

TOWN OF MILAN

**ZONING
ORDINANCE**

Amended January 2013

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Zoning Ordinance, Town of Milan, New Hampshire

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ZONING ORDINANCE TOWN OF
MILAN, NEW HAMPSHIRE

ARTICLE I. TITLE

This Ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Milan, New Hampshire".

ARTICLE II. PURPOSE AND AUTHORITY

The Zoning Ordinance of the Town of Milan is intended to regulate land use within the town. It is designed to take into account the impacts of land uses and promote uses of land for the protection of the environment, the natural resources, historic buildings and sites, and the rural qualities of Milan. It is designed to promote the health, safety, prosperity, convenience, and general welfare of all residents. The Ordinance is also intended to minimize the impact of potentially incompatible uses with particular consideration given to the character of the area as well as an effort to conserve the value of buildings, to promote good civic design and the wise and efficient expenditures of public funds. Pursuant to the authority granted by Chapter 674, Sections 16-23, New Hampshire Revised Statutes Annotated 1955, as amended this Ordinance is enacted by the voters of the Town of Milan.

ARTICLE III. APPLICATION OF REGULATIONS AND NON-CONFORMING USES

3.01 A pre-existing lawful use of land or structures may be continued although such use does not conform to the provisions of this Ordinance. If such non-conforming use is discontinued and/or abandoned for more than three (3) years, then any subsequent use of the land or structures shall only be a conforming use. No addition to a non-conforming structure or addition to conforming structures for the expansion of a nonconforming use is allowed.

3.02 A non-conforming use may be changed only to a use permitted in the district in which it is located. When it is changed to a conforming use, no buildings or land shall be permitted to revert to a non-conforming use.

3.03 A non-conforming use, which has been damaged or destroyed by fire, accident, or other causes, may be repaired or reconstructed to its condition prior to such damage or destruction, provided such work is undertaken and completed within one (1) year after such damage or destruction. The Selectmen may extend the time frame for one additional year based on a written request by the owner.

ARTICLE IV. DEFINITIONS

Abandon means the cessation of a use as indicated by the visible or otherwise apparent inattention of an owner to discontinue a use of a structure or lot; the removal of the characteristic equipment or furnishing used in the performance of the use without its replacement by similar equipment or furnishings; or the replacement of a use or structure by a different use or structure. For the purposes of this ordinance, abandon

and discontinue have equivalent meanings.

Alteration means any structural change to a building and changes of present design or use where compatible and consistent with the existing uses.

Building means any combination of material, whether portable or affixed to the ground used for the sheltering, housing, or the enclosure of person, animals, property, or material of any kind. Such buildings shall include open porches, open breezeways, and any other roofed areas.

Open Space Cluster Development means a purely residential subdivision of a tract of land where, instead of subdividing the entire tract into lots meeting the minimum lot size otherwise required by this ordinance, a similar number of residential buildings is clustered on lots or building sites of reduced dimensions, with the remaining land conserved as open space. An open space cluster development must meet the standards contained in Article V, Section 5.12.

Commercial Use means any use involving in part or in whole the sale of merchandise, materials or services, but not including customary home occupations (as defined elsewhere in this section).

Common Land means all land in a development set aside for the common use of two (2) or more owners of land in such development whether or not the title thereof is vested in the developer, the Town, the owner of lots or in an association of owners or a non-profit agency for the purpose of open space or recreation.

Condominium means a building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

Home Occupations means an industry or occupation carried on exclusively by a resident of the premises, entirely within the building and employing not more than three (3) people, providing such use is secondary to the use of the premises for dwelling purposes, and also providing that such use does not constitute a public hazard or nuisance.

Driveway shall mean an area located on a lot, tract or parcel of land, and built for access to a garage or off-street parking space, serving not more than two dwelling units, except in the case of cluster single-family and multi-family developments in which up to four dwellings may be served by a driveway.

Dwelling means a building or portion thereof designed for residential occupancy including single family, two family and multi-family, but not including hotels, motels, or rented rooms in boarding houses or similar uses. Only one dwelling is allowed per lot.

Dwelling. Single Family means a residential building that contains one dwelling unit, including a manufactured house, designed for or occupied by one family.

Dwelling. Two Family means a residential building designed for or occupied by two families living independently of each other in individual dwelling units.

Dwelling. Multi-Family means a residential building designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling Unit means one or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

Farm means husbandry, agricultural, forestry and all horticultural uses, including related facilities and including roadside stands for sale of farm products, greenhouses, horse stables and/or nurseries.

Frontage means the distance along the line dividing a lot from either:

- a) A public highway, excepting limited access highways as defined by RSA 230:44 and Class VI highways; or
- b) A street/road shown on an approved and recorded subdivision plan.

