" The surface from which wireless radio signals are sent and received by a personal wireless service facility.
- d) "Average tree canopy height" Means the average height found by inventorying the height above ground level of all trees over a specified height within a specified radius.
- e) "Carrier" Means a person that provides personal wireless services.
- f) "Co-location" The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.
- g) "Elevation" The measurement of height above sea level.

- h) "Environmental Assessment (EA)" An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.
- i) "Equipment shelter" Means an enclosed structure, cabinet, shed vault, or box near the base of a mount within which are housed equipment for PWSFs, such as batteries and electrical equipment.
- j) "FAA" An acronym that shall mean the Federal Aviation Administration.
- k) "FCC" An acronym that shall mean the Federal Communications Commission.
- l) "Fall Zone" The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.
- m) "Functionally Equivalent Services" Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.
- n) "Guyed Tower" A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.
- o) "Height" Shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
- p) "Lattice Tower" A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.
- q) "Licensed Carrier" A company authorized by the FCC to construct and operate a commercial mobile radio services system.
- r) "Monopole" The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.
- s) "Mount" Means the structure or surface upon which antennas are mounted and include roof-mounted, side-mounted, ground-mounted, and structure-mounted types.
- t) "Omnidirectional (whip) antenna" A thin rod that beams and receives a signal in all directions.
- u) "Panel Antenna" A flat surface antenna usually developed in multiples.
- v) "Personal Wireless Service Facility" or "PWSF" or "facility" means any "PWSF" as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(C)(ii), including facilities used or to be used by a licensed provider of personal wireless services.
- w) "Personal Wireless Services" Means any wireless telecommunications services, and commercial mobile services including cellular telephone services, personal communications services, and mobile and radio paging services as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332 (c)(7)(C)(i).
- x) "Planning Board or Board" Shall mean the Town of Epping Planning Board and the regulator of this ordinance.
- y) "Preexisting towers and antennas" Shall mean any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Shall also mean any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Board.
- z) "Radio frequency radiation" Means the emissions from personal wireless service facilities.

- aa) "Security Barrier" A locked, impenetrable wall or fence that completely seals an area from unauthorized entry or trespass.
- bb) "Separation" The distance between one carrier's array of antennas and another carrier's array.
- cc) "Stealth Application" Means, for a PWSF, designed to look like a structure which may commonly be found in the area surrounding a proposed PWSF such as, but not limited to, flagpoles, light poles, traffic lights, or artificial tree poles. Also means, for a personal wireless service facility one that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure. (Stealth application is often referred to as "camouflaged" technology.)
- dd) "Telecommunications Facilities" Shall mean any structure, antenna, tower, or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services.
- ee) "Tower" Shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

V. CONDITIONAL USE PERMITS

- a. All proposals considered for development under the Personal Wireless Facilities Ordinance shall obtain a Conditional Use Permit from the Planning Board. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approved use. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.
- b. All applicable standards in this ordinance must be met and/or impacts mitigated to the satisfaction of the Planning Board prior to the granting of a Conditional Use Permit.
- c. Decisions.
Possible decisions rendered by the Planning Board, include Approval, Approval with Conditions, or Denial. All decisions shall be rendered in writing, and a Denial shall be in writing and based upon substantial evidence contained in the written record.

VI. SITING STANDARDS

- (a) Use Regulations:
A personal wireless service facility shall require a conditional use permit in all cases and may be permitted as follows:
 - 1. A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower, water tower, cupola or steeple. Such facilities may locate by Conditional Use Permit in all zoning districts within the Town.
 - 2. A personal wireless service facility involving construction of one or more ground or building (roof or side) mounts shall require a Conditional Use Permit and may locate in all zoning districts within the Town.
 - 3. A personal wireless service facility that exceeds the height restrictions of Section VI (d) may be permitted by Conditional Use Permit in a designated Wireless Service Overlay District.

The Wireless Service Overlay District is hereby defined as the Highway Commercial and Industrial

Commercial Zones.

4. Principal or Secondary Use: An applicant who successfully obtains permission to site under this ordinance as a second and permitted use may construct PWSF in addition to the existing permitted use. PWSF may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with local development regulations, including but not limited to set-back requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. PWSF that are constructed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure. Nor shall such facilities be deemed to be an "accessory use".

