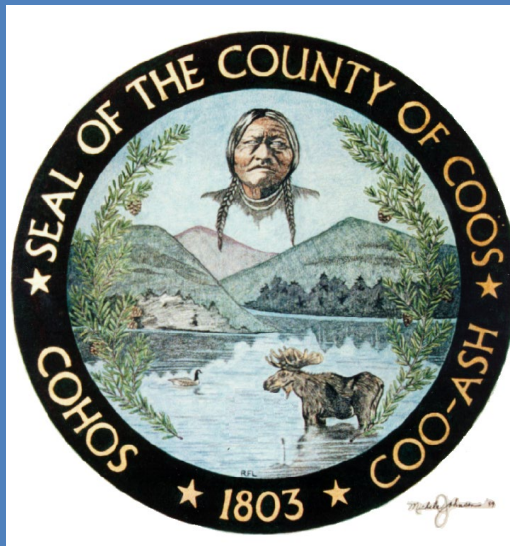


# ZONING ORDINANCE COOS COUNTY UNINCORPORATED PLACES

Amended  
3/18/2024



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ZONING ORDINANCE  
for the Unincorporated Places  
of  
Coös County, New Hampshire  
*adopted 4/20/1991*  
*amended 08/10/2001*  
*amended 02/13/2009*  
*amended 05/17/2010*  
*amended 11/5/2015*  
*amended 10/20/2017*  
*amended 3/18/2024*

THE UNINCORPORATED PLACES:

Atkinson & Gilmanton Academy Grant  
Bean's Grant  
Bean's Purchase  
Cambridge  
Chandler's Purchase  
Crawford's Purchase  
Cutt's Grant  
Dix Grant  
Dixville  
Erving's Grant  
Green's Grant  
Hadley's Purchase  
Kilkenny  
Low & Burbank's Grant  
Martin's Location  
Millsfield  
Odell  
Pinkham's Grant  
Sargent's Purchase  
Second College Grant  
Success  
Thompson & Meserve's Purchase  
Wentworth Location

All inquiries and correspondence regarding these regulations should be addressed to:  
Clerk, Coös County Planning Board  
PO Box 310  
W. Stewartstown, NH 03597

603-237-1920

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**ARTICLE I: TITLE, PURPOSE, GRANT OF POWER AND INTERPRETATION**

- 1.01 Title: This ordinance shall be known and may be cited as the “Zoning Ordinance for the Unincorporated Places of Coös County” referred to herein as “the Ordinance” or “this Ordinance.”
- 1.02 Purpose: The Coös County Convention and Commissioners find that it is desirable to extend the principles of sound planning, zoning and subdivision control to the Unincorporated Places of the County; to preserve public health, safety and the general welfare; to conserve and maintain an atmosphere that will enable the citizenry of these places to fulfill their traditional and unique lifestyles; to prevent pollution and conserve water resources in these places; to preserve ecological, historic, aesthetic and natural values in these places; to encourage appropriate residential, recreational, commercial and industrial uses not detrimental to the proper use or value of these places; to assure the segregation of incompatible uses or activities; to maintain high standards of construction in these places and to mandate prudent set-back requirements near waters and roadways.
- 1.03 Grant of Power:
- I. For the purpose of promoting health, safety and the general welfare of the area, the County adopts this Zoning Ordinance. The Ordinance is designed to regulate and restrict:
    - (a) the configuration of buildings and other structures;
    - (b) lot sizes, the percentage of a lot that may be occupied, and the size of yards and other spaces;
    - (c) the density of population; and
    - (d) the location and use of buildings, structures and land used for business, industrial, residential or other purposes.
  - II. The power to adopt a Zoning Ordinance expressly includes the power to adopt innovative land use controls.
  - III. In its exercise of the powers granted under this Ordinance, the County may regulate and control the timing of development.
- 1.04 Interpretation: In interpreting and applying the Ordinance, the County shall hold the provisions to be minimum requirements adopted for purposes set forth above.

**ARTICLE II: GENERAL PROVISIONS**

- 2.01 Adoption/Amendment of Zoning Ordinance: The County adopted this Zoning Ordinance only after the Planning Board adopted its general statement of goals and objectives for land use in its Master Plan.
- 2.02 Applicability: The Zoning Ordinance as adopted shall not apply to existing structures or to the existing use of any land or buildings. This Ordinance shall apply to the expansion or alteration of a pre-existing non-conforming use.
- 2.03 Conformance with Regulations: No buildings, structures or land shall hereafter be initially occupied, erected, moved or altered in bulk until the required permits have been issued in accordance with the

provisions of Article IX of this Ordinance, ensuring that the undertaking conforms with the provisions of this Ordinance.

- 2.04 Prohibited Uses: Uses that are not permitted in a specific district.
- 2.05 Repair or Removal of Damaged and Unsafe Structures: Any structure damaged by fire, wind or other causes shall be repaired or completely cleared of all debris, and all excavations filled to the ground level within a period of two (2) years unless an extension has been obtained from the Commissioners or designee.
- 2.06 Lot Recorded Prior to the Adoption of this Ordinance: Any lot as herein defined, which was legally recorded at the time of adoption or amendment of this Ordinance and which was a buildable lot under the Ordinance in effect immediately prior to the amendment of this Ordinance, shall be deemed a buildable lot.
- 2.07 Essential Services Exempt: The provisions of this Ordinance shall not apply to customary local utility distribution or collection lines of water, gas, sewerage, electric, cable, internet and telephone services.
- 2.08 County Expenses: Outside independent review by experts may be required by the Planning Board or Board of Adjustment at any time it is considered necessary. Any such independent review ordered by the Board, even if it is a review of expert opinions offered by persons retained by the applicant, must be paid for by the applicant in accordance with RSA 676:4 and 676:4-b or RSA 676:5. The applicant will be notified of any such expenses prior to the costs being incurred.
- 2.09 Best Management Practices: For the purpose of protecting the water and soil resources of the County, ALL activities in the Unincorporated Places are required to follow the most up-to-date applicable best management practices published, adopted or recommended by New Hampshire Department of Environmental Services, NH Department of Resources and Economic Development, or UNH Cooperative Extension. Alternative approaches may be approved if in the judgement of the Planning Board the applicant has provided documentation sufficiently demonstrating an equivalent or better outcome.

### ARTICLE III: DEFINITIONS

For the purpose of this Ordinance, words used in the present tense include the future, the singular number includes plural, and the plural includes singular. The word lot shall include plat or parcel. The word structure shall include the word building, where the context requires. The word used shall include arranged, designed, rented, leased, intended to be used, and occupied. The word shall is mandatory; and the word may is permissive. Certain other terms or words shall be interpreted as follows:

- 3.01 Abutter: Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term “abutter” shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by the County of a land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the

term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII (RSA 672:3).

- 3.02 Accessory Use: Any use customarily incidental, related and clearly subordinate to a principal use on the same lot.
- 3.03 Agricultural Management Activities: Land clearing, tilling, fertilizing, including spreading and disposal of manure and manure sludge, liming, planting, pesticide application, harvesting or cultivating crops, pasturing of livestock and other similar or related activities, but not the construction, creation or maintenance of land management roads.
- 3.04 Basement: An area partly underground but having at least one-half (½) of its clear ceiling height above the average finished grade level at the foundation. A basement shall be considered as a story if used for dwelling or business purposes.
- 3.05 Board of Adjustment: The Board of Adjustment of the Coös County Unincorporated Places as established by RSA 673:1.
- 3.06 Body of Standing Water: A body of surface water that has no perceptible flow and is substantially permanent in nature. Such bodies of water are commonly referred to as man-made or natural lakes and ponds (also Wetlands).
- 3.07 Building: Any independent structure having a roof with structural supports for the shelter or enclosure of persons, animals or property.
- 3.08 Building, Accessory: A building subordinate to and located on the same lot, the use of which is clearly incidental to that of the main building, such as a detached garage or barn.
- 3.09 Campground: Any area, other than a campsite, designed for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facility for temporary shelter.
- 3.10 Campsite: Any area designated for transient occupancy by camping primarily in tents or lean-tos; under this definition no campsite shall be designated to accommodate more than thirty (30) overnight visitors and permanent structures shall be limited to privies, fireplaces, picnic tables (with or without roofs), lean-tos and water pumps.
- 3.11 Cellar: See Basement.
- 3.12 Cluster: A division of land into lots for use as residential building sites where said lots are arranged into one or more groups having frontage, area and total yard measurements less than the minimum required in the table of density regulations. The number of lots over the entire tract of land shall not exceed the number of lots permitted under normal application of the area regulations of the district in which the tract of land is located.
- 3.13 Commercial Mineral Extraction: Mineral extraction other than extraction of construction aggregate that is incidental to agricultural or forest management activities, sales of 150 cubic yards or less per month, normal landscaping or minor topographical adjustment.

- 3.14 Commercial Sporting Camp: A building or group of buildings devoted primarily to the offering of primitive lodging facilities for a fee to persons primarily in pursuit of primitive recreation or snowmobiling/ATV trail use.
- 3.15 Compatible Use: A land use which is capable of existing in harmony with other uses or resources situated in its immediate vicinity because that use does not adversely affect such other uses or resources.
- 3.16 Conditional Use Permit: A permit granted by the Planning Board for a specific use identified in this Ordinance as a Use Requiring a Conditional Use Permit or for a reduced setback as provided in Section 6.09, after following the requirements of RSA 676:4 Board's Procedures on Plats, as provided by RSA 674:21 Innovative Land Use Controls.
- 3.17 Condominium: Any development which is controlled by the NH Condominium Act, RSA 356-B.
- 3.18 Conference Center: A largely self-contained complex offering meeting rooms, lodging, parking, food service and recreation facilities for groups of individuals.
- 3.19 Coverage: The ratio of the total ground floor area of all structures, including porches, decks, or roofs, to the total area of the lot, expressed as a percentage.
- 3.21 Destination Resort: A largely self-contained complex offering recreational experience, including recreational facilities; lodging; parking; retail, day care and food service primarily serving resort guests.
- 3.22 Development: Any land use activity or activities directed toward using, reusing or rehabilitating air space, land, water or other natural resources, excluding however, such specific uses or classes and categories of uses which by the terms of this Ordinance do not require a permit.
- 3.23 Docking or Mooring Structure: A structure placed in or near water for the purpose of securing and/or loading or unloading boats.
- 3.24 Driveway: An access road serving up to two lots, two dwellings, or two building sites.
- 3.25 Duplex: A building containing two (2) dwelling units on one lot.
- 3.26 Dwelling, Accessory: A dwelling unit that is within or attached to a one family dwelling or attached garage, 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; contains an interior door between the principal dwelling unit and the accessory dwelling unit; and has either the principal dwelling or the accessory dwelling unit occupied by the owner as his or her principal place of residence.
- 3.27 Dwelling Unit: Housekeeping quarters for one (1) family, whether owned, leased or in condominium or cooperative form of ownership, with the potential for occupancy by a person or family as a year-round or primary residence. Includes certain employee housing.
- 3.28 Dwelling, One Family: A detached building designed for or occupied exclusively by one (1) family.

- 3.29 Dwelling, Multi-Family: A building designed for or occupied exclusively by more than three (3) families living independently of one another.
- 3.30 Family: One (1) or more persons, related or unrelated, living together as a single integrated household which is the functional equivalent of a family, sharing household responsibilities and activities.
- 3.31 Flowing Water: A surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams and brooks.
- 3.32 Forest: A plant community predominantly of trees and other woody vegetation growing more or less closely together.
- 3.33 Forest Management Activities: Forest management activities include timber cruising and other forest resource evaluation activities; pesticide or fertilizer application; timber stand improvement, pruning, timber harvesting and other forest product harvesting; regeneration of forest stands; and other similar or associated activities, including the routine maintenance of existing or permitted land management roads but not the construction or creation of land management roads.
- 3.34 Forest Product: Any raw material yielded by a forest.
- 3.35 Frontage: The length of the lot bordering on a public or private street or water body.
- 3.36 Governmental Use: Use, construction, or development of land owned or occupied, or proposed to be owned or occupied by the federal government, state government, university system, community college system of New Hampshire, or by a county, town, city, school district, or village district, or any of their agents, for any public purpose which is statutorily or traditionally governmental in nature.
- 3.37 Green Space: Land not built upon or not covered by gravel or impervious cover which has or can have grass, flowers, shrubs, plants, trees or similar ground cover.
- 3.38 Ground Cover: Any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Ground cover shall not include lawns, landscaped areas, gardens, invasive species as listed by the department of agriculture, markets, and food in accordance with RSA 430:53, III, exotic species as designated by rule of the department of environmental services in accordance with RSA 487:24, VII, imported organic or stone mulches, or other artificial materials.
- 3.39 Height: The vertical distance between the lowest finished grade within one foot of the foundation and the highest point of the roof of a building or structure.
- 3.40 Home Occupation: Use of a dwelling for a customary home occupation, such as millinery, dressmaking, hairdressing, real estate, preserving and home canning, or the office of a doctor, dentist, engineer, architect, lawyer, musician, teacher or other recognized professional; provided, however, that such use shall be incidental to the principal use of the dwelling as a residence, and provided further that not more than four (4) persons shall be employed in a home occupation in any location at any one time in addition to household members.

- 3.41 Junk Yard: A place used for storing and keeping, or storing and selling, trading, or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel, or other old or scrap ferrous or nonferrous material; or two (2) or more unregistered vehicles, as defined by RSA 236:112 as amended.
- 3.42 Land Management Road: A route or track consisting of a bed of exposed mineral soil, gravel or other surfacing material constructed for, or created by, the repeated passage of motorized vehicles and primarily for agricultural or forest management activities, including associated log yards.
- 3.43 Land Use Subdistrict: The area located within the boundaries of air, land or water delineated vertically or horizontally by the Board to provide for distinct categories of uses or resources.
- 3.44 Lease Lot: A parcel of land leased for a specific period of time by a landowner for a specific purpose.
- 3.45 Lodging: Transient accommodations, whether rented or owned, not intended for year-round occupancy or as a primary residence, such as hotels, motels, inns, time-share condominiums, and certain employee housing. Includes customary accessory uses for guests such as dining rooms and bars, laundry, and recreational facilities.
- 3.46 Lot: A parcel of land of at least sufficient size to meet the minimum requirements of this Ordinance for use, coverage and area to provide required yards and other open spaces.
- 3.47 Lot, Corner: A lot with frontage on two (2) or more streets at their intersection, where the interior angle of the intersection is less than one hundred thirty-five (135) degrees.
- 3.48 Lot Area: The area in square feet or acres enclosed by the lot lines of a single lot.
- 3.49 Lot Depth: The average horizontal distance from the front lot line to the rear lot line.
- 3.50 Lot Width: The average horizontal distance between the side lot lines at right angles to its depth.
- 3.51 Lot Line, Front (street line): Any lot line that coincides with a line of a street or a public right-of-way which provides or can provide access to the lot.
- 3.52 Lot Line, Rear: The lot line most distant from the front lot line, except that in the case of a corner lot, the owner shall have the option of choosing which of the lot lines shall be the rear lot line.
- 3.53 Major Recreational Equipment: Boat and boat trailers, travel trailers, pick-up campers or coaches, motorized dwellings, tent trailers and similar devices.
- 3.54 Manufactured Housing: The definition of manufactured housing for the purpose of this Ordinance shall be in accordance with the definition provided in NH RSA 674:31 and 32.
- 3.55 Manufactured Home Park: Any lot used to accommodate two (2) or more individual manufactured homes, including all accessory buildings, tents or other appurtenances, regardless of whether a charge is made for such accommodations. A manufactured home park does not include the parking of unoccupied manufactured homes for inspection and sale as a commercial business.

- 3.56 Master Plan: A document prepared and/or adopted by the Planning Board to guide the long-range development of the Unincorporated Places.
- 3.57 Modular/Sectional Home: A detached residential dwelling of conventional wood frame construction designed and fabricated for transportation on streets or highways on a flatbed or other trailer and arriving at the site where it is to be occupied as a dwelling after assembly operations on a permanent foundation.
- 3.58 Nonconforming Lot: A lot of record at the time this Ordinance or amendment becomes effective, but which does not conform with the regulations for the district in which it is located.
- 3.59 Nonconforming Structure: A structure, lawfully existing at the time of adoption of district regulations or subsequent amendment made thereto, that does not conform to the district regulations.
- 3.60 Nonconforming Use: A use of air, land, water or natural resources or a parcel of land, lawfully existing at the time of adoption of district regulations or subsequent amendments made thereto, that does not conform to the district regulations.
- 3.61 Normal Maintenance and Repair: Unless otherwise provided, any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in use, change in location, change in size or capacity.
- 3.62 On Premise Sign: A sign whose message and design relate to an individual business, profession, product, service, event, point of view, or other commercial or non-commercial activity sold, offered, or conducted on the same property where the sign is located.
- 3.63 Open Space: Area that includes either private or public facilities for both active and passive types of recreation including, but not limited to, playgrounds, parks and undeveloped land of all types.
- 3.64 Ordinary High Water Mark: The line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.
- 3.65 Parking Space: An off-street space, whether inside or outside of a structure, to be used primarily as parking area for a vehicle.
- 3.66 Permit: A written warrant granted by the federal government, the State of New Hampshire, the Planning Board, the Zoning Board of Adjustment, the County Commissioners, the building inspector or other regulatory body or designee.
- 3.67 Person: An individual, firm, association, organization, partnership, trust, company, corporation, state agency or other legal entity.
- 3.68 Planning Board: The Planning Board of Coös County known as the Board.