Height is the vertical distance between the mean finished grade at the structure and the highest point of the roof of the structure.

Junkyard means any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) or more unregistered motor vehicles which are not longer intended or in condition for legal use on the public highways, wrecked, scrapped, ruined, or dismantled motor vehicles, motor vehicle parts, old iron, metal, glass, cordage, paper, batteries, rags, brass, copper, rope, rubber, debris, waste, tires, old metals, bottles, cotton or woolen mill waste, unfinished cloth, other waste or discarded or second hand material. Farm trucks, tractors, and related farm equipment are not included.

Lot means a parcel tract or area of land established by plat, subdivision or as otherwise permitted by law, which is occupied by or designed to be occupied by one (1) principal building (except as otherwise specified herein) and its accessory buildings or uses customarily incident to it, together with such open spaces and yards as are required by this Ordinance.

Lot Line. Front is any lot line that coincides with a line of a street or a right-of-way.

Lot Line. Rear is the lot line most distant from the front 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.

Lot Line. Side is any lot line not a front or rear lot line.

Manufactured Housing is a structure, transportable in one or more sections, which exceeds either 8 body feet in width or 40 body feet in length, built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.

Manufactured Home Park is any tract of land on which two (2) or more manufactured homes are parked and occupied for living purposes.

Multi-Family Dwellings is a residential building designed for and occupied by three (3) or more families, regardless of the type of ownership, such as, but not limited to, condominiums, apartments or other common wall or row-type housing units of the same type. The number of families shall not exceed the number of single-family dwelling units provided.

Non-Conforming Use is a use which lawfully exists at the time this Ordinance becomes effective but which does not conform with the regulations for the district in which it is located.

Riparian Land means land that is traversed or bounded by a natural watercourse.

Setback. Front is the depth of the front yard as measured from the street right-of-way to the front line of the building. Setback. Side is the depth between the side of the principal building or accessory building and the nearest side lot line.

Setback Rear The depth of the rear yard shall be measured from the rear lot line to the rear line of the closest building

Special Exception means a use of a building, structure, or lot which may be permitted under this ordinance only upon formal application to the Board of Adjustment and subject to the approval of that Board as provided in Section 5.10.

Street/Road shall mean a state highway, or a town highway, street, road, avenue, land and/or other way including a private roadway, which exists for vehicular travel, exclusive of a driveway serving not more than two adjacent lots or sites, except as provided in the above definition of driveway. The word "street/road" shall include the entire right-of-way.

Structure means a combination of material for occupancy or use, such as a building, bridge, trestle, tower, framework, tank, tunnel, tent, stadium, platform, shelter, pier, bin, sign, fences and retaining walls over six (6) feet in height, swimming pools, sports courts, or the like.

Swimming pool means a pool constructed for swimming either in the ground or above ground, not including kid's or children's pools.

Travel Trailer means a vehicular type portable structure without permanent foundation, which can be towed, hauled, or driven and primarily designed as temporary living accommodations for recreation, camping, and travel use.

Variance means a departure from the terms of this Ordinance as the Board of Adjustment, upon appeal in specific cases, is empowered to authorize under the terms of Article IX of this Ordinance and applicable state statutes.

ARTICLE V. DISTRICT REGULATIONS

For the purpose of regulating the use of land and the location and construction of buildings, the Town, after adopting the provisions of this ordinance, shall be considered as one district with the following regulations and restrictions.

5.01 Permits

It shall be unlawful to erect or alter any building or structure or alter the use of any building or structure without first obtaining a building permit.

5.02 Sewage Disposal Systems

All land uses in the Town of Milan shall comply with the NH Department of Environmental Services subdivision and sewage disposal design rules and have all necessary permits.

5.03 Uses Permitted

1. Farms
2. Single family dwellings
3. Open Space Cluster Development, as set forth in Section 5.12.
4. Excavations, as provided for in RSA 155-E, as amended.
5. Home occupations, as provided for in Section 5.11.

5.04 Uses Not Permitted

1. Nuclear Power Plants
2. Woodchip Power Plants
3. Commercial Waste Sites and Landfill Operations
4. Tire Dumps
5. Manufactured Housing Parks
6. Junk Yards

5.05 Set Backs

Distance: There shall be observed the following setbacks in the construction of new buildings or in the relocation of existing ones:

1. Minimum distance between any building and the edge of a right-of-way shall be twenty-five (25) feet.
2. Buildings shall be set back at least twenty (20) feet from side and rear of lot lines.

5.06 Frontage

Each lot shall have a minimum frontage of no less than two hundred (200) feet on a public or private road or right-of- way.

