

ZONING ORDINANCE

TOWN of BOW, NEW HAMPSHIRE

**Article 15. Business Development District
and
Article 16 Impact Fee Ordinance and Methodology Reports**

ARE PUBLISHED SEPARATELY

ADOPTED AND REVISED THROUGH MARCH, 2016

ADOPTIONS AND REVISIONS AS OUTLINED BY THE
NEW HAMPSHIRE REVISED STATUTES ANNOTATED CHAPTERS 674 - 677

BE IT ORDAINED BY TOWN MEETING OF THE TOWN OF BOW, PURSUANT TO ALL RELEVANT RSA'S, THAT THIS ORDINANCE BE ADOPTED AND FROM TIME TO TIME AMENDED AS NEEDED TO MAINTAIN ITS INTEGRITY.

ADOPTED ----- March 8, 1955

AMENDED ----- March 8, 1958

AMENDED ----- March 8, 1960

AMENDED ----- March 13, 1962

AMENDED ----- March 12, 1963

Enlarged Residential and Residential Agricultural Districts.

AMENDED ----- November 7, 1972

AMENDED ----- March 4, 1975

Minimum lot size from one acre to two acres; minimum lot frontage from 150' to 200'; and sign heights not to exceed 25'.

AMENDED ----- March 2, 1976

AMENDED ----- March 8, 1977

AMENDED ----- March 13, 1979

Compliance with National Flood Insurance Program.

AMENDED ----- March 11, 1980

AMENDED ----- October 6, 1981

Added Civic Zone; increased Commercial Zone; limits only 1 one-family dwelling on approved lot; accessory dwelling units must meet same requirements of frontage and area as if on own lot; increased required distance from commercial kennels / animal hospitals from dwellings or residential districts; restricted recreation vehicles as living quarters; added method of complaints; building inspector's duties to include building code enforcement; building permits good for 1 year; defined/redefined: Family, Residential Lot, Lot, Duplex, Relative's Apartment, and Required Building Permits.

AMENDED ----- March 9, 1982

AMENDED ----- March 8, 1983

Allows special exception for having less than required frontage but having required area for 1 one-family dwellings.

AMENDED ----- March 13, 1984

Added Cluster Development regulations (but not allowed in Residential or Rural Districts); added Institutional Zone and its uses; permit elderly housing in same zones as hospitals and nursing homes; defined Day Care Center and permitted them by special exception; changed 2 lots on South St/Valley Rd from Residential to Commercial District.

AMENDED ----- March 12, 1986

Added numerous definitions; if more than one use on lot then all zoning requirements must be met; established Permit and Application Fee Procedure; regulated size, height, type, and placement of signs; require 1 parking space per 80 SF; authorized to fine at \$100 per day for violations; ZBA to determine bonds to restore gravel pits.

AMENDED ----- March 10, 1987

Allows relatives apartments by special exception in Rural Zone; allows indoor commercial recreation by special exception in the Limited and General Industrial Zones; allows Manufactured in Commercial Zone by special exception; Essential Public Services (radio and T.V. towers) by special exception; prohibits cemeteries in R, C, I-1, & I-2 Zones, RU by special exception.

AMENDED ----- March 9, 1988

Replaced Environmental Protection Areas with Floodplain Development Ordinance.

AMENDED ----- March 14, 1989

Defined / redefined: Manufactured Housing, Condominiums, Buildable Land; changed Off-Street Parking; prohibit radio and T.V. towers in Rural Zone.

AMENDED ----- March 13, 1990

Added Wetlands and Aquifer Protection Ordinances; amended agricultural uses; amended zoning districts boundaries to conform with lot lines; conditions to remove sand and gravel.

AMENDED ----- March 12, 1991

New sign regulations; allow off-street parking and driveways in certain setbacks and access ways.

AMENDED ----- March 10, 1992

Changed Table of Use for hospital, nursing home, elderly housing, and clinic from special exception to variance.

AMENDED ----- March 9, 1993

Changed Block 1, lots 49 & 114 from Residential to Commercial Zone; added day care regulations.

AMENDED ----- March 9, 1994

Redefined Recreational Vehicle and established regulations for RVs in Floodplain Zones.

AMENDED ----- March 14, 1995

Redefined Change in Use, Gasoline Station; included accessory buildings and structures in the Golf Course, Country Club & Tennis category; Established new Transitional Screening standards; allow temporary subdivision sale signs in new subdivisions; added Sexually Oriented Businesses - allowed in I-2 district, established definitions, restrictions, and regulations; recodified to include building permit applications, fees, requirements, responsibilities of Building Inspector, violation penalties, and requirements for chimneys and blasting.

AMENDED ----- March 12, 1996

Added Planned Open Space - Residential Development (POS-RD); block 1, lot 91 changed from Residential to Commercial Zone.

AMENDED ----- March 11, 1997

Added Growth Management Ordinance (GMO); block 1, lot 90 changed from Residential to Commercial Zone.

AMENDED ----- March 10, 1998

(Comprehensive revision)

AMENDED ----- March 9, 1999

Updated GMO; expanded uses in C, I-1, I-2, Civ, and Inst zones; permit more agricultural uses in non-residential zones.