- 3.69 Primitive Campsite: Any area designed for transient occupancy by camping primarily in tents or lean-tos. Permanent structures shall be limited to privies, fireplaces, picnic tables (with or without roofs), lean-tos and water pumps.
- 3.70 Primitive Recreation: Those types of recreation associated with non-motorized travel, including fishing, hunting, hiking, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, snowshoeing and mountain biking.
- 3.71 Principal Building: Any building other than one which is used for purposes wholly incidental or accessory to the use of another building on the same premises. All buildings on one land parcel related to agricultural management activities, including without limitation the dwelling(s) of the owner or lessee of land used for agricultural management activities, his/her employees engaged in such use and members of their families, shall be considered as one principal building. All buildings on one land parcel related to forest management activities, including without limitation the dwelling(s) of the owner or lessee of land used for forest management activities, his/her employees engaged in such use and members of their immediate families, shall be considered as one principal building.
- 3.72 Projecting Sign: A sign which is attached to a wall of a building and extends more than 15 inches from any part of the wall.
- 3.73 Property Line: Any boundary between parcels of land capable of being owned or leased by different persons or groups of persons.
- 3.74 Recreational Lodge: The use of land and buildings as part of recreational facilities to provide services such as food service, lodging, day care, equipment rental and retail sales, first aid. May include as an incidental, but not primary use, use of the lodge and adjoining premises for functions including but not limited to weddings, retirement parties, class reunions and similar activities.
- 3.75 Reference Line: The water surface elevation established for the water body by NH Department of Environmental Services.
- 3.76 Residential Lot: A parcel of land intended for family dwelling use, either single family or duplex.
- 3.77 Right-of-Way: A strip of land for public access. This includes all municipal, state and federal highways including utility rights-of-way, rights-of-way dedicated to the public use, and rights-of-way shown on recorded subdivision plats.
- 3.78 Roadway: A public or private road including any land management road.
- 3.79 Roof Sign: A sign which is attached flat to, painted on or pinned away from the roof of a building.
- 3.80 Screen or Screening: A strip of land at least six (6') feet wide, densely planted (or of natural growth) of shrubs or trees, at least four (4') feet high at the time of planting, of a type that will form a year-round dense screen at least six (6') feet high within three (3) years; or an opaque fence at least six (6') feet high.

- 3.81 Seasonal Camp: A non-commercial recreational camp, with a state-approved means of wastewater disposal, for the use of the lot owner or sole lessee and his/her invitees and guests, who have another usual place of residence; not for year-round or primary residency.
- 3.82 Service Drop: Any utility line extension which does not cross or run beneath any portion of a body of standing water provided that:
- a. In the case of an electric service:
    1. the placement of wires above or below ground and/or the installment of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
    2. the total length of the extension is less than 1,000 feet.
  - b. In the case of telephone service:
    1. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or
    2. the extension, requiring the installation of new utility poles or placed underground, is less than 1,000 feet in length.
- 3.83 Setback: shall mean the minimum horizontal distance from the lot line, shoreline or road to the nearest part of the structure including a foundation, covered porch or deck.
- 3.84 Sign: A structure, device or inscription that is arranged, intended, designed or used as an advertisement, announcement, or direction, but not including those structures, devices or inscriptions erected and maintained by any public agency in exercising its duties.
- 3.85 Sign, Area of: The entire surface area of a sign within a single continuous perimeter enclosing the extreme limits in writing, representation, emblem or figure but excluding the supports on which the sign is placed. The area of one side of a double-faced sign shall be regarded as the total area of the sign.
- 3.86 Ski Facilities: The use of land and buildings to include all operations, facilities and structures customary and incidental to Alpine and/or Nordic skiing including, but not limited to, food service, lodging, day-care, equipment rental and retail sales, first aid, ski trails, ski lifts, skier service lodges, shelters, parking, maintenance buildings, ski racing facilities, grooming, snowmaking, service roads, ski bridges, lighting, and telecommunications.
- 3.87 Solid Waste: Any matter consisting of putrescible material; refuse; septage; sludge from water supply treatment works, or air pollution control facility; and other discarded or abandoned material. It includes solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. For purposes of this Ordinance, it does not include hazardous waste as defined in RSA 147-A:2; solid or dissolved materials in irrigation return flows; or municipal and industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended; or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended; or sludge from a waste treatment plant.
- 3.88 Solid Waste Management: The systematic administration of activities for the collection, source separation, processing, treatment, transportation, transfer, storage, recovery and disposal of solid waste.

- 3.89 Special Use Permit: A permit granted by the Planning Board for a specific use identified in this Ordinance as a Use Requiring a Special Use Permit, after following the requirements of RSA 676:4 Board's Procedures on Plats, as provided by RSA 674:21 Innovative Land Use Controls.
- 3.90 Stream order: Shall be determined using the New Hampshire hydrography dataset archived by the geographically referenced analysis and information transfer system (GRANIT) at the Complex Systems Research Center of the University of New Hampshire, and developed by GRANIT in collaboration with the Department of Environmental Services.
- 3.91 Street: Relates to and includes the right-of-way of a street, avenue, boulevard, road, lane, alley, viaduct, highway, freeway and other ways.
- 3.92 Structure: Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, including, but not limited to buildings, mobile homes, walls, fences more than six (6) feet high, billboards, signs, piers and floats.
- 3.93 Subdivision:
1. Subdivision means the division of the lot, tract, or parcel of land into two (2) or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.
  2. 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 this title. (RSA 672:14)
- 3.94 Subsurface Sewage Disposal: Any system disposing of wastes or waste waters on or beneath the surface of the earth including but not limited to, holding ponds, surface spray systems, septic tanks, drainage fields, cesspools, wells, holding tanks, surface ditches or any other fixture, mechanism or apparatus used for such purposes.
- 3.95 Timber Harvesting: The cutting and removal of trees from their growing site, and the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads and winter haul roads, but not the construction or creation of land management roads.
- 3.96 Trail: A route or path other than a roadway, and related facilities used primarily for recreational activities, which passes through or occurs in a natural environment and may involve the disturbance of the land's surface in its construction or use. Related facilities may include but not be limited to subsidiary paths, springs, campsites, view points and unusual or exemplary natural features in the immediate proximity of the trail which are commonly used or enjoyed by the users of the trail.
- 3.97 Transient: Describes a lodging facility, camp, campsite, or campground, whether rented or owned, not intended for year-round occupancy or as a primary residence.
- 3.98 Unincorporated Places: All areas located within the jurisdiction of Coös County, except areas located within organized cities and towns.

- 3.99      Unincorporated Town: Misused term, see Unincorporated Places.
- 3.100     Use: The principal purpose for which a lot or the principal building thereon is designed, occupied, maintained or intended to be used.
- 3.101     Utility Facilities: Structures normally associated with public utilities, including without limitation: radar, radio, television or other communication facilities; electric power transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; municipal sewage lines; gas, oil, water, slurry or other similar pipe lines or above ground storage tanks.
- 3.102     Variance: A permit which may be granted, in special cases, by the Board of Adjustment in accordance with RSA 674:33.
- 3.103     Wall Sign: A sign which is attached flat to, painted on or pinned away from the wall of a building and does not project more than 15 inches from such wall.
- 3.104     Water Bar: An obstruction placed across a roadway which effectively diverts surface water from and off the road.
- 3.105     Water Crossing: A roadway crossing of any body of standing or flowing water (including in its frozen state) by means of a bridge, culvert or other means.
- 3.106     Water Impoundment: Any body of water created or elevation of which is raised, by man through the construction of a dam.
- 3.107     Wetlands: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under certain circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.
- 3.108     Wildlife: All vertebrate species including mammals, birds and fish.
- 3.109     Wildlife Management: Activities engaged in for the exclusive purpose of management of wildlife populations by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation, controlled burning, planting, impounding water, controlled hunting and trapping, relocation of wildlife, predator and disease control, and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species.
- 3.110     Zoning Permit: A Zoning Ordinance Certificate of Compliance issued by the County Commissioners or their designee to demonstrate approval by the County of the proposed use or structure under the requirements of this Zoning Ordinance only.

**ARTICLE IV: ESTABLISHMENT OF DISTRICTS**

4.01 Districts: In order to accomplish any or all of the purposes of the Zoning Ordinance, the County has divided the Unincorporated Places into districts of a number, shape and area as are deemed best suited to carry out the purposes of the Ordinance. The Ordinance regulates and restricts the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land within each district it creates. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

4.02 Division into Districts: The Unincorporated Places of Coös County, New Hampshire are hereby divided into the following zoning districts:

- I. *Protected Districts*: Areas where development would jeopardize significant natural, recreational and/or historic resources, including but not limited to aquifers, floodplains, shorelines, steep slopes, wildlife habitat, wetlands and other areas critical to the ecology of these places.
- II. *Management Districts*: Areas which are appropriate for forest management or agricultural uses and for which there are not approved plans for additional development at the time of adoption of this Ordinance. All lands previously identified as “Non-Jurisdictional” are within the Management Districts.
- III. *Development Districts*: Areas which have patterns of residential, recreational, commercial or industrial use, or commercial removal of minerals or other natural resources; and areas that may be designated by the Board as being appropriate for the future development areas.

In addition to the above stated districts, the Board may designate subdistrict classifications as it may deem necessary in order to carry out the intent of this Ordinance.

4.03 Protected Overlay Districts (PD):

- (a) The purpose of a Protected Overlay District (PD) is to protect certain critical areas from inappropriate land use activities which may degrade their environmental quality.
- (b) The following are the Protected Overlay Districts:
  - Aquifers (PD1)
  - Flood Prone Areas (PD2)
  - Critical Wildlife Habitat (PD3)
  - Fish Spawning Areas (PD4) Shorelines of Rivers, Streams, Ponds and Lakes (PD5)
  - Steep Slopes & High Elevations (PD6)
  - Wetlands (PD7)

(Unusual Area (PD8) Eliminated 3/18/2024)

#### 4.03A Aquifers (PD1)

1. Purpose: The purpose of the Aquifer Protected Overlay District (PD1) is to protect the quantity and quality of groundwater supply used or potentially available for human or industrial consumption.
2. Description: Includes those areas within Wellhead Protection Areas as shown on the most recent mapping by NHDES and those areas identified as stratified drift aquifer on the most recent USGS-NHDES aquifer mapping.
3. Land Use Standards:
  - (a) *Uses allowed without a permit*: Any use allowed without a permit in the underlying District unless listed in (c) below.
  - (b) *Uses requiring a permit*: Any use requiring a permit in the underlying District unless listed in (c) below.
  - (c) *Prohibited Uses*:
    1. The development or operation of a solid waste landfill
    2. The outdoor storage of road salt or other deicing chemicals in bulk
    3. The development or operation of a junkyard
    4. The development or operation of a snow dump
    5. The development or operation of a wastewater or septage lagoon
    6. The development or operation of a petroleum bulk plant or terminal
    7. The development or operation of a gasoline station

#### 4.03B Flood Prone Areas (PD2)

1. Purpose: The purpose of the Flood Prone Area Protected Overlay District (PD2) is to regulate certain land use activities in flood prone areas in order to minimize the human and financial costs of floods and flood cleanup programs, by protecting adjacent, upstream and downstream property from flood damage, by minimizing danger from malfunctioning water supply and waste disposal systems in flood prone areas.
2. Description: Areas located within the 100-year frequency floodplain as identified by the County Commissioners or designee or Planning Board after consideration of relevant data including, without limitation, identification of areas as flood prone by state and federal agencies, historical data and the NRCS National Cooperative Soil Survey.
3. Land Use Standards:
  - (a) *Uses allowed without a permit*: The following uses shall be allowed within a PD2 without a permit, provided they are allowed without a permit in the underlying District:

1. Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, tenting and camping at primitive campsites, canoe portaging, cross country skiing and snowshoeing
  2. Motorized vehicular traffic on roads
  3. Wildlife and fishery management practices
  4. Surveying and other resource analysis
  5. Exempt signs
  6. Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement and search and rescue operations
  7. Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies
  8. Snowmobiling
  9. Agricultural management activities
  10. Forest management activities
- (b) *Uses requiring a permit:* The following uses may be allowed within a PD2 upon issuance of a permit from the County Commissioners or designee, provided they are allowed in the underlying District:
1. Land management roads, except for water crossings permitted pursuant to RSA 485-A:17 (Terrain Alterations).
  2. Signs (Nonexempt)
- (c) *Uses allowed with a Conditional Use Permit:* Other structures, uses, or services which the Planning Board determines are consistent with the purposes of this Protected Overlay District and of the Master Plan and are not detrimental to the resources or uses which they protect which are built to federal floodplain building code standards, provided they are permitted in the underlying District with or without a Conditional Use Permit.
- (d) *Prohibited Uses:* All uses not expressly allowed, with or without a permit or Conditional Use Permit, shall be prohibited in a PD2.

#### 4.03C Critical Wildlife Habitat (PD3)

1. Purpose: The purpose of the Critical Wildlife Habitat Protected Overlay District (PD3) is to provide critical habitat for boreal wildlife by establishing a protected zone of critical wetland wildlife habitat areas and streamside coniferous travel corridors surrounding or linking protected critical wetland wildlife habitat areas. These areas would both provide travel corridors for large mobile species and would also provide the life requisites of many species preferring spruce/fir, thereby providing a corridor for the dispersal of juveniles for maintaining viable populations. Northern hardwood stands in excess of 20 acres will be excluded from the harvest regulations of the PD3b and PD3c zones.
2. Description and Conditions: Habitat for deer, moose, lynx, marten, osprey, eagle, spruce grouse, black backed woodpecker, three-toed woodpecker, black bear, fisher and 122 additional vertebrate wildlife species will be provided by the district. The PD3 will be defined as the area recommended by NH Fish and Game and designated by the Board as critical wetland wildlife habitat areas and the four hundred foot strip adjacent to such areas, said strip to be divided

further into two zones. PD3a will be the critical wetland wildlife habitat; PD3b will be the 200 foot strip from the edge of the PD3a; and the PD3c will be the strip 201 feet to 400 feet from the edge of the PD3a.

3. Land Use Standards:

**PD3a:**

(a) *Uses allowed without a permit:* The following uses shall be allowed without a permit from the Board within a PD3a, provided they are allowed without a permit in the underlying District:

1. Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, trapping, tenting and camping at primitive campsites, canoe portaging, cross country skiing and snowshoeing
2. Motorized vehicular traffic on existing roads
3. Wildlife and fishery management practices as prescribed by NH Fish and Game
4. Surveying and other resource analysis
5. Exempt signs
6. Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations
7. Foot trails, provided they are maintained so as to reasonably avoid sedimentation of water bodies
8. Maintenance of existing all season roads

(b) *Uses requiring a permit:* The following uses may be allowed within a PD3a upon issuance of a permit from the Board or designee, provided they are permitted in the underlying District:

1. Permanent and/or temporary land management roads except for water crossings permitted pursuant to RSA 485-A:17
2. Signs (Nonexempt)

(c) *Uses requiring a Conditional Use Permit:* Other structures, uses or services which the Board determines are consistent with the purposes of this Subdistrict and of the Master Plan and are not detrimental to the resources or uses which they protect, provided they are permitted in the underlying District with or without a Conditional Use Permit.

(d) *Prohibited Uses:* All uses not expressly allowed, with or without a permit or Conditional Use Permit, shall be prohibited in a PD3a.

**PD3b:**

(a) *Uses allowed without a permit:* The following uses shall be allowed without a permit from the Board within a PD3b, provided they are allowed without a permit in the underlying District:

1. Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, trapping, tenting and camping at primitive campsites, canoe portaging, cross country skiing and snowshoeing
  2. Motorized vehicular traffic on existing roads
  3. Wildlife and fishery management practices as prescribed by NH Fish and Game
  4. Surveying and other resource analysis
  5. Exempt signs
  6. Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement and search and rescue operations
  7. Foot trails, provided they are maintained so as to reasonably avoid sedimentation of water bodies
  8. In consultation with NH Fish & Game, forest management activities involving less than 33% removal of stand basal area by single tree or group selection methods with openings up to one (1) acre in size in any 20 year time interval for any 700 foot length of the PD3b zone
  9. Maintenance of existing all season roads
- (b) *Uses requiring a permit:* The following uses may be allowed within a PD3b upon issuance of a permit from the Board or designee, provided they are permitted in the underlying District:
1. Forest management activities involving more than 33% removal of stand basal area in any 20 year time interval for any 700 foot length of the PD3b zone, the application of other than single tree or group selection methods and openings greater than one (1) acre in size
  2. Permanent and/or temporary land management roads except for water crossings permitted pursuant to RSA 485-A:17
  3. Non-commercial mineral extraction covering an area of less than one (1) acre per extraction site
  4. Signs (Nonexempt)
- (c) *Uses allowed with a Conditional Use Permit:* Other structures, uses or services which the Board determines are consistent with the purposes of this Subdistrict and of the Master Plan and are not detrimental to the resources or uses which they protect, provided they are permitted in the underlying District with or without a Conditional Use Permit.
- (d) *Prohibited Uses:* All uses not expressly allowed, with or without a permit or Conditional Use Permit, shall be prohibited in a PD3b.