5.07 Junk Cars

Not more than two (2) unregistered vehicles shall be allowed on any particular owners land exposed to public view form any road or street, excluding farm trucks, tractors, or related machinery. For the purpose of this ordinance, a vehicle shall be defined as a wheeled article, with or without a motor, manufactured for the expressed purpose of use on public highways either commercially or by private individuals, to include cars, trucks, vans, SUV's , motorcycles, motor homes, buses, tractor trucks, and all trailers made to be hauled by tractor trucks whether flatbed, covered or tanker.

5.08 Existing Manufactured Housing Parks

Manufactured housing parks existing at the time of the passage of this ordinance are allowed to continue. Expansion of existing manufactured housing parks is not permitted.

5.09 Uses Permitted by Special Exception

1. The following uses are permitted by Special Exception:
 - a) Dwellings, two family
 - b) Dwellings, Mulit-family with a maximum of 4 dwelling units.
 - c) Bulk storage tanks of petroleum products for resale use, including gas and diesel pumps, not exceeding 10,000 gallons per tank or 40,000 gallons per one acre site.
 - d) Any usage not specifically prohibited by this ordinance.

2. Special Exceptions can only be granted by the Board of Adjustment pursuant to RSA 674:33 as amended. The Board of Adjustment prior to granting any special exception shall determine that the following conditions are met:
 - a) The proposal is consistent with the spirit of this ordinance and the goals and objectives of the Milan Master Plan.
 - b) The site is appropriate for the proposed use or structure;
 - c) The proposal is not detrimental, injurious, or offensive to the neighborhood;
 - d) There will not be undue nuisance or serious hazard to pedestrian or vehicular traffic;
 - e) The proposal maintains or enhances historical buildings or sites; and
 - f) Adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use or structure.

5.10 Travel Trailers

No person shall park or occupy any trailer on the premises of any occupied dwelling or on any lot which is not part of the premises of any occupied dwelling, except as follows:

- a) The parking of one (1) travel trailer in a private garage building or in a yard is permitted providing said trailer is not occupied and the trailer belongs to the owner or lessee of the land it occupies.
- b) The temporary use of a trailer by a person engaged in adjoining construction work or for whom a dwelling is being built provided that such use is shown to be a temporary expedient, may be permitted by the Building Inspector. The Building Inspector shall grant such permission for a period not to exceed six (6) months excepting that he/she may review at his/her discretion such permission at the expiration of said six (6)months.

- c) Any property owner or lessee may accommodate 1 (one) trailer of a nonpaying guest for a period not to exceed ninety (90) days in any one (1) year.
- d) A travel trailer may be permanently placed on a lot without any dwelling for seasonal use only, but not year around use, provided the lot meets the minimum lot size requirements of Article VII and has a NH Department of Environmental Services approved septic system and water supply.

5.11 Home Occupation

A home occupation is permitted if it conforms to all of the following requirements:

- 1. It shall be carried out only by residents of the premises and involved only a service provided or product produced by these residents.
- 2. It shall be operated entirely within a principal living unit and/or accessory structure.
- 3. It shall be clearly secondary to the use of the premises for dwelling purposes and will not alter the general character of the neighborhood or reduce the value of any surrounding property.
- 4. It shall result in no external evidence of the enterprise except for a permitted sign and shall not have an adverse effect on the environment or the surrounding property as a result of noise, odors, smoke, dust, lights, pollution of soil, water or air, increases traffic or in parking requirements, or as a result of other nuisances.
- 5. Any activity that exceeds these standards is subject to the Special Exception requirement applicable to general business activity.

5.12 Open Space Cluster Development

- A. Objective__Open space cluster development is intended to enable and encourage flexibility of design in residential subdivisions in the Town of Milan. By allowing reduced lot sizes, areas shall be developed so as to promote the most appropriate use of land: facilitate economical and efficient provision of public services: allow land use patterns which preserve vegetation and wildlife habitat, outstanding natural and geologic features, and prevent soil erosion: preserve the natural and scenic qualities of the open land in the Town for conservation and recreation: all in accordance with the objectives of the Master Plan.
- B. Type of Review_ An open space cluster development shall be a permitted use throughout the Town of Milan. Such a development shall require subdivision approval by the Planning Board under the Milan Subdivision Regulations, regardless of whether any lot lines are created, or what form of ownership is contemplated. The Selectmen or Building Inspector may issue permits after the Planning Board has approved the final plat. Following subdivision approval, the use of the land within the open space cluster development shall conform to the requirements of this Ordinance and to the terms and conditions of the subdivision application and approval, unless subsequently amended by the Planning Board.