(b) Location:

Applicants seeking approval for personal wireless services facilities shall comply with the following:

1. If feasible, personal wireless services facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more personal wireless service facilities. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.
2. The applicant proposing to build a new tower shall submit an agreement with the Town that maximizes allowance of co-location upon the new structure. Such statement shall become a condition to any approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs (prevailing rates) to other telecommunications providers. Failure to provide such an agreement is evidence that the applicant's proposed facility will not integrate with the overall telecommunications facility planning of the Epping, and grounds for a Denial.
3. The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have this and any other information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with 676:4 I (g).
4. If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless services facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees.
5. The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application for a building permit and/or conditional use permit.

(c) Co-location

- 1) Licensed carriers shall share personal wireless services facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless services facilities that are stand-alone facilities. All applicants for a Conditional Use Permit for a personal wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:
 - i A survey of all existing structures that may be feasible sites for co-locating personal wireless services facilities;

- ii Contact with all the other licensed carriers for commercial mobile radio services operating in the County; and
 - iii Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
- 2) In the event that co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the Town. The Town may retain a technical expert in the field of RF engineering to verify co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The Town may deny a Conditional Use Permit to an applicant that has not demonstrated that co-location is not feasible.
 - 3) If the applicant does intend to co-locate or to permit co-location, the Town shall request drawings and studies which show the ultimate appearance and operation of the personal wireless service facility at full build-out.
 - 4) If the Planning Board approves co-location for a personal wireless service facility site, the Conditional Use Permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the Conditional Use Permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved Conditional use permit shall require a new Conditional Use Permit.

(d) Height Requirements:

- 1) Height, General: Regardless of the type of mount, personal wireless services facilities shall be no higher than ten feet above the average height of buildings or trees within 300 feet of the proposed facility. In addition, the height of a personal wireless service facility shall not exceed by more than ten feet the height limits of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney, or similar structure. Personal wireless services facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.
- 2) Height, Ground-Mounted Facilities: Ground-mounted personal wireless services facilities shall not project higher than ten feet above the average building height or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from average ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted personal wireless services facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may be existing on the subject property or planted on site.
- 3) Height, Side- and Roof-Mounted Facilities: Side- and roof-mounted personal wireless services facilities shall not project more than ten feet above the height of an existing building nor project more than ten feet above the height limit of the zoning district within which the facility is located. Personal wireless services facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.
- 4) Height, Existing Structures: New antennas located on any of the following structures existing on the effective date of this ordinance shall be exempt from the height restrictions of this ordinance provided that there is no increase in height of the existing structure as a result of the installation of a personal wireless service facility: water towers, guyed towers, lattice towers, fire towers and monopoles.
- 5) Height, Existing Structures, (Utility): New antennas located on any of the following existing structures shall be exempt from the height restrictions of this ordinance provided that there is no more than a twenty foot (20') increase in the height of the existing structure as a result of the installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar existing utility structures. This exemption shall not apply in historic districts.

- 6) Height, Wireless Facility Overlay Districts: Where the town establishes Wireless Facility Overlay Districts (as designated on the town zoning map), personal wireless services facilities of up to 150 feet in height may be permitted by Conditional Use Permit. Monopoles are the preferred type of mount for such taller structures. Such structures shall comply with all setback and Conditional Use Permit regulations set forth in this Ordinance.

(e) Setbacks:

1. All personal wireless services facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located.
2. In order to ensure public safety, the minimum distance from the base of any ground-mounted personal wireless service facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the facility/mount, including any antennas or other appurtenances. This setback is considered a "fall zone".
3. In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, personal wireless services facilities and their equipment shelters shall not increase any non-conformities.
4. Towers over 90 feet in height shall not be located within one-quarter mile of any existing tower that is over 90 feet in height.
5. In reviewing a Conditional Use Permit application for a personal wireless service facility, the Planning Board may reduce the required fall zone and/or setback distance of the zoning district, if it finds that a substantially better design will result from such reduction. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use.

VII. DESIGN STANDARDS

Visibility/Camouflage: Personal wireless services facilities shall be camouflaged as follows:

(a) Camouflage by Existing Buildings or Structures:

- (1) When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
- (2) Personal wireless services facilities which are side mounted shall blend with the existing building's architecture and shall be painted or shielded with material which is consistent with the design features and materials of the building.

(b) Camouflage by Vegetation:

If personal wireless services facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted personal wireless services facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Planning Board shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions.