**PD3c:**

- (a) *Uses allowed without a permit:* The following uses shall be allowed without a permit from the Board within a PD3c, provided they are allowed without a permit in the underlying District:
1. Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, trapping, tenting and camping at primitive campsites, canoe portaging, cross country skiing and snowshoeing
  2. Motorized vehicular traffic on existing roads

3. Wildlife and fishery management practices as prescribed by NH Fish and Game
  4. Surveying and other resource analysis
  5. Exempt signs
  6. Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations
  7. Foot trails, provided they are maintained so as to reasonably avoid sedimentation of water bodies
  8. In consultation with NH Fish & Game, forest management activities involving less than 50% removal of stand basal area with openings up to three (3) acres in size in any 10 year time interval for any 700 foot length of the PD3c zone
  9. Maintenance of existing all season roads
- (b) *Uses requiring a permit:* The following uses may be allowed within a PD3c upon issuance of a permit from the Board or designee, provided they are permitted in the underlying District:
1. Forest management activities involving more than 50% removal of stand basal area in any 10 year time interval for any 700 foot length of the PD3c zone, and openings greater than three (3) acres in size
  2. Permanent and/or temporary land management roads except for water crossings permitted pursuant to RSA 485-A:17
  3. Non-commercial mineral extraction covering an area of less than one (1) acre per extraction site
  4. Signs (Nonexempt)
- (c) *Uses allowed with a Conditional Use Permit:* Other structures, uses or services which the Board determines are consistent with the purposes of this Subdistrict and of the Master Plan and are not detrimental to the resources or uses which they protect, provided they are permitted in the underlying District with or without a Conditional Use Permit.
- (d) *Prohibited Uses:* All uses not expressly allowed, with or without a permit or Conditional Use Permit, shall be prohibited in a PD3c.

#### 4.03D Fish Spawning Areas (PD4)

1. Purpose: The purpose of the Fish Spawning Area Protected Overlay District (PD4) is to conserve important fish spawning habitats essential to the citizens of the County and the State.
2. Description: A fish spawning protected area must be identified by the NH Fish and Game Department as a significant fish spawning nursery and critical habitat.
3. Land Use Standards:
  - (a) *Uses allowed without a permit:* The following uses shall be allowed without a permit from the Board within a PD4, provided they are allowed without a permit in the underlying District:

1. Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, trapping, tenting and camping at primitive campsites, canoe portaging, cross country skiing and snowshoeing
  2. Motorized vehicular traffic on existing roads
  3. Wildlife and fishery management practices
  4. Surveying and other resource analysis
  5. Exempt signs
  6. Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement and search and rescue operations
  7. Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies
  8. Snowmobiling
- (b) *Uses requiring a permit:* The following uses may be allowed within a PD4 upon issuance of a permit from the Board or designee, provided they are permitted in the underlying District:
1. Agricultural management activities
  2. Forest management activities
  3. Land management roads except for water crossing permitted pursuant to RSA 485-A:17 (Terrain Alterations)
  4. Signs (Nonexempt)
- (c) *Uses allowed with a Conditional Use Permit:* Other structures, uses or services which the Board determines are consistent with the purposes of this Subdistrict and of the Master Plan and are not detrimental to the resources or uses which they protect, provided they are permitted in the underlying District with or without a Conditional Use Permit.
- (d) *Prohibited Uses:* All uses not expressly allowed, with or without a permit or Conditional Use Permit, shall be prohibited in a PD4.

#### 4.03E Shorelines of Rivers, Streams, Ponds and Lakes (PD5)

1. Purpose: The purpose of the Shoreline Protected Overlay District (PD5) is not to wholly preclude residential and recreational development on the County's rivers, streams, ponds and lakes but to regulate these areas so that development will be sited and designed in a manner compatible with a reduction and prevention of shoreline erosion, protection of water quality and protection of riparian and aquatic ecosystems, which includes maintenance of a vegetated riparian buffer which has been found to:
  - (a) Restore and maintain the chemical, physical and biological integrity of the water resources;
  - (b) Provide infiltration of stormwater runoff;
  - (c) Remove pollutants delivered in stormwater runoff;
  - (d) Reduce erosion and control sedimentation;
  - (e) Stabilize lake and stream banks;
  - (f) Maintain base flow of streams;
  - (g) Contribute food and habitat for the aquatic ecosystem;
  - (h) Moderate the temperature of near shore waters
  - (i) Provide and enhance terrestrial wildlife habitat; and,
  - (j) Enhance scenic value and recreational opportunities.

2. Description: Areas within one hundred (100) feet of the ordinary high water mark or reference line along (i) second (2nd) order and higher streams, (ii) lakes and ponds ten (10) acres and larger, and (iii) ponds of any size that contain the channel of a second order or higher stream or are part of a wetland 10 acres or larger in size.
3. Land Use Standards:
  - (a) *Uses allowed without a permit*: The following uses shall be allowed within a PD5 without a permit, provided they are allowed without a permit in the underlying District:
    1. Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, trapping, tenting and camping at primitive campsites, canoe portaging, cross country skiing and snowshoeing
    2. Motorized vehicular traffic on existing roads
    3. Wildlife and fishery management practices
    4. Surveying and other resource analysis
    5. Exempt signs
    6. Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement and search and rescue operations
    7. Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies
    8. Snowmobiling
    9. Land management roads except for water crossing permitted pursuant to RSA 485-A:17 (Terrain Alterations)
    10. Agricultural management activities
    11. Forest management activities
  - (b) *Uses requiring a permit*: The following uses may be allowed within a PD5 upon issuance of a permit from the County Commissioners or designee, provided they are permitted in the underlying District:
    1. Signs (Nonexempt)
  - (c) *Uses allowed with Conditional Use Permit*: Other structures, uses or services which the Planning Board determines are consistent with the purposes of this Subdistrict and of the Master Plan and are not detrimental to the resources or uses which they protect, provided they are permitted in the underlying District with or without a Conditional Use Permit.
  - (d) *Prohibited Uses*: All uses not expressly allowed, with or without a permit or Conditional Use Permit, shall be prohibited in a PD5.
  - (e) *Performance Standards*:
    1. Within the PD5, all activities and any disturbance of land, including those allowed without a permit, those requiring a permit and those allowed with a Conditional Use Permit, shall be sited, designed and constructed in such a way as to minimize shoreland erosion, protect water quality and minimize detrimental impacts to riparian and aquatic ecosystems.

2. Within 50 feet of the ordinary high water mark or reference line, pesticides may only be applied by a professional licensed for pesticide application by the State of New Hampshire.
3. Within twenty-five (25) feet of the ordinary high water mark or reference line, there shall be no structures constructed or placed, no removal of vegetation including natural ground cover, and rocks and stumps and their root systems shall be left intact in the ground, except as otherwise provided for below.
  - i. A property owner may remove, or may have removed, any dead, diseased, or unsafe trees, limbs, saplings, or shrubs provided reasonable care is taken to prevent damage to surrounding healthy vegetation, minimize damage to ground cover, and prevent soil erosion and sedimentation to the water body.
  - ii. Normal trimming, pruning, and thinning of branches to the extent necessary to maintain the health of the planted area as well as to protect structures, maintain clearances, and provide views is permitted provided such activity does not endanger the health of the plant.
  - iii. A water dependent recreation structure, such as dock, wharf, pier, breakwater, or other similar structure may be constructed as permitted by NH Department of Environmental Services (NHDES) when associated with an allowed use.
  - iv. Water dependent utilities, such as hydroelectric facilities, surface water supplies, or sewage treatment facilities with surface water discharges, may be constructed as permitted by NHDES if granted a Conditional Use Permit by the Planning Board.
  - v. The construction, repair, or maintenance of streets, roadways or other access ways, including driveways, footpaths, bridges, and utility corridors, may be undertaken if associated with an allowed use and essential to the productive use of the land to be accessed or for connection with transportation or trail networks.
  - vi. A permanent 6-foot wide foot path and/or steps are allowed to access any docks, beaches, structures, existing open areas, and the water body, configured in a manner that will not concentrate stormwater runoff or contribute to erosion.
  - vii. Stream crossings necessary for forest management are allowed, including the transportation of forest products, in conformance with NHDES regulations and *Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire* (NH Department of Natural and Cultural Resources, latest edition).
  - viii. Owners of lots and holders of easements on lots that were legally developed prior to the adoption of this amendment may maintain but not enlarge cleared

areas, including but not limited to, existing lawns, gardens, landscaped areas, beaches, and rights-of-way for utilities, transportation, and access, and may repair existing structures. Conversion to or planting of cleared areas with non-invasive species of ground cover, shrubs, saplings, and trees is encouraged but shall not be required.

4. No fertilizer may be applied within 25 feet of the ordinary high water mark or reference line.

#### 4.03F Steep Slopes & High Elevations (PD6)

1. Purpose: The purpose of the Steep Slopes & High Elevations Protected Overlay District (PD6) is to regulate certain land use activities in mountain areas in order to preserve the natural equilibrium of vegetation, geology, slope, soil and climate in order to reduce danger to public health and safety posed by unstable mountain areas, to protect water quality and to preserve mountain areas for their scenic values and recreational opportunities.
2. Description:
  - (a) Areas above 2,700 feet in elevation; or
  - (b) Slopes in excess of 60 percent (31 degree angle) over ten (10) contiguous acres.
3. Land Use Standards:
  - (a) *Uses allowed without a permit:* The following uses shall be allowed within a PD6 without a permit , provided they are allowed without a permit in the underlying District:
    1. Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, trapping, tenting and camping at primitive campsites, canoe portaging, cross country skiing and snowshoeing
    2. Motorized vehicular traffic on existing roads
    3. Wildlife and fishery management practices
    4. Surveying and other resource analysis
    5. Exempt signs
    6. Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations
    7. Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies
    8. Snowmobiling and ATV trails
  - (b) *Uses requiring a permit:* The following uses may be allowed within a PD6 upon issuance of a permit from the County Commissioners or designee, provided they are permitted in the underlying District:
    1. Agricultural management activities
    2. Forest management activities
    3. Land management roads except for water crossing permitted pursuant to RSA 485-A:17 (Terrain Alterations)
    4. Signs (Nonexempt)

- (c) *Uses allowed with Conditional Use Permit:* Other structures, uses or services which the Planning Board determines are consistent with the purposes of this Subdistrict and of the Master Plan and are not detrimental to the resources or uses which they protect, provided they are permitted in the underlying District with or without a Conditional Use Permit.
- (d) *Prohibited Uses:* All uses not expressly allowed, with or without a permit or Conditional Use Permit, shall be prohibited in a PD6.

#### 4.03G Wetlands (PD7)

1. Purpose: The purpose of the Wetlands Protected Overlay District (PD7) is to conserve wetlands in essentially their natural state because of the indispensable biologic, hydrologic and environmental functions which they perform.
2. Description: Areas encompassing 10 acres or more in size identified by the County Commissioners or designee or Planning Board as wetlands utilizing the latest mapping available from the US Fish and Wildlife Service National Wetlands Inventory or the latest USDA Natural Resource Conservation Service mapping of hydric soils. The applicant may provide maps prepared by a Certified Wetland Scientist to be used in place of these sources.
3. Land Use Standards:
  - (a) *Uses allowed without a permit:* The following uses shall be allowed within a PD7 without a permit, provided they are allowed without a permit in the underlying District:
    1. Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, tenting and camping at primitive campsites, canoe portaging, cross country skiing and snowshoeing
    2. Motorized vehicular traffic on existing roads
    3. Wildlife and fishery management practices
    4. Surveying and other resource analysis
    5. Exempt signs
    6. Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement and search and rescue operations
    7. Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies
    8. Snowmobiling
    9. Agricultural management activities
    10. Forest management activities
  - (b) *Uses requiring a permit:* The following uses may be allowed within a PD7 upon issuance of a permit from the County Commissioners or designee, provided they are permitted in the underlying District:
    1. Land management roads except for water crossing permitted pursuant to RSA 485-A:17 (Terrain Alterations)
    2. Signs (Nonexempt)

- (c) *Uses requiring a Conditional Use Permit:* Other structures, uses or services which the Planning Board determines are consistent with the purposes of this Subdistrict and of the Master Plan and are not detrimental to the resources or uses which they protect, provided they are permitted in the underlying District with or without a Conditional Use Permit.
- (d) *Prohibited Uses:* All uses not expressly allowed, with or without a permit or Conditional Use Permit, shall be prohibited in a PD7.

4.04 Management Districts (MD): The purpose of an MD is to permit forestry and agricultural management activities, natural resource management and protection, and resource-based recreation to occur with minimal interference from unrelated development in areas where the Board finds that the resource protection afforded by Protected Overlay Districts is not required.

- (a) *Uses allowed without a permit:* The following uses shall be allowed within an MD without a permit:

1. Agricultural management activities
2. Forest management activities
3. Land management roads
4. The operation of machinery and the erection of buildings and other structures used primarily for agricultural, forest management or primitive recreational activities
5. Service drops
6. Surveying, mineral exploration and other resource analysis
7. Mineral extraction operations, less than 5 acres in size, for on-site maintenance activities, or as necessary for the construction and maintenance of land management roads
8. Primitive recreational uses including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tenting and camping at primitive campsites, canoe portaging, cross country skiing and snowshoeing
9. Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies
10. Campsites
11. Motorized vehicular traffic on roads, and snowmobiling/ATV riding
12. Wildlife and fishery management practices
13. Exempt signs
14. Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations
15. Governmental Uses (May be subject to RSA 674:54.II.)

- (b) *Uses requiring a permit:* The following uses may be allowed within an MD upon the issuance of a permit from the County Commissioners or designee:

1. Excavations in compliance with RSA 155-E
2. Campgrounds
3. Single dwelling units, with or without accessory dwelling units
4. Utility facilities, excluding service drops
5. Solid waste disposal

6. Sewage sludge disposal
7. Seasonal camps
8. Non-commercial structures utilized for educational, scientific, or nature observation purposes
9. Commercial sporting camps having a total gross floor area of no more than 8,000 square feet for all principal buildings concerned
10. Home occupation
11. Signs (Nonexempt)

(c) *Uses requiring a Conditional Use Permit:*

1. Planned Unit Development
2. Cluster Development
3. Other structures, uses or services which the Planning Board determines are consistent with the Master Plan and are not detrimental to the resources or uses which they protect

(d) *Prohibited uses:* All uses not expressly allowed, with or without a permit or Conditional Use Permit, shall be prohibited in an MD.

4.05 Development Districts (DD): For purposes of this Ordinance, Development Districts are further broken down into the following subdistricts:

- a. General Development Subdistrict (DD-G)
- b. Resort Development Subdistrict (DD-Resort)
- c. Residential Development Subdistrict (DD-R)

4.06 General Development Subdistrict (DD-G): The purpose of the DD-G is to recognize existing patterns of development in appropriate areas and to encourage further patterns of compatible development therein and adjacent thereto. It is the intent of this district to promote these areas as future growth centers in order to encourage the location of compatible developments near each other and to minimize the impact of such development upon incompatible uses and upon public services and facilities. Thus the purpose is to encourage the general concentration of new development, and thereby avoid the fiscal and visual costs of sprawl, and to provide a continuing sense of community in settled areas.

(a) *Uses allowed without a permit:* The following uses shall be allowed within a DD-G without a permit:

1. Primitive recreational uses including fishing, hiking, wildlife study and photography, wild crop harvesting, tenting and camping at primitive campsites, canoe portaging, cross country skiing and snowshoeing
2. Motorized vehicular traffic on roads, and snowmobiling/ATV riding
3. Wildlife and fishery management practices
4. Surveying, mineral exploration and other resource analysis
5. Exempt signs
6. Land management roads

7. Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies
8. Service drops
9. Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations
10. Agricultural management activities
11. Forest management activities
12. Governmental Uses (May be subject to RSA 674:54.II.)