- C. Area and Dimensional Requirements. The minimum overall tract size shall be 12 acres. No building shall be located closer than 50 feet from the right-of-way line of any exterior street, nor 30 feet from any other exterior tract boundary. There shall be no minimum frontage requirement: provided, however, that all lots or building sites shall have adequate street access which conforms to the requirements of the subdivision regulations. No occupied building shall be located less than 50 feet from any other occupied building, however the Planning Board may reduce this requirement if it believes doing so will enable the enhancement of the size or quality of the open space parcel as set forth in paragraph E and F. Building locations, or building envelopes representing the siting limits for each building, shall be shown on the subdivision plan, and shall be considered conditions of approval. The above requirements shall supersede inconsistent area and dimension requirements elsewhere in this ordinance.
- D. Density. The overall maximum number of residential buildings in an open space development shall be determined by first determining the number of lots which would be permitted for a conventional development on the same tract under the provisions of the Ordinance and the Milan Subdivision Regulations: provided, however, that the Planning Board may at its discretion grant a density bonus of no more than 20% if it finds that the proposed open space parcel, as set forth in paragraphs E and F, provides a public benefit of exceptional quality. Two-family and multi-family dwellings shall be allowed only if the applicant first obtains a Special Exception, as provided under Section 5.09.
- E. Open Space. A minimum of 65 percent of the overall tract shall be permanently conserved as open space, free of any structures, roads, pavement, or parking areas, and devoted solely to agriculture, forestry, conservation, or recreation. A conservation easement deed, incorporating these restrictions, plus any additional use restrictions material to the public benefit evaluation as set forth below, shall be executed from the landowner to the Town of Milan, or Conservation Organization and recorded at the Registry of Deeds prior to any construction. The deed shall be reviewed by the Town's attorney at the applicant's expense. So long as the conservation easement to the Town is adequate, no particular legal relationship between the ownership of the open space parcel and the ownership of the developed units, by ways of covenants, ownership association, or otherwise, shall be required.
- F. Open Space Evaluation. The Planning Board shall evaluate the layout of any proposed open space development, in light of the natural features of the tract and its environment, to assure that the designated open space parcel provides a public benefit. The Board shall not approve the layout if there exists a clearly feasible alternative which would yield a significantly improves open space public benefit, yet still meet the applicant's permitted development objectives. A "public benefit" means that the open space meets one or more of the following:
1. Is larger and more contiguous, rather than smaller and more fragmented:

2. Conserves outstanding or sensitive natural features located on the tract.
 3. Is realistically capable of management for economically-viable agriculture or forestry activities:
 4. Conserves natural habitat for animals, fish or plants, especially those which are locally rare or unusual:
 5. Contributes to the ecological viability of the natural systems, or of nearby parks or natural areas:
 6. Provides opportunities for public outdoor recreation:
 7. Provides scenic enjoyment by the public from the vantage point of public lands, highways, or public waters: or
 8. Provides some other open space public benefit explicitly identified by the Planning Board in its decision.
- G. Alterations. No buildings or structures not approved as part of the plan shall be constructed, nor any change of use implemented, within an approved open space cluster development without approval of such alteration by the Planning Board. The Board shall evaluate any such alteration, or any proposed resubdivision of the tract, in the context of the overall tract to assure that the tract as a whole will continue to meet all requirements of this section. Any material alteration in an open space conservation easement previously recorded under this section shall require approval of both the Planning Board and the Town Meeting.

5.13 Sign Regulations

A. Purpose

The provisions of this article shall govern the regulation and control of the location, size, type and the number of signs permitted. The purpose of this article shall be to safeguard and enhance property values; to protect public and private investment in buildings and open spaces; to preserve and improve the appearance of the community as a place to live, work or visit.

B. A permit must be obtained before erection or placement of a sign.

C. Sign Requirements

1. Individual commercial businesses occupying single premises shall be permitted two on premise advertising signs, and no more than one of the signs shall be freestanding.
2. Signs shall be permitted no larger than fifteen (15) square feet. Size of the sign shall be computed based on overall dimensions including moldings, trim, decorations, etc., but excluding posts, brackets, or other installation devices.
3. Where two or more commercial businesses occupy a single premise, each commercial business shall be permitted one building mounted sign. There shall be no more than one free standing sign encompassing all of the commercial businesses on the premises, and this shall not exceed twenty-five square feet in size.