AMENDED ----- March 14, 2000

Created an Interim GMO - no residential subdivisions for 1 year; updated current GMO; Planning Board to approve Planned Business Subdivisions in the Commercial and Limited Industrial Zones to include lots without minimum area, frontage, or setbacks; clarified that non-elderly housing units within elderly housing developments must meet minimum lot size requirements; clarify wetland buffers in regard to waste disposal systems in prime wetlands; create administrative procedures for minor wetland CUPs; authorized ZBA to grant equitable waivers of dimensional requirements.

AMENDED ----- March 13, 2001

Added Impact Fee Ordinance and Business Development District; updated GMO; limits storage of unregistered vehicle to one; defined Habitable Floor Area; requires additional information on applications for wireless communication facilities; setbacks for rail lines & spurs; hiring of Land Surveyor optional; and vernal pools.

AMENDED ----- March 12, 2002

Eliminated IFO waiver for those in building process prior to its adoption; permit Planned Business Subdivisions in the BDD; updated GMO; Planning Board to regulate and permit small scale pre-development excavations; updated definition of Hardship; clarified required acreage and frontage of Multiple Principal Uses on a Single Lot; clarified 75' buffer for all streams; Manufactured Housing Subdivisions permitted in RU Zone; clarified administrative procedures for minor wetland CUPs; regulate unregistered vehicles and trailers; prevents long-term living in boats, RVs, campers, etc; defined Zoning Administrator and Building Inspector; and increased private wells setback to 75'.

AMENDED ----- March 11, 2003

Updated GMO; require that POS-RD buffer be marked; allow the Planning Board to hear requests for exceptions to wetland ordinance; require new development to mark wetland buffers; add tables for wetland buffers and uses prohibited, permitted, and requiring a CUP; regulate High Risk Pollution Generating Activities in the AP District; substitute the BDD Sign code for the Article 8 sign existing regulations for non-residential use signs; and increase penalties for violations.

AMENDED ----- March 9, 2004

Updated GMO; revised GMO to permit up to 20 multi-family units per year in one

development; clarified 14.07 A to require that complaints be submitted in writing; moved Appendix A Recommended Plants for Semi-Opaque Screens to the Site Plan Review Regulations; permit Accessory Apartments in the Rural District; amended 7.15 to increase the limit for Minor Pre-development Excavations from 2000 to 10,000 cubic yards in the C, I-1, I-2 and BD districts; and exempting certain elderly developments from school impact fees and permitting waivers of school impact fees for subsidized, affordable housing.

AMENDED ----- March 8, 2005

Updated GMO; created an Interim GMO - no elderly housing for 1 year unless it complies with minimum standards for lot sizes of Article 6.07; modified 4.02 A 4 to adjust the Aquifer Protection District Overlay Map to include new areas identified as stratified drift aquifers; amended 5.11 H 10 and 7.13 to remove Laboratory and Research Centers, Corporate Office Headquarters, and Data Processing Centers as allowed uses in the Residential (R) and Rural (RU) Districts; renamed 7.02 Planned Open Space - Residential Development (POS-RD) Subdivision to "Open Space Residential Development" and amended several sections of the Article; amended Article 8. Sign Regulations to place a thirty day time limit on a Temporary Sign, to require that a Portable Sign comply with location requirements and to require a permit for either type sign; amended 13.03 H to change the time limit to request a rehearing of a Zoning Board of Adjustment decision to within 30 days of the date of the meeting (to comply with the current statute RSA 677:2); increased the penalties for second zoning violations of 14.07 to \$550 per day (per RSA 676:17 I b); and changed the zone district of Lot 108, Block 1 located at 2 Old Hill Road from Residential (R) to Commercial (C).

AMENDED ----- May 9, 2006

Revised 5.11 Table of Uses for non-residential districts; replaced 7.10 with expanded Personal Wireless Service Facility regulations and permitting cell towers in all districts by CUP; revised 7.05 Elderly, Duplex, and Multi-Family to increase the lot size required for elderly housing developments and to change the way minimum lot size is calculated for multi-family; updated GMO; revised 8. Sign Regulations and 15.13 Signage Requirements to make the ordinance consistent with the Town right of way ordinance, replace the appeal process for temporary signs, and permit hanging signs; added 10.02C.5. to require a waiver of liability before issuing building permits in the Flood District; revised 13.02B.2.a. to update the hardship criteria for variances; revised 13.03G. Issuance of Decision to require that notices of ZBA decisions be recorded at the MCRD; updated the Bow Building Code to adopt the State Building Codes and the International Residential Code; and revised the Table of Uses to permit indoor commercial recreational facilities in the Civic District by conditional use permit.

AMENDED ----- May 8, 2007

Updated GMO; revised Article 7.02 Open Space - Residential Development (OS-RD) to direct the Planning Board to adopt criteria for establishing the number of units permitted in an OS-RD and to clarify that required buffers shall not be used to comply with setbacks and lot area; revised Article 8 Sign Ordinance to add "sandwich boards", to allow separate for sale signs for condominium units, to clarify "work / trade / contractor" sign provisions, and to clarify the minimum 10 feet sign setback; changed Lots 106, 108, 148, 148-A, in Block 3 and Lot 65 in Block 4 to Civic (CV) District; revised Article 11.03 D Expansion or change in non-conforming use to remove a conflict that prevented the enlargement of a structure or outside improvements; and revised Article 14.07 Violations by adding new sub-section F Imminent Hazards.