(b) *Uses requiring a permit:* The following uses may be allowed within a DD-G upon issuance of a permit from the County Commissioners or designee:

1. Excavations in compliance with RSA 155-E
2. Residential: Single family detached dwelling units, with or without accessory dwelling units; duplexes; multi-family dwellings; condominiums; and residential subdivisions
3. Public and Institutional: Places of worship and other religious institutions; public, private and parochial schools; public and other institutional buildings such as, but not limited to libraries, fire stations, post offices, day nurseries and cemeteries
4. Commercial and Industrial: Facilities having less than 1,000 sq. ft. of gross floor area including facilities offering food and beverages prepared on the premises, retail stores and services, and laundromats, but excluding auto service stations or repair garages and uses which may create a nuisance or unsafe or unhealthy conditions or are otherwise incompatible with residential uses; and subdivisions for uses permitted by this subdistrict
5. Utility facilities compatible with residential uses, other than service drops
6. Public or private recreation facilities including, but not limited to, campgrounds, parks, playgrounds, golf courses, commercial sporting camps, lodging and campsites
7. Seasonal camps
8. Home occupation
9. Signs (Nonexempt)

(c) *Uses requiring a Conditional Use Permit:*

1. Planned Unit Development
2. Cluster Development
3. Other structures, uses, or services which the Planning Board determines are consistent with the purposes of this subdistrict and of the Master Plan and are not detrimental to the resources and uses they protect

(d) *Prohibited uses:* All uses not expressly allowed, with or without a permit or Conditional Use Permit, shall be prohibited.

4.07 Resort District (DD-Resort): The purpose of the DD-Resort is to recognize the unique nature of the historic Balsams Resort and surrounding recreation areas and encourage further patterns of compatible development therein and adjacent thereto. The intent of this district is to enable a wide spectrum of recreational opportunities and guest accommodations compatible with the natural, recreational, scenic, historic and cultural resources, while minimizing the impact of such development upon public services and facilities.

(a) *Uses allowed without a permit:* The following uses shall be allowed within a DD-Resort without a permit:

1. Primitive recreational uses including fishing, hiking, wildlife study and photography, wild crop harvesting, tenting and camping at primitive campsites, canoe portaging, cross country skiing and snowshoeing
2. Motorized vehicular traffic on roads, and snowmobiling/ATV riding
3. Wildlife and fishery management practices
4. Surveying, mineral exploration and other resource analysis
5. Exempt signs
6. Land management roads
7. Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies
8. Service drops
9. Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations
10. Agricultural management activities
11. Forest management activities
12. Special events accessory to a permitted use whether on the same lot or on another lot controlled by the same owner or related entity, including such events as ski races, bicycle races and outdoor concerts
13. Skills venues and courses associated with a permitted use whether on the same lot or on another lot controlled by the same owner or related entity, such as archery, target/skeet shooting, Biathlon and similar courses
14. Governmental Uses (May be subject to RSA 674:54.II.)

(b) *Uses requiring a permit:* The following uses may be allowed within a DD-Resort upon issuance of a permit from the County Commissioners or designee:

1. Excavations in compliance with RSA 155-E
2. Road projects and other transportation infrastructure to be utilized by the public
3. Residential: Single family detached dwelling units, with or without accessory dwelling units; duplexes; multi-family dwellings; condominiums; and residential subdivisions
4. Public and Institutional: Places of worship and other religious institutions; public, private and parochial schools; public and other institutional buildings such as, but not limited to libraries, fire stations, police, emergency services, road maintenance facilities, post offices, day cares, cemeteries, post-consumer waste recycling centers, or transfer stations
5. Commercial and Industrial facilities including, but not limited to, craft and light manufacturing facilities and storage, but excluding uses which may create a nuisance or unsafe or unhealthy conditions or are otherwise incompatible with permitted or historic uses
6. Utility facilities compatible with residential and recreational uses, other than service drops
7. Infrastructure facilities including water supply, wastewater collection and treatment, and stormwater management
8. Public or private recreation facilities including, but not limited to, campgrounds, parks, playgrounds, golf courses, commercial sporting camps, and campsites

9. Seasonal camps
10. Ski facilities
11. Recreational lodge
12. Destination resort
13. Conference center
14. Lodging
15. Restaurant without drive-through
16. Health and wellness facilities including spas, outdoor baths and pools, aquatic centers, fitness facilities and accessory structures; provision of health and wellness services
17. Wind farms and associated facilities, hardware and equipment
18. Telecommunications towers and associated hardware, facilities and equipment
19. Outdoor adventure centers including zip lines, mountain coasters, alpine slides and other gravity-oriented recreational uses and accessory structures
20. Home occupation
21. Signs (Nonexempt)

(c) *Uses requiring a Conditional Use Permit:*

1. Planned Unit Development
2. Cluster Development
3. Other structures, uses, or services which the Planning Board determines are consistent with the purposes of this subdistrict and of the Coos County Unincorporated Places Master Plan and are not detrimental to the resources and uses they protect

(d) *Prohibited uses:* All uses not expressly allowed, with or without a permit or conditional use permit, shall be prohibited.

4.08 Residential Development Subdistrict (DD-R): The purpose of the DD-R is to set aside certain broad areas for residential use so as to provide for residential activities apart from broad areas of commercial development. The intention is to encourage the concentration of residential type development in and adjacent to existing residentially developed areas; however, not all areas of land within the DD-R are necessarily acceptable for residential use.

(a) *Uses allowed without a permit:* The following uses shall be allowed within a DD-R without a permit:

1. Residential units within an approved subdivision
2. Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tenting and camping at primitive campsites, canoe portaging, cross country skiing and snowshoeing, excluding hunting and trapping
3. Motorized vehicular traffic on roads and trails, and snowmobiling/ATV riding
4. Trails, provided they are constructed and maintained as to reasonably avoid sedimentation of water bodies
5. Wildlife and fishery management practices
6. Mineral exploration activities
7. Surveying and other resources analysis
8. Exempt signs
9. Service drops
10. Agricultural management activities

11. Forest management activities.
12. Governmental Uses (May be subject to RSA 674:54.II.)

(b) *Uses requiring a permit:* The following uses may be allowed with a DD-R upon issuance of a permit from the County Commissioners or designee:

1. Residential: Dwelling units and subdivisions
2. Public and Institutional: Places of worship; public, private and parochial schools; day nurseries; cemeteries; public parks and recreation areas; police and fire protection facilities; utility facilities compatible with residential uses other than service drops
3. Campsites
4. Excavations in compliance with RSA 155-E
5. Seasonal camps
6. Home occupations
7. Signs (Nonexempt)

(c) *Uses requiring a Conditional Use Permit:*

1. Planned Unit Development
2. Cluster Development
3. Other structures, uses, or services which the Planning Board determines are consistent with the purposes of this subdistrict and of the Coos County Unincorporated Places Master Plan and are not detrimental to the resources and uses they protect

(d) *Prohibited Uses:* All uses not expressly allowed, with or without a permit or Conditional Use Permit, shall be prohibited in an DD-R.

4.09 Zoning Maps: Certain elements of the Ordinance are delineated on the Coos County Land Use Guidance Map, and such maps, as amended, are a part of this Ordinance.

4.10 Interpretation of District Boundaries: Where any uncertainty exists with respect to the boundary of any district shown on the Zoning Map, the following rules shall apply:

- (a) Where a boundary is indicated as a highway, street, railroad, watercourse or municipal boundary, it shall be construed to be the center line thereof or such Town Boundary.
- (b) Where a boundary is indicated as approximately parallel to a highway, street, railroad, watercourse or Town Boundary, it shall be construed as parallel thereto and such distance from the center line thereof as shown on the Zoning Map.
- (c) If no dimension is given on the Zoning Map, the location of any boundary shall be determined by use of the scale shown on the Zoning Map.
- (d) Where a boundary coincides within ten (10) feet or less with a lot line, the boundary shall be construed to be the lot line.

- (e) Where information appears to differ between the description of the district contained in the Ordinance and the information shown on the Zoning Map, the description contained in the Ordinance shall prevail.
- (f) The Board of Adjustment shall resolve all boundary questions not covered by (a) through (e) above.

4.11 Planned Unit Development Conditional Use Permit: In accordance with RSA 674:21, the purpose of a Planned Unit Development is to enable flexibility so as to promote a higher quality of large-scale development by considering project proposals based upon a comprehensive, integrated plan rather than the specific constraints applicable to piecemeal lot-by-lot development under conventional zoning. The intent is to consider development proposals that may be separated from existing developed areas, provided that they can be shown to be high quality and not detrimental to other values established in the Master Plan for the Unincorporated Places in Coos County, and provided they depend on a particular natural feature or location which is available at the proposed site. A Conditional Use Permit for a Planned Unit Development (herein referred to as a "PUD Permit") will be granted by the Planning Board when the Board is persuaded by a preponderance of all the evidence that the location of the site is the best reasonably available for the proposed use and that the goals and policies of the Master Plan for the Unincorporated Places in Coos County are served.

An application for a PUD Permit may be submitted and reviewed concurrent with an application for subdivision and/or site plan review for the same development, however, approval of an application for a PUD Permit shall not satisfy the needs for subdivision approval or site plan review for future phases.

1. *Description*: An area containing a minimum of one hundred (100) contiguous acres, proposed for residential, recreational, commercial and industrial use or some combination of those uses, for which a comprehensive development plan (which treats the entire parcel or group of parcels as an entity) has been submitted to, reviewed and approved by the Board.
2. *Permitted Uses*: All uses approved as part of an application for a PUD Permit shall be permitted. No other use shall be permitted except where the Board determines that such additional use is consistent with such PUD Permit and with the purposes thereof.
3. *Ownership*: An application for a PUD Permit may be filed only by the owner, lessee (with written owner approval) or duly appointed agent of the owner of all lands to which the application pertains.
4. *Burden of Proof*: The burden of proof is upon the applicant to show by substantial evidence that his/her proposal satisfies the criteria established for a PUD Permit and is consistent with the goals and policies of the Master Plan for the Unincorporated Places in Coos County.
5. *Procedure*: The procedure for review of an application for a PUD Permit shall consist of four stages:
  - (a) Pre-application Conference
  - (b) Submission of application for PUD Permit
  - (c) Substantive review of application for PUD Permit and Decision
  - (d) Subsequent Site Plan Review and/or Subdivision Review

6. *Pre-application Conference:* A pre-application conference shall be held with the Board and may include representatives from other relevant agencies and governmental units. At this conference the procedures, regulations and policies that will govern the PUD Permit application will be discussed. The conference shall provide a forum for an informal discussion on the acceptability of all aspects of the project proposal, prior to its filing with the Board. The conference proceedings shall be summarized in writing and made available to the applicant.
7. *Application:* The application for a PUD Permit shall include evidence that the proposal conforms with the Master Plan for the Unincorporated Places in Coos County and the purpose and description of a Planned Unit Development as contained herein; evidence showing that the permit criteria will be satisfied; and the submission of various written and illustrative documents, as described hereinafter. Prior to any decision relative to such application, a public hearing shall be held in accordance with RSA 676:4. Outside independent review by experts may be required by the Board at any time it is considered necessary. The costs of public notices and outside review shall be paid by the applicant. Failure to pay shall constitute grounds for disapproval of the application. The applicant will be notified of any such expenses prior to the costs being incurred.

The following items are required to be submitted with any PUD Permit application:

- (a) Signed authorization of all owners of all parcels included in the application.
- (b) Abutters list.
- (c) Names and addresses of all easement holders.
- (d) Tax map and lot numbers of all parcels included in the application.
- (e) General statements to satisfy the Board that the project is realistic, and can be financed and completed. Such statements shall demonstrate that the applicant has the financial resources and support to achieve the proposed development and that a sufficient market exists for the goods and/or services the development will provide.
- (f) Narrative and plans with the following information:
  1. A location map (drawn on a USGS topographic map base or zoning map) that indicates the location of the property for which a PUD Permit is sought. This map should show all existing districts and subdistricts.
  2. Present and anticipated future form(s) of ownership.
  3. A statement of the objectives to be achieved by locating the development in its proposed location.
  4. A map showing existing site conditions: topography, water courses, unique natural conditions, forest cover, lakes, ponds, wetlands, existing buildings, road boundaries, existing recreational features such as snowmobile and ATV trails, property lines and names of adjoining property owners, scenic locations, and other prominent topographical or environmental features.
  5. A soils map that covers those portions of the site where any development is proposed.

6. Anticipated distribution of permitted uses: plan showing delineation of each land use/development area accompanied by a table containing for each such area the acreage, proposed number of dwelling units, proposed number of lodging units, and proposed square feet of other permitted use categories, e.g. commercial, industrial, recreation.
  7. Basis for calculation of carrying capacity of each development area including soil types, topography, proposed method of water supply, wastewater treatment and stormwater management, suitability of safe access.
  8. Preliminary proposed general layout of major road system showing at a minimum primary access for each development area.
  9. Summary of proposed traffic impact, including preliminary estimates of trip generation, trip distribution, and potential needs for off-site improvements.
  10. Description of proposed water supply, wastewater treatment, stormwater management/treatment and other proposed utilities.
  11. General description of proposed form of ownership of road system, water supply, wastewater collection and treatment, and stormwater management facilities, and party responsible for maintenance of each.
  12. Location of natural, recreation, scenic, historic and cultural resources to be preserved.
  13. Description and location of proposed major open space areas, recreation areas/facilities, conservation lands.
  14. Sustainable design and construction practices promoting energy conservation.
  15. Any other development or architectural guidelines the applicant desires to propose as part of the Planned Unit Development.
  16. Proposed time schedule and phasing plan with enough information for the Board's determination that essential services and amenities will be completed in an appropriate order relative to the overall Planned Unit Development.
  17. General description of provisions of fire fighting, police, and emergency medical services.
  18. A preliminary statement of the environmental impact of the proposed development which sets forth the reasonably foreseeable adverse effects and measures to be taken by the applicant to minimize such effects. An Environmental Impact Statement (EIS) may be required after analysis of the Preliminary Impact Statement.
  19. A general statement that indicates how the natural resources of the area will be managed and protected so as to reasonably assure that if those resources are currently designated within Protected Districts they will receive protection that is substantially equivalent to that under the Protected District designation.
  20. Proposed dimensions where different than the underlying zoning district. Setbacks from parcels not included in the Planned Unit Development may not be reduced. Standards related to health and safety may not be reduced without Planning Board approval of an alternative approach providing an equivalent or higher level of protection.
  21. Any other information that the Planning Board may deem reasonably necessary.
- (g) Waivers: Upon written request by the applicant, or upon the motion of any member, the Board may vote to waive, in whole or in part, any provision(s) of Section 4.11.7(f) when, in the majority opinion of the Board, such provision(s) would be inappropriate or superfluous to informed evaluation of the site in question.

The applicant for approval of an application for a PUD Permit may request and the Planning Board may approve, or approve with conditions, waivers from substantive standards or criteria contained in the subdivision and site plan review regulations as part of the PUD application process. Such waivers must follow the procedure and criteria contained in the subdivision or site plan regulations. Waivers of standards intended to protect the health and safety will not be granted without Planning Board approval of an alternative approach providing an equivalent or higher level of protection. The burden of proof shall be on the applicant to demonstrate that any waivers requested will not reduce protection of health and safety. Any waivers granted as part of the PUD Permit approval process will remain in effect for purposes of all later subdivision or site plan applications within the areas covered by the PUD Permit, as long as the PUD Permit remains in effect, unless, in the judgment of the Planning Board, there is evidence that the relaxed standard is insufficient to protect the public health and safety.

8. *Where land proposed for inclusion in the Planned Unit Development is in a Protected Subdistrict*, the Planning Board, as part of its PUD Permit decision, may vary the strict application of the restrictions of such Subdistrict, provided that the applicant demonstrates that the requirements of the Protection Subdistrict have been substantially met with an equivalent level of environmental and resource protection as was afforded under such Protected Subdistricts.
9. *Hearings and Criteria for the issuance of a PUD Permit*: The Board shall meet to review the application for completeness within 30 days of receipt. Following acceptance as a complete application for a PUD Permit, the Board shall schedule a public hearing.

The public hearing notification in accordance with RSA 676:4 shall notify the public and abutters and the proceedings shall meet the requirements of appropriate statutes and Board rules. Within the time limits provided by RSA 676:4, the Board must approve, approve with conditions, or deny the application in writing. In making this decision, the Board shall ensure that the proposal:

- (a) conforms with the objectives and policies of the Master Plan for the Unincorporated Places in Coos County;
- (b) demonstrates, where the land proposed for inclusion in the Planned Unit Development is in a Protected Subdistrict, that the requirements of the Protected Subdistrict have been substantially met with an equivalent level of environmental and resource protection as was afforded under such Protected Subdistrict;
- (c) incorporates high quality site planning and design in accordance with accepted contemporary planning principles including sustainability and energy conservation;
- (d) provides adequate and safe vehicular access;
- (e) preserves the ability of existing highways to safely and efficiently handle traffic with the additional traffic generated by the proposed development;
- (f) provides for the availability of essential utilities and emergency services;
- (g) provides for the preservation of important recreational, natural, historic, cultural, and scenic resources;
- (h) maintains appropriate buffers between the development and neighboring land uses;

- (i) provides that the project will be reasonably self-contained and self-sufficient and to the extent practicable provide for its own water and sewage services, road maintenance, fire protection, solid waste disposal and police security;
- (j) will incorporate best management practices for the management of stormwater, and protection of soil and water;
- (k) includes a reasonable approach to providing for the responsibility for future maintenance of roads, water supply, wastewater treatment, and stormwater facilities that will not place responsibility on the County.