4. No signs shall be placed within 5 feet of any public right of way, or in such a position as to endanger traffic on a road by obscuring a clear view , or by confusion with official street signs or signals.
5. If the sign shall be illuminated, it shall be done with directional lighting focused on the sign itself; the lighting shall not be directed in any part toward traveled ways used by vehicles or pedestrians.
6. Any sign erected shall be constructed of durable materials and shall be maintained in good condition and repair at all times.
7. Freestanding signs shall no exceed 10 feet above the natural ground line.
8. Off premises signs shall be directional in nature and shall not exceed 4 square feet.

D. PROHIBITED SIGNS

The following types of signs are prohibited:

Neon or tubular gas

Internally lit

Flashing electric

Mobile or portable

Signs that move

Non- conforming signs already in existence may continue to be used provided they are maintained. If a non-conforming sign is moved, or replaced, it must be made to conform.

E. REMOVAL OF SIGNS

Any sign now or hereafter existing that no longer advertises a bona fide business conducted, or product sold, shall be removed by the owner, agent, or person having beneficial use of the building or property upon which the sign may be located. Removal must occur within fourteen (14) days of written notification by the Selectmen or building inspector. If not removed, the sign shall thereby constitute a public nuisance and be removed by an agent of the Town of Milan at the owners expense.

F. TEMPORARY SIGNS

Temporary signs in the form of banners, placards, or advertisements of special events are allowed, but they must conform to other sections of this article. The Board of Selectmen may waive any part of this section if they deem to be in the best interest of the Town of Milan. These temporary signs shall be approved for a specific period of time.

G. EXEMPTIONS

The following signs do not require a permit:

1. Incidental to the operation of any business are signs indicating entrance, exit, open, closed, sale, parking, restrooms, directions, on premises, and business hours. Such

signs are not part of this ordinance provided they are two (2) square feet in size or smaller, contain no advertising logo material, and are located on the premises.

2. Signs denoting the name and address of the residents (non-commercial) of the premises.
3. Signs advertising the sale, lease, or rental of the premises upon which the sign is located.
4. Political signs in accordance with State Law.

ARTICLE VI. MINIMUM LOT SIZE

The minimum lot size is based upon the soil characteristics of the lot as determined by the minimum lot size by soil type standards in the Milan Subdivision Regulations. The minimum lot size shall, in no case, be less than one (1) acre, except in an open space cluster development as determined by the Planning Board. Only one dwelling is allowed per lot.

ARTICLE VII TELECOMMUNICATIONS EQUIPMENT AND FACILITIES

7.01 Findings

The Town of Milan 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, supported by goals in the Town's Master Plan in the public interest in order to

- a) Reduce the potential adverse impacts of such facilities upon the unique natural assets of the Town, including its scenic mountain views, and its wilderness environment;
- b) Minimize the number and height of towers, avoid congestion in their location and lessen their intrusive effect;
- c) Conserve and enhance property values; and
- d) Ensure the optimum location of such facilities.

7.02 Intent

In compliance with Section 253 of the Telecommunications Act of 1996, the Town hereby states that it does not intend to create barriers to the ability of any entity to provide interstate or intrastate telecommunications services.

The Town hereby states its intent not to discriminate against or favor providers of telecommunications facilities and services.

7.03 Purposes and Guidance Standards

The purposes of this Article, which shall serve as standards for guiding its administration,

are as follows:

- A. To preserve the authority of the Town to regulate the siting of telecommunication facilities and to determine the optimum location for such facilities in order to provide telecommunications services to the community quickly, effectively and efficiently.
- B. To enable the Town 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, flight corridors, recreational uses of wild lands, historically significant locations, health and safety concerns and property values;
- C. To encourage the use of innovative siting and configuration options, including siting possibilities beyond the political jurisdiction of the Town; 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 regular safety inspections of operational facilities, and for the prompt and safe removal of abandoned facilities and for the removal or upgrade of facilities that are technologically outdated.

7.04 Regulation of Telecommunication Facilities

- A. In accordance with RSA 674:16(11) 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 Town of Milan is hereby declared to be a use, either a primary or accessory use, which is allowed only when a special exception is granted by the Zoning Board of Adjustment
- B. Responsibility for issuance of a special shall be vested in the Milan Zoning Board of Adjustment.
- C. The construction of Telecommunications structures, equipment and facilities shall require a Site Plan Review by the Milan Planning Board. The project shall be reviewed subject to the following provisions:
 - a. Towers, antennas or other telecommunications facilities shall be located and designed so as to preserve the ability of the public to enjoy the scenery surrounding the Town, including, particularly, views of the mountains and the rivers;
 - b. The use of alternative technologies and of co-location shall be thoroughly studied and, determined to be not feasible before the construction of any new towers are approved;
 - c. No telecommunications tower shall exceed 80' in height;
 - d. Telecommunications towers, antennas and other electrical and mechanical equipment shall be made with a neutral finish or color or otherwise treated so as to reduce their

visual impact;

e. 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 surrounding properties or the community;

f. 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;

g. 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;

h. Towers, guys, accessory structures and other telecommunications facilities and equipment shall comply with setback requirements applicable to commercial uses;

i. Towers shall not be located within three miles of any other tower;

j. Towers shall be enclosed by fencing at least 6 feet in height and shall be equipped with appropriate anti-climbing devices;

k. Access for motorized vehicles to sites where telecommunications facilities are located shall conform to Town 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.