AMENDED ----- May 13, 2008

Updated GMO and removed the exemption for Housing for the Elderly; added new section 2.11 to clarify that materials submitted with permit applications may not contain prohibitions against copying; added new paragraph to section 14.06 B to require that applicants for Certificates of Occupancy provide an affidavit of compliance; updated Section 10.02 Floodplain ordinance and related section 4.01 B to maintain eligibility for flood insurance and disaster assistance; adopted the provisions of the New Hampshire Building Code (NH RSA 155-A), as may be amended from time to time, for enforcement within the Town to be perpetually consistent with the State Building Code; and added provisions to Article 8 Signs for Flags and Banners on Outdoor Display Lots and a new section 15.13 A 1 c limiting free standing signs to one per lot, except for directory signs for business areas off of Route 3-A.

AMENDED ----- May 12, 2009

Updated Article 10.03 Aquifer Protection District ordinance with related revisions to Articles 4.02 and 7.14 by replacing most of the text with text from the 2006 NHDES Model Groundwater Protection Ordinance; updated Article 10.01 Wetlands Conservation District and related Articles 3.02 and 4.01 B to correct the wetlands definition, clarify that surface waters continue to be protected, update statutory citations - NHDES rule citations - references to agencies - wetland assessment methodology, and modify the standards for granting a CUP; added Small Wind Energy Systems as an accessory use in all districts along with a new Supplementary Regulations section 7.25; and modified criteria B of Article 7.06 Home Occupation to permit sales incidental to the home occupation.

AMENDED ----- March 9, 2010

Revised Article 7.10 Radio/TV Tower or Antenna and Personal Wireless Service Facility (PWSF) by reducing or eliminating requirements for antenna only installations; revised Articles 7.14D3 Duration of Permit and 14.05B Duration of Permits and Approvals to authorize the ZBA to grant excavation permit extensions for up to five years; revised 13.02B2a Unnecessary Hardship for Variance to update the definition of a hardship to conform to the new definition in RSA 674:33, I(b); revised 10.02A Authority for the Floodplain District to apply floodplain maps as adopted by the Select Board; revised 14.05A Duration of Building Permits and Approvals to add provisions for one six-month extension of a building permit; and added building code provisions to 14.01A for emergency escape from basements, smoke alarms / carbon monoxide detectors, and potable water.

AMENDED ----- March 8, 2011

Revised Article 16 Impact Fee Ordinance to clarify Planning Board authority to suspend impact fees (new section 16.01 M) and to add authority for the Planning Board to grant waivers; added a definition (3.02) of temporary structure and use to clarify when, where, and for how long temporary structures and uses may be in place; added definitions (3.02) for commercial and small electricity generation and revised 5.11 Table of Uses to permit commercial generators as a principal use in certain districts and to permit small producers from renewable sources as an accessory use in all districts; revised 5.06 Uses Not Permitted to add procedures for Uses Not Specified in 5.11 Table of Use Regulations; revised 7.04 Accessory Dwelling Units such that the size limitation will be calculated based on Habitable Floor Area and revised the definition of Habitable Floor Area regarding clear height; revised 7.06 Home Occupation to clarify the definition of and limitations on Home

Occupations; revised 7.14 Excavation E. 2. to clarify that performance bonds and other sureties are as approved by the Board of Selectmen and to clarify that the Zoning Board of Adjustment can hire independent experts to assist in the review of excavation applications; revised definitions (3.02) of Basement and Story and added definitions for Grade Plane and Story Above Grade Plane to clarify the definition of Story and the calculation of number of stories; and, revised 10.01 Wetlands B. 3. and F. 2. e. to update references to NHDES Rules Citation for Wetlands, specifically for stream crossings.

AMENDED ----- March 13, 2012

Established a new Residential One Family (R-1) district (4.01 & 5.11) and changed the Residential (R) District located generally north of Vaughn Road to the new R-1 District; expanded the AP Overlay District to include the Well Head Protection Area for the new Bow Municipal Water System; revised 10.02 F Floodplain District Design Standards to require that new construction and substantial improvements be built at least two feet above the base flood elevation; modified BDD 15.17 D Waivers to allow requests for waivers to be submitted via a Conditional Use Permit application; modified 15.11 Table of Uses, Principal Uses H. 9. Contractor's Yard and Tradesman's Shop to separate the two uses, add definitions for each, and allow Tradesman's Shop in two more Districts; revised 7.16 B Transitional Screening to provide residential districts in abutting towns with the same protection as residential districts in Bow from commercial and industrial uses; revised 11.01 B and 11.02 B.1 to remove the provisions for automatic merger of substandard lots; and modified 7.18 Livestock to reduce the standards required to have Small Backyard Flocks of chicken hens.