10. *Approval or Denial of an application for a PUD Permit:*

- (a) If, after weighing all the evidence, the Board approves the application, a PUD Permit will be issued. The PUD Permit may contain such reasonable conditions as the Board deems appropriate and may include conditions applicable to future subdivision and site plan approvals.
- (b) If, after weighing all the evidence, the Board finds the submission does not meet the criteria established above for its approval, the application shall be denied and the reasons for denial shall be stated in writing.
- (c) Failure to pay all fees shall constitute grounds for disapproval.

11. *Development Agreement:* Following a vote by the Board to approve or conditionally approve an application for a PUD Permit, but before that approval becomes final, a development agreement must be signed by the Planning Board and applicant containing, as applicable:

- (a) The conditions of approval if any.
- (b) Criteria established by the Board for determining active and substantial development for vesting purposes.
- (c) Description of the improvements or types of improvements include in the Planned Unit Development which will require bonding or other security at the time of subdivision or site plan approval.
- (d) Criteria established by the Board for determining what type or magnitude of deviation from the information contained in the application for the original PUD Permit will require application to the Planning Board for an amendment to that permit.
- (e) The process and contents for annual reporting by the applicant to the Board.
- (f) Language to be included in future covenants, articles of association and bylaws of associated homeowners associations and corporation, specifying the responsibility for completion, maintenance and repair of roads, water supply, wastewater collection and treatment, and stormwater facilities in the event of sale of the development, bankruptcy or other default.
- (g) Any waivers from the subdivision or site plan regulations granted by the Planning Board pursuant to Section 7.(g) above.
- (h) A description of criteria established by the Board for determining when the Planned Unit Development will become vested against any future changes in subdivision, site plan, or zoning regulations pursuant to RSA 674:39, II, including the improvements and level of completion required for such vesting, as well as the required timing of such completion.
- (i) For a Planned Unit Development anticipated to be completed in phases, a statement of any conditions which must be met in order for future phases to remain vested, including the timing of any such conditions, and the process and criteria for requesting extensions of any timing requirements.

The development agreement shall be recorded with the Coos County Registry of Deeds and shall be incorporated by reference in all future deeds pertaining to land subject to the development agreement.

12. *Time Limits*: In the event active and substantial development or building has not begun on the site by the owner or the owner's successor-in-interest in accordance with the PUD Permit within four years after the date of approval, or in accordance with other specific terms of the approval, then the PUD Permit shall be deemed to have expired and the underlying zoning shall then control development of the land. Landowners may apply to the Planning Board for extension of this time period for good cause shown.
13. *Additional Requirements for Subdivision and Site Plans*: In addition to the application requirements contained in the Subdivision Regulations and Site Plan Review regulations for the Unincorporated Places of Coos County, applicants for subdivision approval and/or site plan review for developments within an approved PUD shall submit the following information (subject to waiver in the same manner as a waiver of subdivision or site plan regulation):
  - (a) Land use designation.
  - (b) Number of acres devoted to each permitted use.
  - (c) Number of dwelling units proposed.
  - (d) Number of lodging units proposed.
  - (e) Number of square feet of each other permitted use.
  - (f) Estimates of trip generation, trip distribution, and potential impacts on existing public highway system.
  - (g) Use, height, location/ footprint of buildings and other structures.
  - (h) Proposed ownership arrangement.
  - (i) Proposed articles of incorporation and bylaws of any corporation and or/association to be formed.
  - (j) Location and design of water supply, wastewater treatment and other utilities to serve the development whether or not located on the portion of the Planned Unit Development which is the subject to the subdivision or site plan application.
  - (k) Location, function, ownership and maintenance responsibility of common areas, conserved lands, and other open space.
  - (l) Language of covenants, easements or other restrictions to be imposed upon the use of land, buildings and other structures including proposed easements for roads, pedestrian ways, and other public utilities. Including how they will be monitored and enforced if applicable.
  - (m) Proposed language ensuring responsibility for maintenance and improvement as needed of roads, pedestrian ways, water, wastewater and stormwater management facilities, including covenants, articles of association, bylaws.
  - (n) Sign guidelines unless approved as part of the PUD Permit, including the number, size, design and typical placement of each type of sign, including materials, heights, colors, and proposed setbacks for each sign category such as directional, development, and businesses.
  - (o) Landscaping plan.
  - (p) Proposed time schedule for completion. If phased, details of each phase to enable evaluation of performance guarantees.

#### 4.12 Cluster Development Conditional Use Permit

As provided in Article IV the Planning Board may in certain districts approve conditional use permits for cluster developments with reduced lot sizes, frontage requirements, and/or setbacks in accordance with the following provisions:

- (a) *Purpose:* Cluster development permits flexibility in subdivision design to promote the most appropriate use of land and the protection of productive agricultural or forest land, scenic views, historic sites, shorelines, wetlands, important habitat areas, and other resources of importance to the County, while minimizing the alteration of the natural topography of the land, in accordance with the goals and objectives of the master plan.
- (b) *Applicability:* The minimum acreage for a cluster development shall be ten (10) acres.
- (c) *Density:* The total number of lots approved will be determined based on the number that would be otherwise approved under a conventional subdivision plan. The applicant may choose to either:
  - 1. submit a concept plan showing lots, road rights-of-way, and stormwater management areas, and any other areas which would not be incorporated in individual lots as necessary to meet the usual minimum standards for the district without the need for any lot area or lot dimension variances, and accounting for development limitations such as steep slopes, wetlands, septic suitability, available water supply, adequate driveway access to each lot, and compliance with the County subdivision regulations; or
  - 2. after accounting for areas that must be subtracted from the acreage figure utilized to calculate the developable area pursuant to other sections of this Ordinance if any, subtract a percentage of the property in accord with the table below to account for roads, drainage and other utilities prior to dividing by the minimum acreage required per unit for the district.

| <b>Zoning District Lot Size</b> | <b>% Deduction for Roads and Utilities</b> |
|---------------------------------|--------------------------------------------|
| 5-10 Acres                      | 5%                                         |
| 1.5 – 4.5 Acres                 | 10%                                        |
| 1 Acre or less                  | 15%                                        |

- (d) *Dimensions and Arrangement of Lots:* The minimum lot size, frontage and setbacks shall be determined by the Planning Board based on the character of the land and neighborhood; the needs for water supply and wastewater disposal; safety of access, traffic and pedestrian circulation; impervious surface; and other issues relating to the future use and enjoyment of the property.

The factors considered by the Planning Board when evaluating the proposed arrangement of lots shall include, but not be limited to, the following:

- 1. Arrangement of roads, stormwater facilities, wastewater and other utilities in conformance with the natural features of the parcel, minimizing changes to the topography.
- 2. Minimization of impervious cover.
- 3. Protection of stream corridors and other important habitat areas.
- 4. Protection of wetlands.
- 5. Feasibility of continued or future agricultural use.

6. Feasibility of continued or future forest management.
7. Relationship to neighboring property, including conservation easements, or natural, cultural, recreational or scenic features.

The setbacks from abutting properties not part of the application shall not be reduced. Front setbacks may be reduced only when on an internal subdivision road approved by the Planning Board as part of the subdivision or site plan application. When frontage requirements are reduced, the Planning Board may require shared driveways.

- (e) *Permanently Protected Area*: The cluster development plan will concentrate development away from the most important resource areas and from those areas of the property that are most environmentally sensitive. For each lot less than the minimum size normally required, one or more lots larger than the minimum shall be provided in order to maintain an average lot size no smaller than the minimum lot size normally required for the district. Permanent protection from further development shall be provided for an area equal to or exceeding the sum of the areas by which individual lots are reduced below the minimum normally required for the district. Further subdivision, or use for other than one dwelling unit, noncommercial outdoor recreation, conservation, agriculture, forestry or other principal use or building as otherwise permitted by this Ordinance, shall be prohibited. The protected land shall be shown on the final plat and the conservation restriction recorded with the Register of Deeds.
- (f) *Management of Permanently Protected Area*: Pursuant to RSA 674:21-a, Planning Board approval of a final cluster development plan shall result in the creation of a conservation restriction incorporating the conditions of approval, including the maximum number of lots and the location, size and permissible uses of the land area that is to remain undeveloped. If the undeveloped area is to be held in common, all covenants, deed restrictions, organizational provisions for a homeowner's association or equivalent, and any other agreements regarding the method of ownership, management or maintenance of the protected area shall be established prior to planning board approval of the subdivision plan. By mutual agreement of the planning board and subdivider, the conservation restriction may take the form of a conservation easement to a private conservation group, or other instrument approved by the Planning Board.

4.13 Interpretation of the Ordinance: The following shall apply to all uses in all Districts and Subdistricts except as otherwise provided:

- (a) The description of permitted uses herein does not authorize any person to trespass, infringe upon or injure the property of another, and does not relieve any person of the necessity of complying with other applicable Federal, State or local laws and regulations.
- (b) Accessory uses and structures, which are permitted in a district or subdistrict, shall be required substantially to conform to the requirements for the principal use or structure to which they relate.
- (c) Where new development is proposed near existing towns, the Board may choose to work with abutting communities to assure that development is compatible with their Master Plans.

- (d) Where two or more protected subdistricts apply to a single land area, the combination of the more protective standards for each subdistrict shall apply.

## ARTICLE V: GENERAL LAND USE STANDARDS

This section contains land use standards for the following land use activities:

- 5.01 Mineral Extraction
- 5.02 Timber Harvesting
- 5.03 Pesticide Application
- 5.04 Sewage Disposal
- 5.05 Water Impoundments
- 5.06 Wetlands
- 5.07 Stormwater

The documents referenced in this section and laws of the State of New Hampshire are usually available at law libraries throughout the State and on-line.

- 5.01 Mineral Extraction: The Board supports and adopts the provisions of state statute Chapter 155-E, as amended, as it applies to mining and reclamation of minerals.
- 5.02 Timber Harvesting: The Board supports and adopts the provisions of state statute Chapter 227-J and 227-L, as amended, and other applicable state laws and regulations as they apply to timber harvesting.
- 5.03 Pesticide Application: The Board supports and adopts the provisions of state statute Chapter 430:28 et seq., as amended, as it applies to pesticide application.
- 5.04 Sewage Disposal: The Board supports and adopts the provisions of state statute Chapter 485-A:29 et seq., as amended, as it applies to sewage disposal systems.
- 5.05 Water Impoundments: The Board supports and adopts the provisions of state statute Chapter 482, as amended, and other applicable state laws and regulations as they apply to water impoundments.
- 5.06 Wetlands: The Board supports and adopts the provisions of state statute Chapter 482-A, as amended, and other appropriate state laws and regulations as they apply to wetlands.
- 5.07 Stormwater: All development shall be designed in a manner which will minimize and treat stormwater runoff and prevent erosion.
  - (a) All stormwater management and erosion control measures in the plan shall adhere to the "New Hampshire Stormwater Manual," current edition, published by NHDES, to the extent practicable.
  - (b) The smallest practical area of land should be exposed at any one time during development.
  - (c) When land is exposed during development, the exposure should be kept to the shortest practical period of time. Land should not be left exposed during the winter months.

- (d) Where necessary, temporary vegetation and/or mulching and structural measures should be used to protect areas exposed during development.
- (e) Provisions should be made to effectively accommodate the increased run-off caused by the changed soil and surface conditions during and after development.
- (f) The permanent, final vegetation and structures should be installed as soon as practical in the development.
- (g) The development plan should be fitted to the topography and soils so as to create the least erosion potential.
- (h) Whenever feasible, natural vegetation should be retained and protected.
- (i) The applicant shall bear final responsibility for the installation, construction, and establishment of provisions for ongoing maintenance of all stormwater and erosion control measures required by the Planning Board. Final approval will not be granted until the plan and a mechanism for ensuring ongoing maintenance are approved by the Planning Board.
- (j) Flow volume and velocity shall not be increased nor water quality decreased at the property line.

## ARTICLE VI: DIMENSIONAL REQUIREMENTS

The following dimensional requirements shall apply to all lots on which the building development is proposed unless otherwise provided by other subsections.

- 6.01 Minimum Lot Size: The minimum lot size in all districts shall be one acre. For uses utilizing on-site wastewater disposal, the minimum lot size shall be increased as needed to meet NHDES requirements. This requirement applies to both deeded and leased lots.
- 6.02 Maximum Density: The maximum development density shall be one dwelling unit (with or without accessory dwelling) or other principal use per acre.
- 6.03 Minimum Shoreline Frontage:
  - (a) For lots fronting on flowing water draining more than 2 square miles or a body of standing water, the minimum shoreline frontage shall be:
    - 1. two hundred (200) feet per dwelling per unit for residential uses, including seasonal camps; and
    - 2. two hundred (200) feet for commercial, industrial and other non-residential uses involving one or more buildings.
  - (b) The shoreline shall be the ordinary high water mark or reference line as defined in Article III of this Ordinance.

- (c) Frontage shall be measured in a straight line between the points of intersection of side lot lines with the ordinary high water mark or reference line.

6.04 Minimum Road Frontage:

- (a) The minimum road frontage, for both deeded and leased lots, shall be:
  - 1. two hundred (200) feet per dwelling unit for residential uses, including seasonal camps; and
  - 2. two hundred (200) feet for commercial, industrial and other non-residential uses involving one or more buildings.
- (b) These requirements apply to any privately or publicly-owned road that is used for public access, including roads used by the public for access to seasonal camps.
- (c) Where the lot is located at the end of a road or on a circular turnaround with an outside diameter of less than 125 feet, the road frontage requirements shall not apply.
- (d) Frontage shall be measured along the right-of-way between the points of intersection of side lot lines.
- (e) For year-round dwellings, commercial, industrial and other non-residential uses involving one or more buildings, frontage shall be on a Class V or better public highway, or a private road meeting County road standards and approved by the Planning Board.
- (f) Conversion of a seasonal camp to year-round use shall require frontage on a Class V or better public highway, or a private road meeting County road standards and approved by the Planning Board.
- (g) For existing or new lots proposed for use as seasonal camps or primitive recreation, including a primitive campsite, or for uses not involving permanent residences or permanent structures except those associated with agricultural management activities or forest management activities, application may be made to the County Commissioners for issuance of a permit pursuant to RSA 674:41 and record a waiver of liability as provided. Applicants must demonstrate that they have legal access.
- (h) For corner lots, the minimum frontage requirement applies only to the roadway providing primary lot access.

6.05 One Principal Building: There shall normally be only one principal building per lot. The Planning Board may grant exceptions for multi-family housing, cluster developments, and planned unit developments.

6.06 Minimum Setbacks:

- (a) The minimum setbacks for all structures other than fences shall be:
  - 1. Streets: seventy-five (75) feet from the edge of the right-of-way
  - 2. Side and rear lot line: twenty-five (25) feet
- (b) These requirements apply to any privately or publicly owned road that is used for public access.

- (c) Applications for a zoning permit on a leased lot must be accompanied by a survey to demonstrate compliance with required setbacks.
- (d) No subsurface wastewater disposal system shall be constructed within 50 feet of Hydric B Soils and 75 feet of Hydric A Soils.

6.07 Maximum Lot Coverage: The maximum lot coverage shall be thirty percent (30%). In the case of a PUD or cluster development, the average lot coverage shall not exceed thirty percent (30%).

6.08 Maximum Building Height:

- (a) The maximum building height shall be thirty-five (35) feet.
- (b) Features of buildings which contain no floor area, such as chimneys, towers, ventilators and spires, may exceed these maximum heights with approval of the County Commissioners or designee.
- (c) Exceptions shall require written approval from the responsible fire department.

6.09 Flexibility in Dimensional Requirements:

- (a) In conjunction with granting a Conditional Use Permit for a cluster development or multi-family attached housing, the Planning Board may reduce shoreline and/or road frontage requirements by an amount it deems appropriate, but not more than 50%.
- (b) The dimensional requirements applicable to a Planned Unit Development shall be established by the Planning Board.
- (c) The Planning Board may grant a Conditional Use Permit to allow a reduction to the road setback requirements for buildings where the Board finds that:
  - 1. such buildings must be located near to the s road due to the nature of their use; or
  - 2. there is a concentration of other similar legally existing buildings in the immediate vicinity which are located nearer to the road than the setback requirements allow. No exceptions will be granted unless the applicant shows that the siting, color, configuration, height, size and other design elements of such buildings will fit harmoniously into the surrounding natural and manmade environment, and that the construction and use of such buildings will not adversely affect the maintenance of the road or safety of its users.
- (d) The Planning Board may grant a Conditional Use Permit to allow a reduction to the side or rear setbacks for additions to existing structures when all of the following conditions apply:
  - 1. All possible alternatives which would comply with the usual required setbacks have been considered and are not practicable.
  - 2. The reduction will result in a setback no smaller than five (5) feet.
  - 3. The reduced setback will not be detrimental to the use and enjoyment of abutting property or cause a nuisance or hazard due to proximity to existing buildings, or impacts such as noise, odors, vibration, lighting, glare, visual impacts, or interference with use of on-site solar or wind energy.
  - 4. No increased stormwater runoff onto the abutting property will result.