l. For purposes of determining whether the installation of a tower or antenna complies with Town regulations, 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.

m. The installation or operation of telecommunications equipment or facilities shall not be considered, or permitted, as an extension of a non-conforming use.

7.05 Applicability

A. Telecommunications facilities shall not be considered infrastructure, essential services or public utilities and the siting of such facilities shall constitute a use of land to be regulated by this ordinance and Town regulations.

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

7.06 Submittals

The applicant must submit the following with their application for a special use permit in addition to any other standard application forms and application fees:

1. For all commercial telecommunication facilities, a complete application for Site Plan Review must be submitted jointly with the application for a Special Use Permit.
2. A scaled plan including a scaled elevation view, topography, radio frequency coverage, tower height, setbacks, parking, fencing, landscaping and adjacent land uses.
3. Written proof that the proposed use/facility complies with FCC regulations on radio frequency (RF) exposure guidelines, and FAA regulations on tower lighting requirements which may include a copy of the carriers FCC license in accordance with RSA 12-K.
4. Written proof that an evaluation has taken place satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. Such written proof shall include the results of the evaluation. Section 106 Review completed by the Division of Historic Resources (603) 271-3483.
5. An inventory of existing towers that are within the jurisdiction of the Town of Milan and those within twenty-miles (RSA 12 -K) of the border thereof, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers.
6. For applications for a new tower, the applicant shall submit written evidence demonstrating that no existing tower or structure can accommodate the applicant's proposed antenna. This evidence shall consist of one or more of the following:
 - (a) Substantial evidence that no existing towers or structures are located within the geographic areas required to meet the applicant's engineering requirements.
 - (b) Substantial evidence that existing towers or structures are not of sufficient height to meet the applicant's engineering requirements, and why.
 - (c) Substantial evidence from a licensed engineer that existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment,
 - (d) Substantial evidence from a licensed RF engineer that the applicant's proposed antenna would cause electromagnetic interference with an antenna on an existing tower or structure, or an antenna on an existing tower or structure would cause interference with the applicant's proposed antenna.

(e) Substantial evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(f) Substantial evidence that demonstrates other limiting factors that render existing towers and structures unsuitable for the applicant's proposed antenna.

7. For applications for a new tower, the applicant shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the Town of Milan, and grounds for the application to be denied.
8. The applicant shall submit engineering information detailing the size and coverage required for the telecommunication facility location. The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review, shall be borne by the applicant in accordance with NH RSA 676:4(g).
9. Each application for a tower, monopole, or alternative structure shall be submitted with a design certified by a competent engineer that the structure has been engineered to accommodate the maximum number and type of all compatible telecommunication media antennae. Preference will be given to flush mount monopoles and stealth facilities.

7.07 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 and 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 6 months of the effective dates of the revision, unless a more stringent compliance schedule is mandated by the controlling authority.
- B. The owner of a telecommunications facility shall provide an annual certification to the Planning Board verifying compliance with any conditions of approval for a special exception and current standards and regulations of the FAA, and FCC and any other agency of the Federal government with the authority to regulate towers and antennas. The certification shall also verify that the structure is still needed for the operation of the owner's network, Said certification shall be submitted to the Planning Board prior to January 31 of each year. Failure to submit an annual certification shall constitute abandonment and be grounds for removal of the

telecommunications facility.

- C. 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 Town regulations and meet the applicable standards published by the Electronic Industries Association, as such standards may be amended from time to time; and if, upon inspection, the Selectmen determine that such regulations or standards are not being met, or that the facilities or equipment pose a danger to persons, property or the community, they shall notify the owner of the defects in writing and if the owner shall within 30 days, remedy such defects, his 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 execution of the posted security.
- D. Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety unless the owner provides proof of quarterly inspections, and such antenna or tower shall be removed in accordance with the following procedure:
 - a. 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.
 - b. 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 and to the Selectmen.
 - c. Within 90 days after issuance of such declaration, the owner shall remove the abandoned structure and, if he shall not, the Town may execute the security and have the structure removed at the owner's expense.
 - d. If there are two or more users of a single tower, the provisions of this subsection shall not become effective until all users cease using such tower.