AMENDED ----- March 12, 2013

Added the Residential One Family (R-1) Zoning District to sections 6.07 Table of Dimensional Regulations; 7.16 B Screening Standards; 7.25 C 3 Small Wind Energy Systems noise standards; and 8.07 Signs Permitted in Residential Districts; revised section 7.14 Excavation of Earth Materials by adding the R-1 District to the definition for Minor / Pre-development Excavations, replacing the citations to regulatory agencies, adding a PA-38 citation, and clarifying the requirement for other permits; deleted the existing 3.02 definition of Habitable Floor Area and inserted a reference to the appropriate section of the State Building Code; expanded the locations where flags and banners are permitted for business promotions in Article 8 Sign Regulations; inserted the reference to the 2011 US Army Corps of Engineers Regional Supplement for wetland delineation and corrected the reference to the citation of the Wetland Determination Data Form in 10.01 B 3 wetland boundary; and, revised the performance standards in Business Development District sections 15.09 through 15.12 for landscaping, screening, exterior building facade, and parking.

AMENDED ----- March 11, 2014

Revised 7.02 B 4. Open Space Residential Development (OS-RD) to clarify that only single family and accessory dwelling units are permitted in an OS-RD and revised 15.13 A 1 a to allow the maximum height of free-standing signs to be measured from the road centerline on sites lower than streets (greater height).

AMENDED ----- March 10, 2015

Revised 7.05 to add a requirement for standby emergency electricity generators for Elderly and Multi-Family Residential Dwellings and 3.02 to add a definition for Multi-Family Dwelling; updated 7.10 Personal Wireless Service Facility (PWSF) to bring provisions for

PWSF into compliance with the statutory authority of RSA 12:K; adopted Supplementary Regulations and Standards 7.26 to add criteria for Dwelling Unit for Resident Caretaker or Security Personnel; and, revised 10.01 E Uses Prohibited, Permitted, and Requiring a Conditional Use Permit in the Wetlands Conservation District to exempt logging operations in Prime Wetlands and buffers from Planning Board review.

AMENDED ----- March 8, 2016

Revised Section 5.11, Table of Uses to permit cottage industries in all Zone Districts by special exception; permit the keeping of livestock in the Commercial Zone District by special exception; permit an accessory dwelling units by right in all Zone Districts; and permit motor vehicle repair, gasoline sales, car and truck wash, motor or rail freight terminals, bus or train stations, and marinas by special exception in the Limited Industrial (I-1) Zone District. Changed the Zone District designation from Rural (RU) to Limited Industrial (I-1) for Block 5, Lots 47, 48, and 49-A.

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ARTICLE 1. TITLE, PURPOSE AND AUTHORITY

1.01 Title

This Ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Bow, New Hampshire" referred to herein as "this Ordinance".

1.02 Purpose

This Ordinance is designed and adopted for the following purposes:

- A.** To lessen congestion in the streets;
- B.** To secure safety from fire, panic and other dangers;
- C.** To promote health and the general welfare;
- D.** To promote adequate light and air;
- E.** To prevent the overcrowding of land;
- F.** To avoid undue concentration of population;
- G.** To facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
- H.** To prevent pollution of air and water;
- I.** To conserve property values and encourage the most appropriate use of land; and
- J.** To allow for planned and orderly growth as envisioned by the Master Plan and the Capital Improvements Program.

1.03 Authority

This Ordinance is adopted pursuant to the authority conferred by Title LXIV, Planning and Zoning, New Hampshire Revised Statutes Annotated, as most recently amended. Authority for this Ordinance includes the power to adopt innovative land use controls pursuant to RSA 674:16, II, Grant of Power including but not limited to the specific methods of innovative land use controls contained in RSA 674:21, Innovative Land Use Controls.

ARTICLE 2. GENERAL PROVISIONS

2.01 Jurisdiction

This Ordinance shall be effective within the corporate boundaries of the Town of Bow, New Hampshire.

2.02 Effective Date

The Zoning Ordinance was originally adopted and became effective on March 8, 1955, and has been amended periodically through March 8, 2016. This Ordinance shall take effect on March 8, 2016.

2.03 Applicability

No person may use or occupy any land or buildings, or authorize or permit the use or occupancy of land or buildings under their control except in accordance with all of the applicable provisions of this Ordinance. For the purposes of this Section, the "use" or "occupancy" of a building or land relates to anything and everything that is done in, on, or to that building or land.

2.04 Relationship to Existing Zoning Ordinance

To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions that they replace in the Town's Zoning Ordinance, they shall be considered as continuations thereof and not as new enactments, unless otherwise specifically provided.

2.05 Relationship to Other Land Use Regulation

Wherever the provisions of this Ordinance come in conflict with any other ordinance or duly promulgated rules or regulations, the most restrictive or the higher standards shall apply.

2.06 Relationship to the Master Plan

It is intended that this Ordinance implement the planning policies as reflected in the Master Plan of the Town of Bow, New Hampshire.

2.07 Severability

It is hereby declared to be the intention of this Ordinance that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any such section, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgement or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

2.08 Computation of Time

Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded.