- (e) The Planning Board may grant a Conditional Use Permit to allow a reduction to the rear or side setback for structures that abut land that is expected to be permanently in an undeveloped state due to the nature of its ownership or deed restrictions provided that all of the following conditions are met:
1. The entire lot line of the applicant to which the reduced setback would apply abuts the permanently undeveloped land.
  2. The reduction results in a setback no smaller than five (5) feet.
  3. The current owner of the abutting land grant does not provide an objection to the reduction to the Planning Board at or before the public hearing held on the matter.

## ARTICLE VII: SIGNS

This section contains sign standards for the Unincorporated Places. No sign shall be erected without a permit unless listed in Section 7.03 below.

- 7.01 On-Premises Signs: Subject to the provisions of this Chapter, owners or occupants of real property may erect and maintain on-premises signs. Such signs, except roof signs, shall be subject to the regulations set forth below.

- (a) On-premises signs shall not exceed in size the area limitations set forth below:

| District/Subdistrict      | Maximum Size for Each Individual Sign (sq. ft.) | Maximum Aggregate Area of all Signs for separate entities on a single parcel (sq. ft.) |
|---------------------------|-------------------------------------------------|----------------------------------------------------------------------------------------|
| DD-G, DD-Resort, DD-R, MD | 100                                             | 100                                                                                    |
| All PD Subdistricts       | 6                                               | 12                                                                                     |

- (b) On-premises signs shall not be located more than 1,000 ft. from the building or other particular site at which the activity advertised is conducted;
- (c) on-premises signs, other than wall or projecting signs, shall not extend more than 15 ft. above ground level, and shall not have a supporting structure which extends more than two feet above such sign;
- (d) projecting signs must be at least 9 feet above pedestrian level and may project no more than 2 feet from the building; and
- (e) signs attached to a wall shall not extend above the top of the wall.

- 7.02 Criteria for Sign Approval: In approving, conditionally approving, or denying any application for a sign permit, the County Commissioners or designee shall require that the applicant demonstrate that the proposed sign complies with the following:

- (a) that the sign is compatible with the overall design of the building height, color, bulk, materials and other design and occupancy elements;

- (b) that the color, configuration, height, size and other design elements of the sign will fit harmoniously into the surrounding natural and man-made environment;
- (c) that the sign will not constitute a hazard to the flow of traffic; and
- (d) that the applicant sufficiently demonstrates the need for any non-conformity with the size, height and other limitations.

7.03 Exempt Signs: The following signs are exempt from the requirements of this Chapter:

- (a) signs not visible from a street or public lands;
- (b) signs identifying stops or traffic limits of common carriers;
- (c) signs erected and maintained outside the highway right-of-way by a governmental body. Not more than two such signs may be erected and maintained which are readable by traffic proceeding in any one direction on any one highway in any one unincorporated place;
- (d) traffic control signs or devices;
- (e) signs displayed for the direction, instruction or convenience of the public, with a total surface area not exceeding 12 sq. ft.;
- (f) signs to be maintained for not more than six weeks;
- (g) directional signs visible from a street with a total surface area not to exceed 4 sq. ft.;
- (h) signs displayed in building windows, provided that the aggregate area of such signs does not exceed 25% of the area of the window; and
- (i) official business directional signs.

7.04 Regulations Applying to All Signs: Notwithstanding any other provisions of this Article, no sign may be erected or maintained visible from a street which:

- (a) interferes with, imitates or resembles any official traffic control sign, signal or device, or attempts or appears to attempt, to direct the movement of traffic;
- (b) prevents the driver of a motor vehicle from having a clear and unobstructed view of official traffic control signs and approaching or merging traffic;
- (c) contains, includes, or is illuminated by any flashing, intermittent or moving lights, moves or has any animated or moving parts, except that this restriction shall not apply to a traffic control sign;
- (d) has any lighting, unless such lighting is shielded so as to effectively prevent beams or rays of light from being directed at any portion of the main traveled way of roadway, or is of such low

intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof;

- (e) is in violation of, or at variance with, any federal law or regulation, including, but not limited to, one containing or providing for conditions to, or affecting the allocation of federal highway or other funds, or for the benefit of the State or any political subdivision thereof, or conflicts with the NH Statute RSA 236:69 to 236.88-a;
- (f) is in violation of, or at variance with, any other applicable State law or regulation;
- (g) advertises activities which are illegal under any state or federal law applicable at the location of the sign or of the activities;
- (h) is not clean or in good repair; or
- (i) is not securely affixed to a substantial structure.

Any sign which is a combination of exempt and/or non-exempt signs shall be regulated by the most protective standards applicable.

#### **ARTICLE VIII: NON-CONFORMANCE**

- 8.01 Right to Continue: Any legal use that exists at the effective date of this Ordinance but which would not be permitted under the provisions herein shall be allowed to continue as a legal nonconforming use. Any building that exists at the effective date of this Ordinance but which would not be permitted under the provisions herein may be repaired and improved provided such repairs and improvements do not increase the degree of nonconformance.
- 8.02 Rebuilding After Catastrophe: Within two (2) years, a permit may be granted to rebuild to its former extent of nonconformance any nonconforming use that is destroyed by fire or other catastrophe.
- 8.03 Abandonment: Any nonconforming use that is discontinued or abandoned for a period of two (2) years or more cannot be resumed but can be replaced by a conforming use.
- 8.04 Nonconforming lots: A permit may be granted to construct one principal building on a legally existing nonconforming lot for a use that would normally be allowed in the location on a lot of a size and shape meeting the minimum requirements, with the following conditions:
  - (a) A permit for a state-approved septic system has been obtained.
  - (b) All setbacks will be met.
- 8.05 Expansion of nonconforming building: A permit may be granted for the expansion of a building that exists at the effective date of this Ordinance but which would not be permitted under the provisions herein provided such expansion does not increase the degree of nonconformance. This means, for example, the building may not be expanded further into a setback, and the portion of the building in a setback may not be expanded horizontally or vertically or through another means which increases its mass.

- 8.06 Expansion of nonconforming use: The Planning Board may, after weighing the potential impacts on existing and possible future adjacent land uses, proposed mitigation, and the Conditional Use Permit criteria for new uses in the District(s) and Subdistrict, grant a Conditional Use Permit for expansion of a legally existing nonconforming use.
- 8.07 Nongovernmental Uses: Any nongovernmental use lawfully existing on lands formerly identified as Non-Jurisdictional as of October 20, 2017, but not specifically identified as *Uses allowed without a permit* or as *Uses requiring a permit* in the Management District, shall not be considered Nonconforming Uses, but rather shall be considered to have a Conditional Use Permit.

#### ARTICLE IX: ADMINISTRATION AND ENFORCEMENT

- 9.01 Enforcement: It shall be the duty of the County Commissioners to enforce the provisions of this Ordinance. The Commissioners may delegate the prosecution of specific enforcement actions to such other qualified individuals as may be appropriate from time to time.
- 9.02 Permit Required:
- (a) It shall be unlawful for any person to erect, construct, reconstruct or alter a structure without applying for and receiving from the County a zoning permit. It shall be unlawful for any person to change the use or lot coverage, or extend or displace the use of any building, structure or lot without applying for and receiving from the County a zoning permit. This includes any increase in the number of dwelling units in an existing structure.
  - (b) Application forms for Zoning Permits shall be accompanied by a plot plan showing all lot and required yard dimensions, the site and location of all buildings and uses, driveway locations, and all other such information as may be required by the County to process said applications. The proposed handling of water supply and sewerage disposal shall be described on all applications, shown on the plot plan, and accompanied by all required approval permits from the State.
  - (c) A Zoning Permit shall not be issued until all other approvals required under this Ordinance have been obtained, including a Conditional Use Permit,, Special Use Permit, Variance, or PUD Permit, as well as any Planning Board approval required pursuant to the County's Subdivision Regulations or Site Plan Review Regulations.
- 9.03 Previously Approved Permit: Nothing in this Ordinance or subsequent amendments shall require changes in the plans, construction and/or use of any structure and/or lot for which a lawful permit has been issued or otherwise lawfully authorized, subject to Section 9.05 Permit Time Limits.
- 9.04 Permit Fees: Fees shall be established by the County.
- 9.05 Permit Time Limits: Any work for which a permit has been issued by the County for the construction of buildings shall be actively started within one (1) year. Failure to actively start work within this time limitation shall result in a lapse of the permit. All work for which the permit has been issued by the County shall be completed within two (2) years of the date of the issuance of the permit, provided that any permit issued for a project which actively started construction within one (1) year may be extended at the discretion of the County.

- 9.06 Conditional Use Permit: An application for a Conditional Use Permit shall be reviewed by the Planning Board in accord with the procedures provided for in RSA 676:4. Board's Procedures on Plats. All cost of notices shall be paid by the applicant. In granting the Conditional Use Permit, the Board may include requirements for mitigation or other conditions as required in the judgment of the Board to conform with the purpose of the district.
- 9.07 Violations: The County shall serve the NOTICE OF VIOLATION AND ORDER to any owner or person responsible for the erection, construction, reconstruction, conversion, alteration of a structure or change in use, increase in intensity of use, or extension or displacement of use of any structure or lot in violation of any approved plan, information or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this Ordinance; and such order shall direct the immediate discontinuance of this unlawful action, use or condition and the abatement of the violation, Any owner who has been served with a Notice and ceased any work other activity, shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare.
- 9.08 Prosecution of Violation: If any NOTICE OF VIOLATION AND ORDER is not complied with promptly, the County shall institute the appropriate action or proceeding of law or in equity to prevent any unlawful action, use or condition and to restrain, correct or abate such violation.
- 9.09 Penalty: Any person violating any of the provisions of this Ordinance shall for each violation be assessed fines and penalties as authorized in N.H. RSA 676:17, et seq. All penalties authorized by RSA 676:17, et seq. are hereby incorporated into this Ordinance.

#### **ARTICLE X: BOARD OF ADJUSTMENT**

- 10.01 Membership: Members of the Zoning Board of Adjustment and alternates shall be selected by the Board of County Commissioners after the effective date of this Ordinance.
- 10.02 Oath of Office: Members of the Zoning Board of Adjustment shall take an appropriate oath of office as required by RSA 42:1. The County records shall clearly show the date of appointments and expiration of the terms. Appointments made to fill unexpired terms shall be for the remainder of the term. State law further requires County residency for Board members.
- 10.03 Power and Duties: The Board of Adjustment shall have the power and duties prescribed by RSA 674:33.
- 10.04 Organization: (RSA 673:8) The Board shall elect its chairman from its members and may create other offices as it deems necessary. The term of every officer and chairman elected shall be one (1) year. Both chairman and officers shall be eligible for re-election.
- 10.05 Procedures: (RSA 676:1) The Board shall adopt rules of procedure concerning the method of conducting its business. Rules of procedure shall be adopted at a regular meeting of the Board and shall be placed on file with the County Register of Deeds for public inspection.
- 10.06 Appeals: (RSA 676:5-7)  
(a) All appeals and applications made to the Board of Adjustment shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provisions of the

Ordinance involved, and shall exactly set forth the interpretation that is claimed, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

- (b) Public hearings and notice shall be held in compliance with RSA 676:7.
- (c) Every decision of the Board of Adjustment shall be by resolution, each of which shall contain a full record of the findings of the Zoning Board of Adjustment in the particular case.

10.07 Subsequent Applications: When an application is submitted, the files should be reviewed to determine if a previous application was denied for the same situation. If so, the Board should determine if circumstances have changed sufficiently to warrant acceptance of a reapplication.

## **ARTICLE XI: VARIANCES**

A variance is a relaxation or setting aside in a specific case, of certain specified terms of this Ordinance. In accordance with RSA 674:33 I(b), the Board of Adjustment may grant in specific cases such variances as will not be contrary to the public interest owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.

- 11.01 Specific Requirements: The Board of Adjustment may authorize a variance where it finds that all of the following conditions apply:
- (a) The variance will not be contrary to the public interest;
  - (b) The spirit of the Ordinance is observed;
  - (c) Substantial justice is done;
  - (d) The values of surrounding properties are not diminished; and
  - (e) Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.
    - 1. For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
      - (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
      - (ii) The proposed use is a reasonable one.
    - 2. If the criteria in subparagraph 1. are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of "unnecessary hardship" set forth in subparagraph (e) shall apply whether the provision of the Ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the Ordinance.

11.02 Application: Before applying for a variance, the applicant shall submit to the Zoning Board of Adjustment a determination that the proposed use is not permitted without a variance. This determination may take any of the following forms:

- (a) A zoning permit denial;
- (b) A notification in writing from the Planning Board that it lacks jurisdiction to grant a site plan or subdivision approval;
- (c) A notification in writing from the County Commissioners or other cognizant county board or official that the proposed use does not conform to the Ordinance.

The application process shall follow the standards in Article X of this Ordinance.

- 11.03 Application Disposition: The Zoning Board of Adjustment may approve, approve with conditions, or deny applications for variances following the procedures in Article X of this Ordinance.
- 11.04 Rehearings: Within thirty (30) days after any decision or order of the Zoning Board of Adjustment, any party to the action or proceeding, or any person directly affected thereby, may apply for a rehearing in respect to any matter determined in the action or proceeding or covered or included in the order in accordance with RSA 677:2. A Motion for Rehearing shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. No appeal from any order or decision of the Zoning Board of Adjustment shall be taken unless the applicant shall have made application for rehearing as provided in RSA 677:2 and no ground not set forth in the application shall be urged, relied on, or given any consideration by a court except as provided in RSA 677:3. The Board of Adjustment shall, within 30 days after a Motion for Rehearing is filed, either grant or deny the motion or suspend the order or decision complained of pending further consideration.

## **ARTICLE XII: DEVELOPMENTS WITH POTENTIAL REGIONAL IMPACT**

Pursuant to RSA 36:56, upon receipt of an application for a permit, the issuing authority shall review it and determine whether or not the development, if approved, could reasonably be construed as having the potential for impact beyond the boundaries of the specific Unincorporated Places. This regional impact could result from a number of factors, such as, but not limited to, the following:

- (a) relative size or number of units compared with existing stock;
- (b) transportation networks;
- (c) proximity to the borders of a neighboring community;
- (d) anticipated emissions such as light, noise, smoke, odors or particles;
- (e) proximity to aquifers or surface waters which transcend municipal boundaries; and
- (f) shared facilities such as schools and solid waste disposal facilities.

Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact. Upon determination that a proposed development has a potential regional impact, the Board shall afford the Regional Planning Commission and the affected municipalities the status of abutters for the limited purpose of providing notice and giving testimony. Within five (5) business days of reaching a decision that a development has regional impact, the Board shall, by certified mail, furnish the Regional Planning Commission with copies of the minutes of the meeting at which the decision was made and copies of the initial project plan, and the affected municipalities with copies of the minutes of the meeting at which the decision was made. At least fourteen (14) days prior to the public hearing, the Board shall notify, by certified mail, all affected municipalities and the Regional Planning Commission of the date, time and place of the hearing and the right to testify concerning the development.

**ARTICLE XIII: MISCELLANEOUS LEGAL PROVISIONS**

- 13.01 Amendment: Amendments to the regulations and district boundaries set forth in this Ordinance may be proposed by the Planning Board or County Commissioners. All amendments shall be subject to a public hearing before the Coos County Planning Board, with notice as provided in RSA 675:7. After the public hearing the Planning Board shall, by vote, determine the final form of the amendment(s) to be presented to the County Commissioners, which amendment(s) may include editorial revisions and textual modifications resulting from the proceedings of that hearing. An additional public hearing shall be held if the proposal is substantively altered by the Planning Board after the public hearing. Subsequent public hearings shall be held at least 14 days after the prior public hearing and with the notice provided in RSA 675:7. The final form of the amendment(s) shall be forwarded to the County Commissioners, and submitted to the County Delegation for a vote held in accordance with the Delegation's usual procedures in acting on County matters.
- 13.02 Validity: Should any provision of this Ordinance be declared by the courts to be invalid, such decision shall not affect the validity of the Ordinance as a whole, or any other section or provision thereof.
- 13.03 Conflict with Other Laws: Whenever the requirements of this Ordinance conflict with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or higher standards shall apply.
- 13.04 Effective Date: The Ordinance and Map shall become effective immediately upon its passage on April 20, 1991.