- (c) Color:
 - (1) Personal wireless services facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly attached thereto.
 - (2) To the extent that any personal wireless services facilities extend above the height of the vegetation immediately surrounding it, they shall be painted in a color determined best to blend in with the natural surroundings and/or background.
- (d) Equipment Shelters:
 - 1) Equipment shelters shall be located in underground vaults; or
 - 2) Equipment shelters shall be designed consistent with architectural styles and materials per the town's site plan review regulations.
 - 3) Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.
- (e) Lighting and Signage:
 - 1) Personal wireless services facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed.
 - 2) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Town's sign regulations.
 - 3) All ground mounted personal wireless services facilities shall be surrounded by a security barrier.
- (f) Historic Buildings and Districts:
 - 1) Any personal wireless services facilities located on or within an historic structure, as designated by the town, shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
 - 2) Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.
 - 3) Personal wireless services facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.
- (g) Scenic Landscapes and Vistas:
 - 1) Any personal wireless service facility that is located within 300 feet of a scenic vista, scenic landscape or scenic road, as designated by the town shall not exceed the height of vegetation at the proposed location. If the facility is located farther than 300 feet from the scenic vista, scenic landscape or scenic road, the height regulations described elsewhere in this ordinance will apply.
- (h) Environmental Standards:
 - 1) Personal wireless services facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas

shall be minimized.

- 2) No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- 3) Ground-mounted equipment for personal wireless services facilities shall not generate noise in excess of 50 db at the property line.
- 4) Roof-mounted or side-mounted equipment for personal wireless services facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.
- 5) Back-up power generation equipment may exceed the required decibel levels if necessary to maintain power to the PWSF during temporary power outages.

(i) Safety Standards:

- 1) All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines)
- 2) Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.
- 3) To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal of the tower or antenna as abandoned, in accordance with §XII at the owners expense through execution of the posted security.

(j) Modifications

A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and will require a Conditional Use Permit when the following events apply:

- a. The applicant and/or co-applicant wants to alter the terms of the Conditional Use Permit by changing the personal wireless service facility in one or more of the following ways:
 1. Change in the number of facilities permitted on the site;
 2. Change in technology used for the personal wireless service facility.
- b. The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

(k) Reconstruction or Replacement of Existing Towers and Monopoles

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this Ordinance may be reconstructed, altered, extended or replaced on the same site by Conditional Use Permit, provided that the Planning Board finds that such reconstruction, alteration, extension or replacement will

not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the Planning Board shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

VIII. STATE REQUIREMENTS (RSA 12-K)

All wireless carriers or their appointed agents doing business, or seeking to do business, in the Town of Epping shall:

- (a) Be allowed to construct new ground-mounted PWSF, provided that these PWSF comply with municipal regulations for maximum height or maximum allowed height above the average tree canopy height, subject to any exceptions, waivers, or variances allowed or granted by the Town.
- (b) Comply with all applicable state and municipal land use regulations.
- (c) Comply with all federal, state and municipal statutes, rules and regulations, including federal radio frequency radiation emission regulations and the National Environmental Policy Act of 1969, as amended.
- (d) Provide information at the time of application to construct an externally visible PWSF to the town of Epping and to the NH Office of State Planning, as follows:
 - 1) A copy of their license from the Federal Communications Commission (FCC) proving that they are eligible to deploy their systems in this geographical area and that this deployment falls under the jurisdiction of the federal Telecommunications Act of 1996; or a copy of their contract with a person with such a license, and a copy of that license.
 - 2) Detailed maps showing all of the current externally visible tower and monopole PWSF locations in the state within a 20 mile radius of the proposed externally visible PWSF, both active and inactive.
 - 3) Site descriptions for each of the above locations showing the antenna height and diameter, and showing all externally visible structures.
 - 4) A description of why less visually intrusive alternatives for this facility were not proposed.
- (e) A wireless carrier seeking approval to deploy a wireless communication facility shall be required to pay reasonable fees, including regional notification costs, imposed by the municipality in accordance with RSA 676:4, I(g).
- (f) Regional Notification: Any municipality or state authority or agency which receives an application to construct a PWSF which may be visible from any other New Hampshire municipality within a 20 mile radius shall provide written notification of such application and pending action to such other municipality within the 20 mile radius.

The applicant shall be responsible for determining the towns within the 20-mile radius for purposes of notification and shall provide the Planning Board with a list of these towns along with their mailing addresses.

This notification shall include sending a letter to the governing body of the municipality within the 20 mile radius detailing the pending action on the application and shall also include publishing a notice in a newspaper customarily used for legal notices by such municipality within the 20 mile radius, stating the specifics of the application, the pending action, and the date of the next public hearing on the application. Such notice shall be published not less than 10 days nor more than 21 days prior to the public hearing date.