2.09 Lots 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, which was a buildable lot under the Ordinance in effect immediately prior to the adoption or amendment of this Ordinance, and which meets current requirements for frontage, shall be deemed a buildable lot. In addition, lots created by subdivisions approved by the Planning Board, which were buildable lots at the time of subdivision, and which have frontage on a public street shall be deemed a buildable lot.

2.10 Nuisance Provisions

Land shall not be used in any manner that is noxious, offensive, or deleterious to the public or the owners or occupants of adjacent property, causes a diminution in the value of nearby property, or is prejudicial to the general welfare of the community.

2.11 Copyright and other Restrictions on Reproduction

Plans, reports, documents, and other materials submitted to the Town of Bow or any board, commission, or department to fulfill the requirements of the Zoning Ordinance, including, but not limited to applications for building permits, variances, special exceptions, or conditional use permits, shall be free of any restrictions on reproduction. Proximate to any copyright symbols, reservations of rights, or statements of ownership, shall be an affirmative statement which expressly agrees to reproduction.

ARTICLE 3. DEFINITIONS

3.01 Word Usage

For the purposes of this Ordinance, words used in the present tense include the future; the singular number includes plural, and the plural includes singular. 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.

3.02 Words and Phrases not Defined

Words and phrases not defined in this Article shall have their common meaning unless otherwise stated.

Abutter: As defined in RSA 672:3

Accessory: Customarily incidental, related and clearly subordinate to a principal use on the same lot.

Adult Day Care Facility: Licensed facilities, as described in RSA 151:2 I (f), offering medical supervision, care or treatment, or providing assistance in daily living activities, to 3 or more individuals, whether operated for profit or not.

Basement: That portion of a building that is partly or completely below grade (see story above grade). For the administration of flood hazard area regulations, "basement" means any area of building having its floor subgrade on all sides.

Buildable Land: Buildable land includes the total land area of a lot *except*:

- a. land with slopes in excess of thirty-three percent (33%), or ledge which is exposed or lying within four (4) feet of the soil surface; or
- b. wetlands as defined in this Ordinance; or
- c. land which is subject to an easement or a right-of-way in favor of the Town, County, State, Federal Government, or any third party; or
- d. land necessary for the protection of aquifers which may serve as future sources of drinking water for the Town; or
- e. land of such character that it cannot be safely used for building purposes because of danger to health or peril from fire, flood or other hazard or the use of which would tend to increase the danger to health, life or property or aggravate the flood hazard; or
- f. land subject to periodic flooding, poor drainage or other hazardous conditions; or
- g. land with unsuitable soil or inadequate capacity for individual sanitary sewerage disposal systems unless the improvements will be connected to a common sewer system; or
- h. land included in the Floodplain District or shown to be bog, marsh, swamp area, area of high water table or any similar situation;

Building: See structure

Building Code: Entire adopted text of each national, state or local code relating to or regulating buildings, uses, occupancies, and the like which has been legally adopted by the Town. NH RSA 155-A mandates that all municipalities within the State of New Hampshire shall be subject to the requirements of the New Hampshire Building Code and in accordance with statute shall be included within this definition of the Building Code.

Commercial Recreation Facility, Indoor: A building used principally for indoor commercial recreation, such as a gymnasium, roller or ice skating rink, dance floor, swimming pool, tennis courts, function rooms, and the like.

Commercial Recreation Facility, Outdoor: A parcel of land with or without a structure used principally for outdoor recreation, such as batting cages, athletic fields, pitch & putt golf, miniature golf, fish and game clubs, tennis courts and swimming pools, go-cart tracks, outdoor movie theaters and the like.

Condominium: The form of ownership of real property, and any interests therein, lawfully submitted to the provisions of RSA 356-B, in which individual owners own or lease separate units but together, or through an owners' association, own the common areas appurtenant to the units.

Conversion Condominium: An existing use or structure which is being converted from a non-condominium form of ownership to the condominium form of ownership.

Cone of Depression: A three-dimensional conical concavity produced in a water table by the pumping of a well.

Contiguous: Land whose perimeter can be circumscribed without interruption, except by roads or other easements, in common ownership.

Contractor's Yard: An area of open storage for materials used for construction and for construction equipment that is not typically licensed for travel on a public highway. The materials and equipment are typically employed in the course of the contractor's business or may be available for sale or rent.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Discharge: The accidental spilling, leaking, pumping, pouring, emitting, emptying, or dumping of toxic or hazardous materials upon or into any land or waters in the Town of Bow. Discharge includes, without limitations, leakage of such materials from failed or discarded containers or storage systems, and disposal of such materials into any on-site sewage disposal system, dry well, catch basin, or unapproved landfill.

Dwelling Unit: Within a structure, housekeeping quarters with cooking, living, sanitary and sleeping facilities for one (1) family.

Dwelling, Single Family: Occupied exclusively by one (1) family. Does not include

Manufactured Housing as defined in section 7.03 and RSA 674:31.

Dwelling, Two Family: A structure designed for or occupied exclusively by two (2) families living independently of one another.

Dwelling, Multi-Family: A structure designed for or occupied exclusively by three (3) or more families living independently of one another.