**ARTICLE XIV: TELECOMMUNICATIONS EQUIPMENT AND FACILITIES**

- 14.01 Findings: The County of Coös finds that regulation of the placement, spacing, installation, location and number of both wireless and conventional telecommunications facilities, consistent with federal and state policies and law, is in the public interest:
- (a) in order to reduce the potential adverse impacts of such facilities upon the unique natural assets of the unincorporated places in Coös County including the scenic mountain views and its backwoods environment;
  - (b) in order to minimize the number and height of towers, avoid congestion in their location and lessen their intrusive effect;
  - (c) in order to conserve and enhance property values; and
  - (d) in order to ensure the optimum location of telecommunications facilities.
- 14.02 Intent: In compliance with federal regulations and Article 4.03F of this Zoning Ordinance, the County hereby states that it does not intend to create barriers to the ability to provide interstate or intrastate telecommunications services; and the County hereby states its intent not to discriminate against or favor providers of telecommunications facilities and services.
- 14.03 Purposes and Guidance Standards: The purposes of this Article, which shall serve as standards for guiding and its administration, are as follows:
- (a) To preserve the authority of the County to regulate the siting of telecommunications facilities and to determine the optimum location for such facilities in order to provide telecommunications services to the unincorporated places and abutting communities quickly, effectively and efficiently;
  - (b) To enable the County to take such steps as may be needed to reduce any adverse impacts such facilities may create, including, but not limited to, impacts upon aesthetics, environmentally sensitive areas, recreational uses of wild lands, health, safety, property values and areas or sites of historical significance;
  - (c) To encourage the use of innovative siting and configuration options, including siting possibilities beyond the political jurisdiction of the County; to require cooperation and co-location between competitors and the exhaustion of all other reasonable alternatives before the construction of new towers is permitted; and
  - (d) To ensure that there is an adequate assumption of responsibility for maintenance, repair and safety inspections of operational facilities, for the prompt and safe removal of abandoned facilities and for the removal or upgrade of facilities that are technologically outdated.
- 14.04 Regulation of Telecommunications Facilities:
- (a) In accordance with RSA 674:16(II) and 674:21, authorizing the adoption of innovative land use controls, the location, siting, establishment, erection, installation or operation of a telecommunications facility within the Unincorporated Places of Coös County is hereby declared to be a use, either a primary or accessory use, which is allowed only when authorized by special use permit.

- (b) Responsibility for issuance of special use permits shall be vested in the Coös County Planning Board and made part of its Zoning Ordinance.
- (c) Except to the extent of any inconsistency with federal or state law, and subject to the standards contained in this Ordinance, the Coös County Site Plan Review Regulations shall operate with regard to telecommunications structures, equipment and facilities as they do with regard to any other use to which they apply; provided, however, that the Planning Board may make and adopt special provisions of those regulations for the governing of such structures, equipment or facilities.
- (d) Unless such special provisions of the Site Plan Review Regulations explicitly provide otherwise:
  - 1. Towers, antennas or other telecommunications facilities shall be located and designed so as to preserve the ability of the public to enjoy the mountain scenery of and surrounding the Unincorporated Places of Coös County;
  - 2. The use of alternative technologies and of co-location shall be thoroughly studied and, determined to be infeasible before the construction of any new towers is approved. Stealth technology is mandatory. Examples may be monopines, fire tower towers and internal antenna pole towers. All towers should be surrounded by a buffer of trees.
  - 3. No telecommunications tower shall extend more than 80' above surrounding tree cover.
  - 4. Telecommunications towers, antennas and other electrical and mechanical equipment shall be made with a neutral finish or color or otherwise be treated so as to reduce visual impact;
  - 5. Towers shall only be artificially lighted if required by some applicable authority and such lighting shall be designed so as to cause the least impact upon the surrounding properties of the unincorporated place or abutting community;
  - 6. Towers shall not contain any permanent or temporary signs, writing, symbols or other graphic representation of any kind, except as may be allowed or required by the Planning Board in the interests of public safety;
  - 7. Towers shall be set back a distance of 125% of the height of the tower from the nearest lot line or any off-site structure;
  - 8. Towers, guys, accessory structures and other telecommunications facilities and equipment shall comply with setback requirements;
  - 9. Towers shall be enclosed by security chain-link, vinyl-clad fencing at least 6 feet in height and shall be equipped with appropriate anti-climbing devices; and
  - 10. Access for motorized vehicles to sites where telecommunications towers are located shall conform to County requirements relating to driveways whenever possible; but if the Planning Board determines that such conformity is not feasible, it may permit such access subject to any conditions it deems reasonably necessary to minimize the impact of the access route upon the surrounding environment.
- (e) For purposes of determining whether the installation of a tower or antenna complies with the County regulations for the Unincorporated Places, including but not limited to set-back, lot coverage and other requirements, the boundaries and dimensions of the entire lot shall control, even though the tower or antenna may be located on a leased parcel within the lot.
- (f) The installation or operation of telecommunications equipment or facilities shall not be considered, or permitted, as an extension of a nonconforming use.

14.05 Applicability:

- (a) Antennas or towers located on property owned, leased or otherwise controlled by the County shall be permitted as a right and shall not be required to receive a special use permit provided that a license or lease authorizing such antennas or towers shall have been issued and the site plan approval shall have been granted by the Planning Board.
- (b) Telecommunications facilities shall not be considered infrastructure, essential services or public utilities and the siting of such facilities shall constitute a use of the land to be regulated by this ordinance and County regulations.

14.06 Performance Standards and Abandonment:

- (a) All towers, antennas and other telecommunications facilities and equipment shall meet or exceed current standards and regulations of the FAA, FCC and any other agency of the federal or state governments having controlling regulatory authority. If such standards or regulations are changed, the owners or operators of such facilities or equipment shall ensure that it complies with the revised standards or regulations within six (6) months of the effective dates of any revisions, unless the controlling authority mandates a more stringent compliance schedule. Failure to comply in accordance with the applicable schedule shall constitute abandonment and shall be grounds for the removal of such facilities or equipment at the owner's expense through execution of the posted security.
- (b) The owner of a tower, antenna or other telecommunications facilities and equipment shall be responsible for ensuring that such facilities and equipment at all times conform to county regulations and meet the applicable industry standards, as such standards may be amended from time to time. If, upon inspection, the Planning Board or its designee determines that such regulations or standards are not being met, or that the facilities or equipment pose a danger to persons, property or the community, it shall notify the owner of the defects in writing and the owner shall within thirty (30) days, remedy such defects. Failure to do so shall constitute abandonment and shall be grounds for the removal of the facilities and equipment at the owner's expense through the execution of the posted security.
- (c) Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner provides proof of quarterly inspections, and such antenna or tower shall be removed in accordance with the following procedure:
  - 1. The Planning Board shall hold a public hearing after due notice to abutters and to the last known owner/operator of the antenna or tower;
  - 2. If at such hearing, the Planning Board determines that the antenna or tower is, in fact, abandoned, it shall issue a declaration of abandonment to the owner/operator;
  - 3. Within ninety (90) days after issuance of such declaration, the owner shall remove the abandoned structure and, if he shall not, the County may execute the security and have the structure removed at the owner's expense; and
  - 4. If there are two (2) or more users of a single tower, the provisions of this subsection shall not become effective until all users cease using such tower.

14.07 Waivers: In accordance with federal regulations and with RSA 674:21(V)(g), if any entity believes that the procedures or standards contained in this ordinance or in the Site Plan Review Regulations have

created a barrier to its ability to provide interstate or intrastate telecommunication services, it may apply to the Planning Board for administrative relief in accordance with the provisions of the regulations and the Planning Board may grant such waivers if it determines that:

- (a) Strict adherence to regulations is not required to effectuate the purposes of this ordinance; and strict compliance would create practical difficulty and unnecessary inconvenience; or
- (b) Strict compliance would cause a conflict with the Act.

- 14.08 Security Bonds: Before, and as a condition of the approval of a Site Plan filed in connection with the installation of any telecommunications facility, the Planning Board shall require the developer or installer to file with the County a bond in an amount adequate to cover the costs of removing the facility together with any structures or equipment appurtenant thereto and of returning the site to its condition prior to such installation.

The provisions of the Site Plan Review Regulations relating to performance bonds may apply to a bond required under this Section; provided, however, that it shall remain on file with the County and shall not be released unless the installation has been decommissioned, dismantled and removed.

The Planning Board shall require the owner/operator of any antenna or tower to provide, annually, proof that it is maintaining adequate liability insurance covering accident or damage.

**EFFECTIVE DATE:** This ordinance shall take effect upon a vote of the Coös County Planning Board, filing of the regulation with the Board of County Commissioners and the Coös County Registry of Deeds.

#### **ARTICLE XV: SMALL WIND ENERGY SYSTEMS ORDINANCE**

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

- 15.02 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.

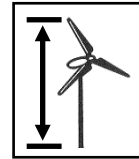
**Net metering:** The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

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

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

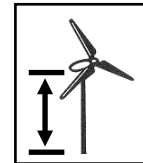
**Small wind energy system:** A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

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



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

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



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

### 15.03 Procedure for Review:

1. Zoning Permit: Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. No small wind energy system shall be erected, constructed, or installed without first receiving a zoning permit from the Planning Board. A zoning permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a zoning permit shall be permitted on a temporary basis not to exceed 3 years from the date the permit was issued. The Board may consider renewing a permit for a met tower that is used to continue to monitor wind speeds and wind flow characteristics.
2. Application: Applications submitted to the Planning Board shall contain a site plan with the following information:
  - (a) Property lines and physical dimensions of the applicant's property.
  - (b) Location, dimensions, and types of existing major structures on the property.
  - (c) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
  - (d) Tower foundation blueprints or drawings.
  - (e) Tower 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) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
  - (j) Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
  - (k) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
  - (l) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
  - (m) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
  - (n) List of abutters to the applicant's property.
3. Abutter and Regional Notification: In accordance with RSA 674:66, the Planning Board Clerk or designee shall notify all abutters and the local governing body by certified mail upon application for a permit to construct a small wind energy system. The public will be afforded 30 days to submit comments to the Planning Board prior to the issuance of the permit. The Planning Board shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the County shall follow the procedures set forth in RSA 36:57, IV.

#### 15.04 Standards:

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

- (a) Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.

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

- i) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
  - ii) Guy wires used to support the tower are exempt from the small wind energy system setback requirements.
- (b) Tower: The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 150 feet.
- (c) Sound Level: The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.

- (d) Shadow Flicker: Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
- (e) Signs: All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
- (f) Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
- (g) Aviation: The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.
- (h) Visual Impacts: It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.
  - i. The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment and the location of electrical conduits.
  - ii. The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
  - iii. A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.
- (i) Approved Wind Generators: The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.
- (j) Utility Connection: If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.

- (k) Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- (l) Clearing: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.

15.05 Abandonment:

1. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the Coös County 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 Planning Board. "Physically remove" shall include, but not be limited to:
  - a. Removal of the wind generator and tower and related above-grade structures.
  - b. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.
3. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the County Commissioners may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the Commissioners shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the Commissioners shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
4. If the owner fails to respond to the Notice of Abandonment or if, after review by the County, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the Coös County Commissioners may pursue legal action to have the small wind energy system removed at the owner's expense.

15.06 Violation:

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

ordinance are exempt from this ordinance except when modifications are proposed to the small wind energy system.

15.07

Penalties:

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

## **ARTICLE XVI: LARGE WIND ENERGY SYSTEMS ORDINANCE**

Table A presents the Exhibits required for large scale wind energy development (rated between 100 Kw and 30 MW) to be located in an Unincorporated Place in Coös County, New Hampshire.

Table B provides instructions and guidance.

Appendix A provides Definitions of relevant terms.

Appendix B provides guidance relative to certain specific provisions of the application.

**TABLE A**

The following Exhibits must be attached to the completed and signed standard Coös County Planning Board permit application form. Any information requested in the standard Planning Board permit application form and the supplements that cannot be entered onto those forms directly should be incorporated into the Exhibits required in this checklist. If information requested by the standard application forms is inconsistent with the Exhibits described here, this checklist supersedes the standard forms.

|                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Scenic character evaluation.              | <p>a) Provide an evaluation of the effect of the project on scenic character if <u>scenic resources of state or national significance</u> are located within 3 miles of the development area. To determine if a scenic evaluation must be submitted, the Planning Board shall consider for scenic resources of state or national significance:</p> <p>Significance of the affected scenic resource;</p> <ul style="list-style-type: none"> <li>▪ Existing character of the surrounding area;</li> <li>▪ Project purpose and context;</li> <li>▪ Extent, nature, and duration of the potentially affected public uses of the scenic resource and the potential effect of the generating facility's presence on the public's continued use and enjoyment of the scenic resource.</li> </ul> <p>b) To determine the effects on scenic character and existing uses related to scenic character, the scenic evaluation must include:</p> <ul style="list-style-type: none"> <li>▪ Locations and descriptions of scenic resources of state or national significance within 3 miles of the development area;</li> <li>▪ The locations and descriptions of scenic resources of state or national significance from 3 miles to 8 miles of the development area if the Planning Board finds there is substantial evidence that the pertinent resource is significant and there is a potential for a significant adverse effect. For this to be considered, Interested Parties must submit such information to the Board within 30 days of accepting the application as complete for processing.</li> </ul> |
| 2. Scenic character of associated facilities | <p>a) If the Planning Board determines it is required, the applicant must submit a scenic evaluation of the effect of the <u>associated facilities</u> of a <u>wind energy development</u>.</p> <p>b) The Planning Board shall evaluate the effect of associated facilities of a <u>wind energy development</u> on scenic character if the Board determines that application is necessary.</p> <p>c) An Interested Party may submit information regarding this determination to Planning Board for consideration. The Board shall make a determination pursuant to this subsection within 30 days of its acceptance of the application as complete for processing.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| 3. Shadow flicker evaluation      | a) Demonstrates the project has been designed and sited to avoid unreasonable adverse shadow flicker effects.                                                                                                                                                                                                                                                                                                                                                                                |
| 4. Avian and bat monitoring       | a) Unless otherwise determined by the New Hampshire Fish & Game Department provide the results of pre-construction monitoring, an assessment of the monitoring results, and a post-construction monitoring plan to demonstrate the effects of the project on avian and bat species using the development area.<br>b) The specific monitoring requirements for each project will be determined through a pre-application consultation with the Planning Board and the Fish & Game Department. |
| 5. Noise evaluation               | a) Provide an evaluation of the noise to be generated by the operation of a wind energy development.                                                                                                                                                                                                                                                                                                                                                                                         |
| 6. Public safety related setbacks | a) Provide materials and information to demonstrate that the project turbines will be constructed with setbacks adequate to protect public safety.                                                                                                                                                                                                                                                                                                                                           |

| TABLE B                                                       | INSTRUCTIONS AND GUIDANCE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Scenic character evaluation                                | <p>a) Provide an evaluation of the effect of the project on scenic character if <u>scenic resources of state or national significance</u> are located within 3 miles of the development area, unless otherwise determined by the Planning Board. To determine if a scenic evaluation must be submitted, the Board shall consider for <u>scenic resources of state or national significance</u>:</p> <ul style="list-style-type: none"> <li>▪ Significance of the affected scenic resource;</li> <li>▪ Existing character of the surrounding area;</li> <li>▪ Project purpose and context;</li> <li>▪ Extent, nature, and duration of the potentially affected public uses of the scenic resource and the potential effect of the generating facility's presence on the public's continued use and enjoyment of the scenic resource.</li> </ul> <p>b) To determine the effects on scenic character and existing uses related to scenic character, the scenic evaluation must include:</p> <ul style="list-style-type: none"> <li>▪ Locations and descriptions of "scenic resources of state or national significance" within 3 miles of the development area.</li> <li>▪ Evaluation of the effect of the project on these resources in accordance with the criteria listed in item (a), above.</li> </ul> |
| 2. Exception Scenic character of <u>associated facilities</u> | <p>a) The Planning Board "shall evaluate the effect of <u>associated facilities</u> of a <u>wind energy development</u> on scenic character.</p> <p>b) An Interested Party may submit information regarding this determination to the Board for consideration. The Board shall make a determination pursuant to this subsection within 30 days of its acceptance of the application as complete for processing.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 3. Avian and bat monitoring                                   | <p>a) Unless otherwise found unnecessary provide the results of pre-construction monitoring, an assessment of the monitoring results, and a post-construction monitoring plan to demonstrate the effects of the project on avian and bat species using the development area.</p> <p>b) The specific monitoring requirements for each project will be determined through pre-application consultation with the Planning Board and the Fish and Game Department.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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| 4. Noise evaluation      | Provide an evaluation of the noise to be generated by the operation of the <u>wind energy development</u> to demonstrate that the project will meet all appropriate New Hampshire standards.                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 5. Public safety         | Demonstrate that the project will be constructed with setbacks adequate to protect public safety. The recommendations of a professional, licensed civil engineer, as well as any applicable setback recommended by a manufacturer of the generating facility will be considered.                                                                                                                                                                                                                                                                                                                                                         |
| 6. Decommissioning       | <p>a) Provide a demonstration of current and future financial capacity that would be unaffected by the applicant's future financial condition to fully fund any necessary decommissioning costs commensurate with the project's scale, location, and other relevant considerations, including but not limited to, those associated with site restoration and turbine removal.</p> <p>b) Include the structures that would be removed, how the area would be restored, who would fund the activity, how and when the County Commissioners would be notified of the decommissioning, and when a final detailed plan would be prepared.</p> |
| 7. Applicant information | <p>a) Name, mailing address, all phone numbers, fax numbers, and e-mail addresses.</p> <p>b) Attached completed <u>and signed</u> "Application for a Planning Board Permit."</p> <p>c) Complete and sign agent authorization section, if applicable.</p> <p>d) Submit required application fee.</p>                                                                                                                                                                                                                                                                                                                                      |
| 8. Project location      | <p>a) Unincorporated place in Coos County where project would be located including all project components; map, plan and lot numbers; deed book and page numbers; and project coordinates.</p> <p>b) Lot size, road and any water body frontage (Shoreland Protection Act Compliance may be required).</p> <p>c) Site map with project location clearly designated.</p>                                                                                                                                                                                                                                                                  |
| 9. High Elevations       | Provide the elevations in the project area, including the elevation of the turbines. In particular, show the parts of the project to be located above 2,700 feet in elevation (Zoning Permit may be required).                                                                                                                                                                                                                                                                                                                                                                                                                           |