Municipalities within the 20 mile radius and their residents shall be allowed to comment at any public hearing related to the application. Regional notification and comments from other municipalities or their residents shall not be construed to imply legal standing to challenge any decision.

IX. FEDERAL REQUIREMENTS

(a) All towers must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna as abandoned, in accordance with §XII, at the owners expense through the execution of the posted security.

(b) The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Board prior to the beginning of the federal 30 day comment period, and the Town process, shall become part of the application requirements.

X. WAIVERS

(a) General

Where the Planning Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with this ordinance or the purposes herein may be served to a greater extent by an alternative proposal, it may approve waivers to the ordinance. The purpose of granting waivers under provisions of this ordinance shall be to insure that an applicant is not unduly burdened as opposed to merely inconvenienced by said ordinance. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that *all* of the following apply:

1. The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.
2. The waiver will not, in any manner, vary the provisions of the Epping Zoning Ordinance (other than the terms of this ordinance), Epping Master Plan, or Official Maps.
3. Such waiver(s) will substantially secure the objectives, standards and requirements of the ordinance.
4. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:
 - a. Topography and other site features
 - b. Availability of alternative site locations
 - c. Geographic location of property
 - d. Size/magnitude of project being evaluated and availability of co-location.

(b) Conditions

In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.

(c) Procedures

A petition for any such waiver shall be submitted in writing by the applicant. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

• **APPEALS UNDER THIS SECTION**

A party aggrieved by a decision under this ordinance may appeal such decision to the New Hampshire Superior Court as provided by RSA 676:5, III and RSA 677:15, as amended.

XII. BONDING AND SECURITY AND INSURANCE

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and unwilling to remove the tower in accordance with §XIII, all security will be required to be maintained by the Town for the life of the tower. Bonding and surety shall be consistent with the provision in the subdivision or site plan review regulations. Furthermore, the Planning Board shall require the submission of proof of adequate insurance covering accident or damage.

XIII. REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within 90 days the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

XIV. SEVERABILITY

The invalidity of any provision of any section of this ordinance shall not affect the validity of any other provision, of this ordinance, nor of the zoning ordinance as a whole.

ARTICLE 21
IMPACT FEES FOR PUBLIC CAPITAL FACILITIES ORDINANCE

A. AUTHORITY AND APPLICABILITY

1. This Section is authorized by New Hampshire RSA 674:21 as an innovative land use control. The administration of this Section shall be the responsibility of the Planning Board. This Section, as well as regulations and studies adopted by the Planning Board consistent with and in furtherance of this Section, shall govern the assessment of impact fees imposed upon new development in order to meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town of Epping or the Epping School District.
2. The public facilities for which impact fees may be assessed in Epping may include water treatment and distribution facilities; waste water treatment and disposal facilities; sanitary sewer; stormwater, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the proportional share of capital facilities of a cooperative or regional school district of which Epping becomes a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreation facilities not including public open space.
3. Prior to assessing an impact fee for one or more of the public facilities enumerated above, the Planning Board shall have adopted such studies or methodologies and related fee schedules that provide process or method of calculating the proportionate share of capital improvement costs that are attributable to new development. Such calculations shall reasonably reflect the capital cost associated with increased demand placed on capital facility capacity by new development.
4. The following regulations shall govern the assessment of impact fees for public capital facilities in order to accommodate increased demand on the capacity of these facilities due to new development.

B. FINDINGS

The Town of Epping hereby finds that:

- 1) The Town of Epping is responsible for and committed to the provision of public facilities and services at standards determined by the Town to be necessary to support development in a manner which protects and promotes the public health, safety and welfare;
- 2) Capital facilities have been and will be provided by the Town;
- 3) The Town's legislative body has authorized the Planning Board to prepare and amend a Capital Improvements Program per N.H. RSA 674:5-8, and the Planning Board prepares and adopts such program as needed but shall review the CIP at least every three years;
- 4) An impact fee ordinance for capital facilities is consistent with the goals and objectives of the Master Plan and the Capital Improvements Program of the Town of Epping;
- 5) New development in Epping will create the need for the construction, equipping, or expansion of public capital facilities in order to provide adequate facilities and services for its residents, businesses, and other needs occasioned by the development of land;
- 6) Impact fees may be used to assess an equitable share of the growth-related cost of public facility capacity to new development in proportion to the facility demands created by that development;
- 7) In the absence of impact fees, anticipated residential and non-residential growth and associated capital improvement costs could necessitate an excessive expenditure of public funds in order to maintain adequate facility standards and to promote and protect the public health, safety, and welfare;

- 8) Impact fees assessed pursuant to this Section will not exceed the costs of:
 - a. Providing additional public capital facilities necessitated by new development in Epping; and/or
 - b. Compensating the Town of Epping or the Epping School District for facility capacity that it provided in anticipation of new development in Epping.