Electricity Generation, Commercial: A small power production facility with a total installed power production capacity of not more than thirty (30) megawatts designed for distribution to the electric grid or to four (4) or more offsite customers.

Electricity Generation, Small: A producer of power, as defined in RSA 362-A:1-a, II-b "Eligible customer-generator", generated by solar, wind, or other renewable energy systems that will be used primarily onsite or sold to not more than three (3) abutting customers or sold within an approved Site Plan or Subdivision. As defined in the above statute, such generators shall have a total peak generating capacity of not more than 100 kilowatts. Small wind energy systems shall comply with section 7.25.

Family: One (1) or more persons related by blood or marriage or recognized by other state statutes occupying a single housekeeping unit.

Frontage: The length of the lot bordering on a public street or a non-interstate highway categorized as Class I, Class II or Class V pursuant to RSA 229.

Fuel Station: Building and premises where gasoline, propane, diesel fuel, oil, grease, batteries, tires, automobile accessories and incidentals are sold at retail and where minor servicing and repairs take place. Major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, or smoke are not included in this definition.

Golf Course: The term shall include standard courses and executive par three courses. The term does not include miniature golf.

Green Space: Land not built upon or not covered by gravel or impervious cover which is planted with, or can support grass, flowers, shrubs, plants, trees or similar ground cover.

Groundwater: The slowly moving subsurface water present in aquifers and recharge areas.

Habitable Floor Area: Shall be as defined in the International Residential Code for One- and Two-Family Dwellings, 2009 Edition, Section R202 Habitable Space, as adopted in the State Building Code, as may be amended by the State of NH, (refer to 14.01 A 1 of the Zoning Ordinance).

Height: The vertical distance between the mean elevation of the finished grade surrounding the structure to the highest point of the roof of a building or structure.

High Risk Pollution Generating Activities: Includes fueling operations; truck or rail loading or unloading of non-containerized bulk liquids at commercial or industrial facilities; outside storage of portable containers of liquids, food wastes, or dangerous wastes; outside storage of non-containerized materials, by-products, or finished products including non-liquid pesticides

or fertilizers, contaminated soil, food products or wastes, metals, building materials (including lumber, roofing material, insulation, piping, and concrete products), and erodible materials; outside manufacturing activity including processing, fabrication, repair or maintenance (of vehicles, products, and equipment), mixing, milling, refining, or sand blasting, painting, or finishing of vehicles, products, and equipment.

Housing for the Elderly - Housing that qualifies as "Housing for Older Persons" pursuant to NH RSA 354-A:15, as it may be amended.

Impervious Surface: Material placed on a lot that substantially prevents water from penetrating into the soil.

Kenel, Commercial: A place where dogs are housed and/or bred on the premises as all or part of a business.

Loam or top soil: Where this ordinance requires the use of loam or top soil, the material shall meet NH Department of Transportation *Standard Specifications for Road and Bridge Construction*, section 641, as from time to time amended.

Lot: An area of land, with ascertainable boundaries, established by deed(s) of record or an approved subdivision plat.

Lot Coverage: The ratio of the total of the ground floor area of buildings and structures, together with the area of other impervious surfaces, to the total area of the lot, expressed as a percentage.

Lot Depth: The average distance from the front lot line to the rear lot line.

Master Plan: The document most recently prepared and/or adopted by the Planning Board, pursuant to RSA 674:2 to 674:4 as amended, to guide the long-range development of the Town.

Motel: A building or group of buildings, other than private homestead, containing guest rooms designed and used primarily for the accommodation of travelers (hotel, tourist, cottage, etc.).

Municipal System: A water and/or sewerage system that is owned and operated by the Town of Bow.

Non-conforming Use: A use which lawfully existed at the time this Ordinance or amendment became effective but which does not conform to the regulations for the district in which it is located.

Open Space: Recreational area that includes either private or public facilities for both active and passive types of recreation including playgrounds, parks, and undeveloped land of all types.

Outdoor Display Lot - a defined area on a Site Plan approved by the Planning Board for outdoor display of items for sale, rent, or lease including, but not limited to, produce, livestock and pets, motor vehicles, recreational vehicles, camping trailers, boats, aircraft, construction equipment and materials, lumber, and building supplies, and including Commercial Outdoor Recreational Facility.

Personal Wireless Service Facility: As defined in RSA 12-J:2 XI, including, but not limited to antennas, dishes, other signal transmission devices, and the towers or structures which support the antennas, dishes, and signal transmission devices. An “equipment shelter”, as defined in RSA 12-J VII, shall be included within the definition of structure contained herein.

Pre-site Built Housing: Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. Pre-site built housing shall not include manufactured housing as defined in this Ordinance.

Primary Floor: The floor of a building or structure which provides the main or principal entrance to the building or structure from the adjacent public street.

Primary Recharge Areas: Areas that collect precipitation or surface water and transmit it into the cone of depression of existing or potential water supply wells. Primary recharge areas are mapped unconsolidated aquifer areas surrounding existing or potential water supply well sites.

Prime Wetlands: Those areas designated Prime Wetlands within the scope of RSA 482-A, and N.H. Code of Administrative Rules Env-Wt 700.