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| 10. Public Notice                              | <p>a) Copy of public notice of filing.</p> <p>b) Names and addresses of people receiving the notice.</p> <p>c) Newspaper(s) and date(s) notice was published.</p> <p>d) Dates and locations of any public information meetings held including pre-application meetings.</p> <p>e) Copies of any press release, dates of publication, and newspaper(s) in which it was published.</p>                                                                                                                                                                                                      |
| 11. Demonstration of title, right, or interest | Provide documentation of right of interest for all parcels to be developed; state if ownership fee, lease, easement, or other. If parcel is leased, include lease lot number (Subdivision approval may be required).                                                                                                                                                                                                                                                                                                                                                                      |
| 12. Site access                                | <p>a) Will site access be provided by existing public or private roads? Lists the names of the roads to be used. If private, include if existing access roads are to be improved, then supply evaluation of vehicular circulation, access, parking; and site distance evaluation.</p> <p>b) New access roads to be constructed for the project will be identified on project drawings.</p> <p>c) Will the access roads be open to the public after construction?</p>                                                                                                                      |
| 13. Land division history                      | Trace the land division history of the lot where the development is proposed from the parent lot, over the past 20 years, to determine if the new lot formation constitutes a subdivision.                                                                                                                                                                                                                                                                                                                                                                                                |
| 14. Existing uses and structures               | <p>Describe all existing structures on the parcel to be developed, and all uses of that parcel, including uses of the area immediately surrounding the development area. Would any existing structures be used for the project? If so, consult Planning Board to determine if additional information is needed.</p> <ul style="list-style-type: none"> <li>▪ <i>Uses.</i> For example, logging, recreation, residential development, commercial development, gravel pits, etc.</li> <li>▪ <i>Structures.</i> For example, dwellings, commercial buildings, parking areas, etc.</li> </ul> |
| 15. Financial and technical capacity           | Provide evidence of financial capacity for project development.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 16. Services                                   | How will services be provided for the development? Include electrical power supply, fire, police, and emergency medical services and solid waste disposal in this section.                                                                                                                                                                                                                                                                                                                                                                                                                |

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 17. Construction schedule/work plan | <ul style="list-style-type: none"><li>a) Include the proposed construction schedule from the date the permit is issued through the post-construction monitoring period.</li><li>b) If winter or early spring construction is proposed, the work plan and erosion control plan must detail the special provisions for work under frozen conditions, saturated conditions, and/or in high elevation areas above 2,700 feet.</li><li>c) Specify the proposed in-stream work window.</li><li>d) Include a reporting/notification/site inspection process to coordinate with the Planning Board during construction of the project.</li></ul> |
| 18. Estimated development costs     | Provide estimate of the cost of the development, but not including the cost of the land.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

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| <p>19. Project description</p> | <p>a) Provide a summary of all temporary and permanent project components.</p> <p>b) Provide engineered plans prepared by a New Hampshire Registered Professional Engineer showing project components and site layout. The number of copies of the plans to be submitted will be determined on a case-by-case basis.</p> <p>c) Permanent Activities</p> <p><b><u>Turbines:</u></b> Number, size (height, diameter) and capacity; foundation types; turbine and crane pads dimensions; color and lighting (in accordance with FAA plan)</p> <p><b><u>New and upgraded roads:</u></b> Provide alignment sheets showing road locations, crossings, travel surface widths and shoulders during and after construction, and erosion/storm water control measures. Include the total road length, maximum road slope, if the road would be paved or gravel, and the party responsible for post-construction maintenance</p> <p><b><u>Transmission lines:</u></b> Provide alignment sheets showing locations of above- and below-ground transmission and communication lines and corridor widths. The information should include pole types and heights (provide typical diagram), detail for stream crossings and buffers, and a vegetation management plan.</p> <p><b><u>Substation(s):</u></b> On the site plan show the total size of the substation area, sizes of building(s), parking areas, lighting, access, signage.</p> <p><b><u>Meteorological towers:</u></b> Provide the locations and number of towers proposed, tower type and height, foundation and guy wires, access, lighting (in accordance with FAA plan).</p> <p><b><u>Operations &amp; Maintenance (O&amp;M) facility:</u></b> Include a description of, and engineered drawing/site plan(s) showing all proposed features at the O&amp;M facility site (buildings, parking area, access, storage areas, setbacks and visual screening, wastewater disposal, water source, solid waste disposal, lighting, erosion/storm water control measures). If the parking area would be larger than 1 acre, include a landscaping plan. Provide documentation that a water supply is available at this site, and that the soils are suitable.</p> <p><b><u>Signs:</u></b> State the locations and types of signs to be used.</p> <p><b><u>Setbacks:</u></b> Provide the setbacks for all structures from property lines, roads, and water bodies.</p> <p><b><u>Fill material for disposal areas.</u></b></p> <p><b><u>Lay-down and storage areas:</u></b> Size and location</p> <p><b><u>Office and storage trailers:</u></b> Location, setbacks, wastewater disposal, other services needed</p> <p><b><u>Concrete batch plant (or other option):</u></b> Site location and size, concrete wash down, handling and storage of materials and additives, amounts of water to be used and source)</p> <p><b><u>Gravel pits (if needed):</u></b> Size, location, use after construction, heavy equipment needed. Excavation Permits from County will be</p> |
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|  | <p>required.</p> <p><b><u>Rock crushers and storage areas</u></b></p> <p><b><u>Temporary crossings and mats in wetlands</u></b></p> <p><b><u>Informational signs</u></b></p> <p><b><u>Control of dust</u></b></p> <p>Other: _____</p> <p><b><u>Disposal of solid waste other than stumps.</u></b> Demonstrate the provisions to be made for disposal of construction debris and any solid waste generated after construction.</p> <p><b><u>Spill Prevention, Control and Countermeasures Plan (SPCC).</u></b> Include SPCC plans to be used during construction and for the post-construction activities and facilities. Describe how large any petroleum product storage tanks will be, and where would they be located, and containment that will be used.</p> <p><b><u>Geotechnical Evaluation.</u></b> If already conducted, provide the results of the geotechnical evaluation. If not conducted, then provide a description of the proposed geotechnical work and the schedule for completing that work.</p> <p>Would any of the geotechnical work be done in areas above 2,700 feet in elevation?</p> <p><b><u>Blasting Plan.</u></b></p> <p><b><u>Cuts and fills.</u></b> Provide a table showing cut and fill estimations. The estimates provided should take into consideration bulking factor. Explain how excess fill would be disposed of or what sources of additional fill would be used, if needed.</p> <p><b><u>Clearing.</u></b> Provide a table summarizing areas to be cleared, including square footage for both temporary and permanent impacts; include areas that will be affected by timber harvesting during clearing such as skid trails and log yards. For maintaining forested buffers, also indicate distances from cleared areas to roads, property lines, water bodies, and wetlands.</p> |
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| 20. Soils mapping, erosion control and storm water management | <p>a) Provide soils mapping for all areas to be developed. This Exhibit must also include, at a minimum, slopes in the development area; a description of the soil units at the site, including drainage class; and an evaluation of the suitability of the soils for the proposed development;</p> <p>b) A description of all permanent and temporary measures for storm water control to be used, and show the measures on site plans;</p> <p>c) How work areas and stockpiles will be stabilized;</p> <p>d) Detail the special provisions for work under frozen conditions, saturated conditions and in high mountain areas above 2,700 ft. in elevation;</p> <p>e) Third-party inspection program;</p> <p>f) Post-construction inspection and maintenance; and</p> <p>g) <i>Re-vegetation plan</i>. Provide a re-vegetation plan using native species for all areas to be restored after construction, including measures and materials to be used, and post-construction monitoring.</p> |
| 21. Other permits required                                    | <p>Submit the names of other permits, approvals, and consultations required for the development, and the status of each. Include a copy if the permit/approval has been obtained, as applicable, including but not limited to:</p> <p>U.S. Army Corps of Engineers Section 404 permit<br/> Federal Aviation Administration approved lighting plan<br/> FEMA Elevation Certificate<br/> New Hampshire Department of Transportation (NHDOT) road opening or entrance permits<br/> NH Department of Health &amp; Human Services (HHS) and/or NH Department of Environmental Services (DES) approvals (e.g., waste water disposal area, public drinking water source, DES site specific permits).</p>                                                                                                                                                                                                                                                                                             |

**APPENDIX A – DEFINITIONS**

1. Associated facilities. "Associated facilities" means elements of a wind energy development other than its generating facilities that are necessary for the proper operation and maintenance of the wind energy development, including but not limited to, buildings, access roads, generator lead lines and substations.
2. Wind energy development. Wind energy development means a "grid-scale" wind energy development of more than 100 Kw and less than 30MW that is proposed for siting within an Unincorporated Place in Coös County.
3. Generating facilities. "Generating facilities" means wind turbines and towers and transmission lines, not including generator lead lines, which are immediately associated with the wind turbines.
4. Host community. An unincorporated place in Coös County in which the generating facilities and or transmission facilities of a wind energy development is located.
5. Scenic resources of state or national significance. "Scenic resources of state or national significance" means an area or place owned by the public or to which the public has a legal right of access that is:
  - a. A national natural landmark, federally designated wilderness area or other comparable outstanding natural and cultural feature;
  - b. A property listed on the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966.
  - c. A national or state park;
  - d. A great pond.
  - e. A segment of a scenic river or stream identified as having unique or outstanding attributes.
  - f. A scenic viewpoint located on state public reserved land or on a trail that is used exclusively for pedestrian use, such as the Appalachian Trail or Coös Trail.
  - g. A scenic turnout constructed by the Department of Transportation.
6. Tangible benefits. "Tangible benefits" are environmental or economic improvements attributable to the construction, operation and maintenance of a wind energy development, including but not limited to: construction-related employment; local purchase of materials; employment in operations and maintenance; reduced property taxes; reduced electrical rates; natural resource conservation; performance of construction, operations and maintenance activities by trained, qualified and licensed workers.
7. Wind energy development. "Wind energy development" means a development that uses a windmill or wind turbine to convert wind energy to electrical energy for sale or use by a person other than the generator. A wind energy development includes generating facilities and associated facilities.

## APPENDIX B

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**1. Scenic Resources.** It is understood existing uses can include the appreciation of scenic resources. The Planning Board shall provide guidance to the applicant on whether a visual impact assessment is required to evaluate visual impacts on identified scenic resources.

There shall be a rebuttable presumption that no visual impact assessment is required for those portions of the project located more than three miles from a scenic resource. The Planning Board may require a scenic analysis beyond three miles if it is persuaded by substantial evidence that the scenic resource is especially significant and that impacts may be substantial.

Portions of a project located more than four miles from a scenic resource will be understood to be insignificant from a scenic perspective.

In determining whether a visual impact assessment is required and in determining whether a project has an unreasonable adverse impact on scenic resources and existing uses of those resources, the Planning Board shall take into account:

- The significance of the scenic resource;
- The existing character of the surrounding area;
- The project purpose and the context of the proposed activity;
- The extent, nature, and duration of public use; and
- The scope and scale of the potential impact of the project views on the scenic resource, including the number and extent of turbines and transmission lines visible from the scenic resource, as well as their distance from the scenic resource and the project's prominence in the landscape.

In determining whether a project has an unreasonable adverse impact on scenic resources and existing uses related to those scenic resources, the Board recognizes that wind turbines are potentially a highly visible feature of the landscape and may have an impact on views. The fact that the project, including but not limited to, one or more turbines or part of a transmission line, may be a highly visible feature in the landscape does not by itself mean the visual impact is unreasonable, even if the scenic resource is a high value resource used by many members of the public. Other factors to consider are the scenic character of the landscape in which the project is located, the expectations of users of the scenic resource, and how significantly the public's use and enjoyment of the resource would be adversely impacted by the presence of the project.

**2. Shadow Flicker:** New Hampshire's northern latitude may make wind power projects susceptible to causing irritating shadow flicker as a result of low altitude sun during certain times of year. Shadow flicker is described as "moving shadow on the ground resulting in alternating changes in light intensity" and has been noted to cause concern in northern regions that are near developed areas. Shadow flicker caused by wind turbines is defined as alternating changes in light intensity caused by the moving blade casting shadows on the ground and stationary objects, such as a window at a dwelling. No shadow flicker is cast when the sun is obscured by clouds/fog or when the turbine rotor is not rotating. Shadow flicker is not the sun seen through a rotating wind turbine rotor, nor what an individual might view moving through the shadows of a wind energy project.

**3. Public Safety Related Setbacks:** Provide documentation in the form of a site plan and certificate of design provided by the manufacturer of the generating facility that document that the proposed wind energy development has been designed to conform to applicable industry standards and that the proposed wind energy development will not present an unreasonable safety hazard to adjacent properties or adjacent property uses.

Documentation provided by the applicant must include, but is not limited to, the following:

- A. Design Safety Certification:** Evidence that the turbine design meets acceptable safety standards; such evidence may include submission of certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
- B. Over Speed Control:** Evidence from the manufacturer or other licensed civil Engineer describing the design and function of overspeed control (i.e. aerodynamic overspeed controls such as variable pitch and mechanical brakes) and related safety mechanisms that are part of the turbine design.
- C. Public Safety-related Setback:** Evidence that the wind turbines have been sited with appropriate safety related setbacks from adjacent properties and adjacent existing uses; including a site plan and applicable documentation as necessary to show that the proposed wind generation facility turbines have been sited in such a manner as to provide a minimum set back from the nearest property line, roads, other structures, etc. The setback distance must be measured to the center of the wind turbine base. For turbine property boundary line setbacks less than 1.5 times the tower height, the applicant may obtain a waiver from the adjacent landowner; or may submit evidence (i.e. operating protocols, safety programs, recommendation of a licensed professional engineer with appropriate expertise and experience with wind turbines, or relevant manufacturer recommendations) that the setback proposed is appropriate.
- 4. Tangible Benefits.** "Tangible benefits" means environmental or economic improvements attributable to the construction, operation and maintenance of an expedited wind energy development, including but not limited to: construction-related employment; local purchase of materials; employment in operations and maintenance; reduced property taxes; reduced electrical rates; natural resource conservation; performance of construction, operations and maintenance activities by trained, qualified and licensed workers or other comparable benefits, with particular attention to assurance of such benefits to the host community to the extent practicable and affected neighboring communities.
- 5. Decommissioning Plan:** The applicant must provide a plan for decommissioning the project if that becomes necessary. The decommissioning plan shall include but is not limited to the following:

  - a. A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is generated for a continuous period of twelve (12) months. The applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned.
  - b. A description of the work required to physically remove all wind turbines, associated foundations to a depth of 24 inches, buildings, cabling, electrical components, and any other associated facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded unless the landowner of the affected land requests otherwise in writing.

- c. An estimate of the total cost of decommissioning, less salvage value of the equipment, and itemize the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: turbine removal, turbine foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization and road infrastructure removal.
- d. Demonstration in the form of a performance bond, surety bond, letter of credit, parental guarantee or other form of financial assurance as may be acceptable to the County Commissioners that upon the end of the useful life of the wind generation facility the applicant will have the necessary financial assurance in place for 100% of the total cost of decommissioning, less salvage value. The applicant may propose securing the necessary financial assurance in phases, as long as the total required financial assurance is in place a minimum of five years prior to the expected end of the useful life of the wind generation equipment.