C. DEFINITIONS

1. Feepayer. The applicant for the issuance of a permit that would create new development as defined in this Section.
2. New Development. An activity that results in:
 - a.. Subdivision, site development, building construction or other land use that results in an increase in demand for capital improvement facilities as identified in the Planning Board's impact fee schedules; or,
 - b. The conversion of an existing use to another use if such change creates a net increase in the demand on public capital facilities that are the subject of impact fee assessment methodologies adopted by the Planning Board.

New development shall not include the replacement of an existing mobile home, or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in its size, density or type of use, and where there is no net increase in demand on the capital facilities of the town of Epping.

D. COMPUTATION OF IMPACT FEE

1. The amount of each impact fee shall be assessed in accordance with written procedures or methodologies adopted and amended by the Planning Board for the purpose of capital facility impact fee assessment in Epping. These methodologies shall set forth the assumptions and formulas comprising the basis for impact fee assessment, and shall include documentation of the procedures and calculations used to establish impact fee schedules. The amount of any impact fee shall be computed based on the municipal capital improvement cost of providing adequate facility capacity to serve new development. Such documentation shall be available for public inspection at the Planning offices of the Town of Epping.
2. In the case of new development created by the conversion or modification of an existing use, the impact fee assessed shall be computed based upon the net increase in the impact fee assessment for the new use as compared to the impact fee that was, or would have been, assessed for the previous use in existence on or after the effective date of this Section.

E. ASSESSMENT OF IMPACT FEES

1. Impact fees shall be assessed on new development to compensate the Town of Epping for the proportional share of the public capital facility costs generated by that development.
2. Any person who seeks a permit for new development, including permits for new or modified service connections to the public water system or public wastewater disposal system that would increase the demand on the capacity of those systems, is hereby required to pay the public capital facility impact fees authorized under this Section in the manner set forth herein, except where all or part of the fees are waived in accordance with the criteria for waivers established in this Section.

F. WAIVERS

The Planning Board may grant full or partial waivers of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular capital facilities for which impact fees are normally assessed.

1. A person may request a full or partial waiver of school facility impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over. The Planning Board may waive school impact fee assessments on age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy for a period of at least 20 years.
2. The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that would involve a contribution of real property or the construction of capital facilities; the Planning Board shall submit a copy of the waiver request to the Board of Selectmen for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. Full or partial waivers may not be based on the value of exactions for on-site or off-site improvements required by the Planning Board as a result of subdivision or site plan review, and which would be required of the developer regardless of the impact fee assessments authorized by this Section.
3. The Planning Board may waive an impact fee assessment for a particular capital facility where it finds that the subject property has previously been assessed for its proportionate share of public capital facility impacts, or has contributed payments or constructed capital facility capacity improvements equivalent in value to the dollar amount of the fee(s) waived.
4. The Planning Board may waive an impact fee assessment where it finds that, due to conditions specific to a development agreement, or other written conditions or lawful restrictions applicable to the subject property, the development will not increase the demand on the capacity of the capital facility or system for which the impact fee is being assessed.
5. A feepayer may request a full or partial waiver of the amount of the impact fee for a particular development based on the results of an independent study of the demand on capital facility capacity and related costs attributable to that development. In support of such request, the feepayer shall prepare and submit to the Planning Board an independent fee calculation or other relevant study and supporting documentation of the capital facility impact of the proposed development. The independent calculation or study shall set forth the specific reasons for departing from the methodologies and schedules adopted by the Town. The Planning Board shall review such study and render its decision. All costs incurred by the Town for the review of such study, including consultant and counsel fees, shall be paid by the feepayer.
6. A person may request a full or partial waiver of impact fees, other than those that expressly protect public health standards, for construction within a plat or site plan approved by the Planning Board prior to the effective date of this Section (insert date of ordinance posting). Prior to granting such a waiver, the Board must find that the proposed construction is entitled to the four year exemption provided by RSA 674:39, pursuant to that statute.