Principal Use: The principal purpose for which a lot or a building thereon is designed, occupied, maintained or intended to be used.

Residential Care Facility: Licensed facilities, as described in RSA 151:2 I (e), providing residential care and offering services beyond room and board.

Right-of-Way: A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, storm sewer and other similar uses.

Sanitary Waste: Wastewater arising from ordinary domestic water use as from toilets, sinks, bathing facilities, etc., and containing such concentrations and types of pollutants as to be considered normal wastes.

Setback: A line beyond which the foundation wall and/or any covered porch or other portion of a building or any other surface or above surface improvement shall not project.

Silviculture: The art and science of growing trees, in accordance with best management practices. Silvicultural operations include planting, thinning, cultivating, and harvesting trees, as well as preparing and conditioning the ground as needed to grow trees.

Social Facility: A structure and/or lot used principally by clubs of a fraternal, social or non-profit nature to provide a meeting place and to conduct the business of said club.

Solid Waste: Useless, unwanted, or discarded solid material with insufficient liquid content to be free-flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material, and landscape refuse.

Special Exception: A use which may be approved by the Zoning Board of Adjustment in

districts where the use is specifically authorized by the Ordinance, and where the Zoning Board of Adjustment finds that such use can be developed in accordance with the provisions of Article 13, APPEALS TO THE ZONING BOARD OF ADJUSTMENT.

Story: That portion of a building included between a floor and the floor or roof next above. Basements shall be considered with the criteria of story above grade plane definition. A half-story is a partial story under a sloping roof, the wall plates of which on two (2) exterior walls are not more than two (2) feet above the floor of such partial story.

Story Above Grade Plane: Any story having its finished floor surface entirely above grade plane, except that a basement shall be considered as a story above grade plane where the finished surface of the floor above the basement meets any one of the following:

- a. Is more than 6 feet above grade plane;
- b. Is more than 6 feet above the finished ground level for more than 50% of the total building perimeter; or
- c. Is more than 12 feet above the finished ground level at any point.

Grade plane: A reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet from the building between the structure and a point 6 feet from the building.

Stream: A perennial or intermittent watercourse which flows for sufficient time to remove or prevent the growth of vegetation or to develop and maintain a defined, scoured channel.

Street: A public way established by and maintained under public authority and currently maintained for vehicular travel, or private way open for public use, or private way plotted for acceptance as a public street, whether or not constructed.

Street Center Line: A line equidistant from each street line; or if no street line is evident, the centerline of the traveled way.

Structure: Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground. The word "structure" shall include the word building, where the context requires. For floodplain management purposes, a structure is a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure also includes trailers, storage units, recreational vehicles and other portable devices.

Surface Waters: Those portions of waters of the state as defined by RSA 485-A:2, XIV.

Temporary Structures and Uses: Structures and uses shall be limited to 180 consecutive days and 180 days in any calendar year. The Building Inspector is authorized to issue permits for temporary structures and uses in conformance with Section R107 of the current International Residential Code and Section 108 of the current International Building Code, as applicable. Temporary Structures and their uses that are erected and used no more than 16 days in one calendar year shall not be subject to the Zoning Ordinance. Temporary structures include tents, fabric shelters, portable shelters, construction trailers during permitted construction, and similar structures. Manufactured Housing as defined in section 7.03 and RSA 674:31 may be used as temporary housing on the same parcel during reconstruction of a Dwelling Unit

destroyed by casualty. Except for Manufactured Housing, temporary structures may be permitted to be located with a minimum 10' Side or Rear Yard. Only uses listed as a permitted use in 5.11 Table of Use Regulations are permitted as a Temporary Use, except for events and other temporary uses permitted by the Board of Selectmen.

Toxic or Hazardous Materials: Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic or hazardous materials includes, without limitation, organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalies, and include products such as pesticides, herbicides, solvents and thinners.

Tract: An area, parcel, site, piece of land, or property that is the subject of a development application.

Tradesman's Shop: A building that houses the offices or equipment or materials storage related to, but not limited to, electricians, plumbers, carpenters, or other similar construction trades. A Tradesman's shop does not include outside storage of materials or equipment other than vehicles licensed for travel on a public highway.

Travel Trailer: A vehicular, portable structure designed to be used as a temporary dwelling.

Variance: A permit which may be granted, under special circumstances, by the Zoning Board of Adjustment in accordance with Article 13, APPEALS TO THE ZONING BOARD OF ADJUSTMENT.

Vernal Pool: a body of water that provides essential breeding habitat for certain amphibians and invertebrates, does not support fish, and meets the criteria established by the New Hampshire Fish and Game Department, Nongame and Endangered Wildlife Program, *Identification and Documentation of Vernal Pools in New Hampshire*, second edition, 2004.

Wetland: Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support a prevalence of vegetation adapted for life in saturated soil conditions.

Zoning Board of Adjustment (ZBA): The Zoning Board of Adjustment of the Town of Bow.