7.08 Waivers

In accordance with Section 253 of the Act, 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 waiver provisions of the Site Plan Review Regulations. The Planning Board may grant such waivers if it determines that:

- a. strict adherence with the regulations is not required to effectuate the purposes of this ordinance;
- b. strict compliance would create practical difficulty and unnecessary inconvenience; or
- c. strict compliance would potentially cause a conflict with the Telecommunications Act of 1996.

7.09 Security

- A. 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 will require the developer or installer to file with the Town 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.
- B. The provisions of the Site Plan Review Regulations relating to performance bonds shall apply to a bond required under this Section; provided, however, that it shall remain on file with the Town, and shall not be released unless the installation has been decommissioned, dismantled and removed.
- D. 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.

ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT

8.01 Enforcement

It shall be the duty of the Board of Selectmen to enforce and administer the provisions of this Ordinance. The Board of the Selectmen or an appointed Building Inspector shall administer the Zoning Ordinance literally and shall not have the power to permit any use of land or buildings which is not in conformance with this Ordinance. The Zoning Board of Adjustment must approve variances and Special Exceptions.

8.02 Building Permits

1. A building permit shall be obtained before a building or structure is constructed, extended, removed or altered. This requirement also applies to swimming pools, manufactured housing and exterior signs.
2. A building permit application shall be on a form provided by the Town, and shall furnish all requested information, and be accompanied by a permit fee, based on a fee schedule established by the Selectmen.
3. The Selectmen or Building Inspector shall act upon any application within 30 days after it has been received. If a permit is denied, the reason for denial shall be clearly stated in writing. The Board of Adjustment may, upon appeal, special exception or variance, direct the issuance of a permit.
4. Any permit issued shall become invalid if the authorized work is not commenced within 12 months after issuance of the permit, or if authorized work is suspended or abandoned for a period of six months after the time of commencing the work.
5. A true copy of the building permit shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work and until the completion of

same.

6. No permit shall be transferred to a subsequent owner.
7. The Selectmen may appoint a Building Inspector, prescribe his duties, and fix his compensation
8. In the discharge of duties, the Selectmen, Building Inspector, Fire Chief, or authorized representative shall have the authority to enter at any reasonable hour, with the permission of the leaseholder or, if there is no leaseholder, the owner (provided 24 hours notice is offered the leaseholder, or, if there is no leaseholder, the owner), any building, structure or premises in the Town to enforce the provisions of this ordinance.
9. The Selectmen, Building Inspector, Fire Chief or authorized representative shall not be personally liable while performing duties in administration of this Ordinance. No oversight or neglect of duty of these officials in administering this Ordinance shall legalize any work that fails to neither conform to this Ordinance nor relieve the applicant therefrom.
10. Upon notice from the Selectmen or the Building Inspector that work on any building or structure is being prosecuted contrary to the provisions of this Ordinance or in an unsafe or dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Any person who shall continue to do any work in or about the structure after having been served with the stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition(s), shall be subject to fines as provided for in Section VIII. 8.03(2.) of this Ordinance.
11. No permit requiring a variance or special exception can be issued until twenty-one (21) days after the issue of the variance or special exception.

8.03 Enforcement and Penalty

1. If any violation of this Ordinance occurs, the Selectmen shall institute in the name of the Town of Milan, any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate such violation.
2. Any person who violates any of the provisions of this ordinance shall be subject to fines and penalties according to RSA 676:17. A violation of this ordinance shall be subject to a civil penalty not to exceed \$ 275.00 for each day that such violation is found to continue after the conviction date or after the date on which the violator receives

written notice from the Selectmen that the violator is in violation, whichever is earlier.

ARTICLE IX. ZONING BOARD OF ADJUSTMENT

9.01 Zoning Board

A Board of Adjustment shall be elected at the annual town meeting consisting of five (5) members. The Board membership, including length of term, alternates and vacancies, and its organization, shall be consistent with the state law (RSA 672 and 673). The Board shall have the duties and powers as provided by RSA 674:33. It may upon application:

1. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Selectmen or the Building Inspector in enforcement of this Ordinance;
2. Hear and decide Special Exceptions to the terms of this Ordinance upon which the Board of Adjustment is required to pass as provided herein; and
3. Hear and decide upon variance requests where the Board finds that all of the following conditions apply:
 - (a) There are special conditions applying to the land or structure for which the variance is being sought (such as, but not limited to, exceptional topographical conditions) which are peculiar to such requirements of this Ordinance as will deprive an owner of a reasonable use of such property, and will impose upon such owner a hardship not shared by owners of surrounding property.
 - (b) In order to support a variance, it is necessary to find that
 - (1) no diminution in value of surrounding properties would be suffered,
 - (2) granting of the variance would be of benefit to the public interest,
 - (3) its denial would result in unnecessary hardship to the owner seeking it,
 - (4) by granting the variance substantial justice would be done.
 - (5) the use would not be contrary to the spirit of the Ordinance;
 - (c) The use proposed is a permitted or allowed one;
 - (d) The specific variance is the minimum variance necessary to provide for a reasonable use of the land or structure.