G. PAYMENT OF IMPACT FEE

1. No permit shall be issued for new development as defined in this Section until the impact fee has been assessed by the Building Inspector. The feepayer shall either agree to pay the impact fee prior to issuance of a building permit or shall post a performance guarantee acceptable to the Planning Board with the Planning Board prior to the issuance of any building permit to ensure payment of all fees. The Building Inspector shall not issue a certificate of occupancy for the development on which the fee is assessed until the impact fee has been paid in full, or has been waived by the Planning Board. In the interim between assessment and collection, the Planning Board may authorize another mutually acceptable schedule for payment, or require the deposit of an irrevocable letter of credit or other acceptable performance and payment guarantee with the Town of Epping.

2. Where off-site capital improvements have been constructed, or where such improvements will be constructed simultaneously with new development, and where the Town has appropriated necessary funds to cover such portions of the work for which it will be responsible, the Building Inspector may collect the impact fee for such capital facilities at the time a building permit or a permit to connect to the public water or public wastewater system, is issued.

H. APPEALS UNDER THIS SECTION

1. A party aggrieved by a decision under this Section may appeal such decision to the Superior Court as provided by RSA 676:5, III and RSA 677:15, as amended.

I. ADMINISTRATION OF FUNDS COLLECTED

1. All funds collected shall be properly identified and promptly transferred for deposit into separate impact fee accounts for each type of public capital facility for which impact fees are assessed. Each impact fee account shall be a non-lapsing special revenue fund account and under no circumstances shall such revenues accrue in the General Fund. The Town Treasurer shall have custody of all accounts.
2. The Treasurer shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership and tax map reference number of properties for which fees have been paid under this Section for each permit so affected for a period of at least ten (10) years from the date of receipt of the impact fee payment associated with the issuance of each permit.
3. Impact fees collected may be spent from time to time by order of the Board of Selectmen and shall be used solely for the reimbursement of the Town or the Epping School District in the case of school impact fees, for the cost of the public capital improvements for which they were collected, or to recoup the cost of capital improvements made by the Town or the Epping School District in anticipation of the needs for which the impact fee was collected.
4. In the event that bonds or similar debt instruments have been or will be issued by the Town of Epping or the Epping School District for the funding of capacity-related improvements, impact fees from the appropriate related capital facility impact fee accounts may be applied to pay debt service on such bonds or similar debt instruments.
5. At the end of each month, the Treasurer shall make a report giving a particular account of all impact fee transactions during that month. At the end of each fiscal year, the Treasurer shall make a report to the Board of Selectmen and Planning Board, giving a particular account of all impact fee transactions during the year.

J. USE OF FUNDS

1. Funds withdrawn from the capital facility impact fee accounts shall be used solely for the purpose of acquiring, constructing, equipping, or making improvements to public capital facilities to increase their capacity, or to recoup the cost of such capacity improvements.
2. Impact fee monies, including any accrued interest, that are not assigned in any fiscal period shall be retained within the same public capital facilities impact fee account until the next fiscal period except where a refund is due.
3. Funds may be used to provide refunds consistent with the provisions of this Section.

K. REFUND OF FEES PAID

1. The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest where:

- a. The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee; or
 - b. The calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the municipality, and the legislative body has failed to appropriate the municipality's share of the capital improvements with six (6) years of complete and final payment of the impact fee assessed.
2. The Board of Selectmen shall provide all owners of record who are due a refund written notice of the amount due, including accrued interest, if any, and shall promptly cause said refund to be made.

L. ADDITIONAL ASSESSMENTS

Payment of the impact fee under this Section does not restrict the Town or the Planning Board from requiring other payments from the fee payer, including such payments relating to the cost of the extension of water and sewer mains or the construction of roads or streets or other infrastructure and public capital facilities specifically benefiting the development as required by the subdivision or site plan review regulations, or as otherwise authorized by law.

M. SCATTERED OR PREMATURE DEVELOPMENT

Nothing in this Section shall be construed so as to limit the existing authority of the Epping Planning Board to deny new proposed development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Epping Zoning Ordinance, or the Epping Planning Board Site Plan Review Regulations or Subdivision Regulations, or which may otherwise be lawfully denied.

N. REVIEW AND CHANGE IN METHOD OF ASSESSMENT

The methodologies adopted by the Planning Board for impact fee assessment and the associated fee schedules, shall be reviewed periodically and amended as necessary by the Planning Board. Such review shall take place not more than five years from the initial adoption of this Section, nor more frequently than annually, except as required to correct errors or inconsistencies in the assessment formula. Failure to conduct a periodic review of the methodology shall not, in and of itself, invalidate any fee imposed. Any proposal for changes in the impact fee assessment methodology or the associated fee schedule shall be submitted to the Board of Selectmen for its review and comment prior to final consideration of the proposed changes by the Planning Board. The review by the Planning Board and Board of Selectmen may result in recommended changes or adjustments to the methodology and related fees based on the most recent data as may be available. No change in the methodology or in the impact fee schedules shall be adopted by the Planning Board until it shall have been the subject of a public hearing noticed in accordance with RSA 675:7.

ARTICLE 22
ENERGY EFFICIENCY
and SUSTAINABLE DESIGN
Adopted Town Meeting 2007

REMOVED AND ADDED TO SITE PLAN REGULATIONS 2016

Article 23
Small Wind Energy Systems
(Adopted Town Meeting March 10, 2009)

23.1 Purpose:

This renewable energy systems ordinance is enacted in accordance with RSA 674:17(I)(j), 674:62-66, and the purposes outlined in RSA 672:1-III-a as amended and effective July 11, 2009. The purpose of this ordinance is to accommodate renewable energy systems and distributed generation resources in appropriate locations, while protecting the public's health, safety and welfare. The Town of Epping intends to facilitate the State and National goals of developing clean, safe, renewable energy resources in accordance with the enumerated polices of NH RSA 374-G and 362-F that include national security and economic and environmental sustainability. In addition, this ordinance provides a permitting process for wind energy systems to ensure compliance with the provisions of the requirements and standards established herein in accordance with treatment under state law referenced above and in accordance with the conditional use process as authorized by NH RSA 674:21.

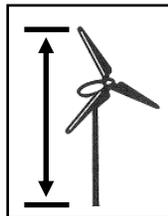
23.2 Definitions:

Meteorological tower (met tower). Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this ordinance, met towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

Modification. Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

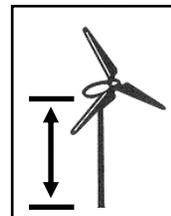
Small wind energy system. A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

System height. The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.



Tower. The monopole, guyed monopole or lattice structure that supports a wind generator.

Tower height. The height above grade of the fixed portion of the tower, excluding the wind generator.



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

23.3 Procedure for Review:

1. Building Permit: Wind energy systems that are 75 feet or less in height shall only require a building permit for installation.

Conditional Use Permit: Wind energy systems that exceed 75 feet but are less than 120 feet in height are subject to conditional use permit approval by the Planning Board in all permitted zoning districts. The conditional use permit shall clearly set forth all conditions of approval and shall list all plans, drawings and other submittals that are part of the approved use. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval.

2. Permitted Zoning Districts: Wind energy systems, and where applicable met towers, shall be permitted by conditional use in all zones and under the application requirements specified under Section 23.4:

3. Met Towers: A met tower, used solely for collecting wind resource data that does not produce any distributable electrical power and will stand no higher than 120 feet high may be erected within wind energy system permitted zones upon obtaining a building permit from the building inspector and shall be permitted on a temporary basis not to exceed 2 years, unless extended for one additional year, from the date the building permit was issued. In the event the submitted building permit appears to exceed the definition of a met tower, the building inspector may request the applicant obtain a conditional permit from the Planning Board. Upon such action, the building inspector must provide a description to the Planning Board identifying why the proposed met tower exceeds the provided definition.

4. Application: All applications for a wind energy system submitted to the Town of Epping for a building permit or for a conditional use permit shall contain the information specified below:

- a) Property lines and physical dimensions of the applicant's property (a survey is not required).
- b) Location, dimensions, and types of existing major structures on the property.
- c) Location of the proposed wind energy system, foundations, guy anchors and associated equipment.
- d) Tower foundation blueprints or drawings.
- e) Tower blueprints 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) Wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
- j) Sound level information provided by the wind generator manufacturer or qualified engineer.
- k) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the applicable building code for the Town of Epping.
- l) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.

5. Abutter and Regional Notification: In accordance with RSA 674:66, the Town shall notify all abutters and the local governing body by certified mail upon application submittal to the Town for a conditional use permit

to construct a small wind energy system. The public will be afforded 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 a building for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the building inspector shall follow the procedures set forth in RSA 36:57, IV.

23.4 Standards:

1. The planning board or 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 tower base to property line, public roads, or nearest point on the foundation of an occupied building.