9.02 Appeals

The Board of Adjustment shall hear and decide any case in which it is alleged there is an error in any order, requirement, decision, or determination made by any official in the enforcement of this Ordinance as granted in RSA 674:33.

9.03 Fees

The application fee to the Board of Adjustment is \$25.00. Prior to the hearing, the costs of advertising, posting and the mailing of notices to the abutters shall be paid for by the person making the appeal.

ARTICLE X. FLOODPLAIN DEVELOPMENT ORDINANCE

This ordinance, adopted pursuant to the authority of RSA 674:57, shall be known as the Town of Milan Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Milan Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study for the County of Coos, N.H. dated February 20, 2013, together with the associated Flood Insurance Rate Maps (FIRM) dated February 20, 2013, which are declared to be a part of this ordinance and are hereby incorporated by reference.

10.01 Definition of Terms

The following definitions shall apply only to this Floodplain Development Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Milan.

Area of Special Flood Hazard is the land in the floodplain within the town of Milan subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the above referenced FIRM.

Base Flood means the flood having a one-percent possibility of being equaled or exceeded in any given year. Basement means any area of a building having its floor subgrade on all sides. Building see "structure".

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

FEMA means the Federal Emergency Management Agency.

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

1. the overflow of inland or tidal waters.
2. the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) means an official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and other flood zones applicable to the Town of Milan.

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

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

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

Floodway see "Regulatory Floodway".

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

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

Historic Structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as registered historic district;
3. Individually listed on a state inventory of historic places in states with historic

preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

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

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

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

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

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels of land divided into two or more manufactured home lots for rent or sale. This includes manufactured homes located in a manufactured home park or subdivision.

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

100-Year Flood see "Base Flood"

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

Recreational Vehicle means a vehicle, which is

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by a light duty truck; and

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

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

Special Flood Hazard Area means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on the FIRM as Zones A & AE.

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

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

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

Substantial Improvement means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. This term includes structures, which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the

elevation certificate, other certifications, or other evidence of compliance required in 44CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

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

10.02 Permits

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

10.03 Review of applications

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

1. be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
2. be constructed with materials resistant to flood damage,
3. be constructed by methods and practices that minimize flood damages,
4. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

10.04 Water and Septic Systems

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

10.05 Special Flood Hazard Areas

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the building inspector:

1. The as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
2. if the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.
3. any certification of floodproofing. The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

10.06 State and Federal Permits

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

10.07 Alteration or Relocation of Watercourse

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the NH Wetlands Bureau of the New Hampshire Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau or Wetlands Council.

2. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

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

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

4. Along watercourses with a designated Regulatory Floodway no encroachments, including fill new construction, substantial improvements, and other developments are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.

5. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

10.08 100 year flood zone

1. In special flood hazard areas the Building Inspector shall determine the 100-year flood elevation in the following order of precedence according to the data available:
 - a. In Zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
 - b. In A zones, the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).
2. The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in Zone A & AE that:
 - a) All new construction or substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood elevation.
 - b) All new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:
 - 1) be floodproofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - 2) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - 3) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
 - c) Recreational vehicles placed on sites within Zone A & AE shall either
 - i. be on the site for fewer than 180 consecutive days,
 - ii. be fully licensed and ready for highway use, or
 - iii. meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c) (6) of Section 60.3.
 - d) All manufactured homes including manufactured homes located in a manufactured home park or subdivision, to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100 year flood elevation; and be securely

anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;

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

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

10.09 Variances and Appeals

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

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

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

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

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

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

a) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage, and

b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

4. The community shall

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

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

ARTICLE XI. AMENDMENTS

This Ordinance may be amended with the provisions of NH RSA 674 as it is or may be amended.

ARTICLE XII. SAVING CLAUSE

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

ARTICLE XIII. EFFECTIVE DATE

This Ordinance shall become effective immediately upon its passage.

Adopted: March 5, 1974
Amended: March 11, 1980
March 10, 1981
March 8, 1983
March 11, 1986
March 10, 1987
March 9, 1993
March 8, 1994
March 9, 1999
March 12, 2002
March 9, 2004
March 20, 2007
March 13, 2012
February 20, 2013