Minimum Setback Requirements			
Occupied Buildings on Participating Landowner Property	Occupied Buildings on Abutting Property	Property Lines of Abutting Property and Utility Lines	Public Roads
0	1.5	1.1	1.5

- (i) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
- (ii) Guy wires used to support the tower are exempt from the small wind energy system setback requirements.

- b. Tower: The maximum tower height shall be limited by operation of Section 23.3(1).
- c. Sound Level: The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
- d. 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, which shall not exceed 3 square feet.
- e. Code Compliance: The small wind energy system shall comply with all applicable sections of the Town of Epping Building Code.
- f. Aviation: The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.
- g. Visual Impacts: It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner’s access to the optimal wind resources on the property.
 - i. The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system’s visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment.

- ii. The color of the small wind energy system shall be a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
 - iii. A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.
- h) Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

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

23.6 Violation:

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance.

23.7 Penalties:

Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties in accordance with New Hampshire law.

ARTICLE 24
ALTERNATIVE TREATMENT CENTERS
(Added Town Meeting 2015)

1. **PURPOSE AND INTENT** - It is the purpose of this section to regulate the effects of alternative treatment centers in the interest of the public health, safety and welfare including, but not limited to, protection of property values, separation of incompatible land uses, location of such uses near major regional highways, and prevention of blight and crime; and, provisions of this section have neither the purpose nor the effect of imposing limitations or restrictions on the content of any communicative materials; and, it is not the intent nor the effect of this section to restrict or deny access by adults that are prescribed cannabis for therapeutic purposes, or to deny access by distributors to their intended market; and, neither is it the intent nor effect of this section to condone or legitimize the distribution of cannabis for therapeutic purposes.

2. **DEFINITIONS (and any other definitions per RSA 126-X:1):**
 1. **Alternative treatment center:** a not-for-profit entity registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis, and related supplies and educational materials, to qualifying patients and alternative treatment centers.
 2. **Cannabis:** means all parts of any plant of the Cannabis genus of plants, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, salt, derivative, mixture, or preparation of such plant, its seeds, or resin. Such term shall not include the mature stalks of such plants, fiber produced from such stalks, oil, or cake made from the seeds of such plants, any other compound, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such plants which are incapable of germination.
 3. **Cultivation location:** a locked and enclosed site, under the control of an alternative treatment center where cannabis is cultivated, secured with one or more locks or other security devices.

3. **WHERE ALLOWED** –

Alternative treatment centers shall be permitted in the Industrial-Commercial as a, provided that the following locational standards and site appearance criteria are complied with:

 - a. Shall require Planning Board site plan review.
 - b. No advertising shall be visible from outside the building or town boundary line.
 - c. Shall comply with all State Statues regarding security, employees, location, etc. (RSA 126-x as amended)

4. **SEVERABILITY** - The invalidity of any provision of this article shall not affect the validity of any other provision, of the article, nor of the zoning ordinance as a whole.

ARTICLE 25
CONTROLLED SUBSTANCE DISTRIBUTION CENTERS

(Added Town Meeting 2015)

1. **PURPOSE AND INTENT** - It is the purpose of this section to regulate the effects of controlled substance distribution centers in the interest of the public health, safety and welfare including, but not limited to, protection of property values, separation of incompatible land uses, location of such uses near major regional highways, and prevention of blight and crime; and, provisions of this section have neither the purpose nor the effect of imposing limitations or restrictions on the content of any communicative materials; and, it is not the intent nor the effect of this section to restrict or deny access by adults that are prescribed controlled substances, or to deny access by distributors to their intended market; and, neither is it the intent nor effect of this section to condone or legitimize the distribution of controlled substances. This ordinance shall not regulate health care facilities or drugs stores such as CVS, Walgreens, etc.

2. **DEFINITIONS:**

Controlled Substance Distribution Centers: A center or clinic which has been primarily established for the dispensing of controlled substances for those recovering from narcotic withdrawal/abuse.

3. **WHERE ALLOWED** –

Controlled Substance Distribution Centers shall be permitted on lots having frontage on 125 in the Industrial-Commercial and Highway-Commercial Zones from the Brentwood Town line north to the intersection of 125 and Fogg/Coffin Road, provided that the following locational standards and site appearance criteria are complied with:

a. No structure shall be allowed within Epping’s designated Drug Free School Zone, within 1,000 feet of the property line of a church, cemetery, school, day care center, or within 500 feet of a residential structure.

b. No advertising shall be visible from outside the building or town boundary line.

4. **SEVERABILITY** - The invalidity of any provision of this article shall not affect the validity of any other provision, of the article, nor of the zoning ordinance as a whole.