ARTICLE 4. ESTABLISHMENT OF DISTRICTS AND ZONING MAP

4.01 Establishment of Districts and Statement of Purpose of Each

A. Base Districts

All of the land in the Town of Bow is hereby divided into the following Base Districts for the purposes so stated, and as shown on the Official Zoning Map (Section 4.02A):

1. Rural (RU) District - The Rural District is designed to accommodate a range of residential uses at low densities in a rural environment where sewer service is not available or anticipated, as indicated in the Master Plan, Agriculture, forestry, recreation, and other low intensity uses are permissible in the RU District.

2. Residential (R) District - The Residential District is designed to accommodate a range of residential uses at low densities in areas where sewer service is available or the extension of such is anticipated at some future time, as indicated in the Master Plan.

3. Residential One Family (R-1) District - The Residential One District is designed to accommodate one-family residential uses at low densities.

4. Commercial (C) District - The Commercial District is designed to allow a broad range of commercial uses including retail, service, offices, restaurants, recreational, institutional, and transportation-related uses in areas along arterial roads where sewer service is available or the extension of such is anticipated at some future time, as indicated in the Master Plan.

5. Limited Industrial (I-1) District - The Limited Industrial District is intended to accommodate office and industrial uses in areas where sewer service is available or the extension of such is anticipated at some future time, as indicated in the Master Plan.

6. General Industrial (I-2) District - The General Industrial District is designed to include offices and industrial uses, and some limited commercial uses, in an area in which the extension of sewer service is anticipated at some future time, as indicated in the Master Plan.

7. Civic (CV) District - The Civic District is intended to define a town center which will accommodate institutional office uses together with small retail and service uses in an area where sewer service is available or the extension of such is anticipated at some future time, as indicated in the Master Plan.

8. Institutional (IN) District - The Institutional District is designed to accommodate office and institutional uses in an area where sewer service is available.

9. Business Development (BD) District [ARTICLE 16 – PUBLISHED SEPARATELY] - The purpose of the Business Development District Ordinance is to attract environmentally acceptable commercial, industrial, recreational, and institutional uses to the District; to encourage diversity in the community tax base through appropriate flexibility in land use and land use development; to optimize financial return on public infrastructure investments and expenditures, including municipal sewer, municipal water supply, and public highways; to minimize adverse traffic impacts on Route 3-A, future interstate highway interchanges, and surrounding local streets and roadways; and to preserve valuable historical, cultural, and natural features within the District and to minimize adverse environmental impacts to water

and air, while reducing light and noise pollution, flooding, clear cutting of vegetation, and the blocking of scenic views.

B. Overlay Districts

Certain lands within the Town of Bow are hereby included in the following Overlay Districts for the purposes so stated, and as shown on the Official Zoning Map (Section 4.02A). The Overlay Districts are superimposed upon the Base Districts so that the regulations pertaining to the Overlay Districts shall be in addition to the regulations of the Base Districts such that land so encumbered may be used if and to the extent that such use is permitted in the applicable Base and Overlay Districts. Where regulations differ between the Base and Overlay Districts, the regulations that are more restrictive or impose the higher standards shall control.

1. Wetlands Conservation (WC) District - The purpose of the Wetlands Conservation District, in the interest of the public health and welfare, is to protect and regulate the use of wetlands and wetland buffer areas in the Town of Bow. The WC District is intended to:

- a. Control the development of structures and land uses within the WC District that would contribute to the pollution of surface waters and groundwater;
- b. Prevent the destruction of wetlands which provide flood protections, ground water recharge, pollution abatement, and the augmentation of stream flow during dry periods, and which are important for such other reasons cited in RSA 482-A:1;
- c. Prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of unwise use of water resources;
- d. Encourage those uses that can be appropriately and safely located in the WC District;
- e. Protect potential water supplies and existing aquifers (water bearing stratum) and aquifer recharge areas;
- f. Preserve and enhance those aesthetic values associated with the Surface Waters and Wetlands of the Town;
 - g. Protect wildlife habitats and maintain ecological balances; and
 - h. Protect unique and unusual natural areas.

2. Floodplain (F) District - Certain areas of the Town of Bow, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Bow, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.

The Floodplain District is established for the following purposes:

- a. To reduce the hazards of floods upon the public health, safety, and welfare;

- b. To protect floodplain occupants from a flood that is or may be caused by their own land use;
- c. To protect the public from the burden of extraordinary financial expenditures for flood control and relief; and
- d. To protect the capacity of floodplain areas to absorb, transmit, and store runoff.

3. Aquifer Protection (AP) District - The Aquifer Protection District is established for the following purposes:

- a. To preserve and maintain the existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the Town, and protect them from adverse development or land-use practices;
- b. To preserve and protect present and potential sources of drinking water supply for the public health and safety; and
- c. To conserve the natural resources of the Town of Bow.

4.02 Zoning Map

A. Official Zoning Map

The Official Zoning Map shall consist of a set of maps that, taken together, display the boundaries of all of the Districts within the Town of Bow. Individual maps that comprise the Official Zoning Map are as follows:

1. The Zoning Map of the Town of Bow, N.H., displays the boundaries of all of the Base Districts.

2. The Bow Wetlands Map displays the approximate boundaries of prime and other major wetlands within the Wetlands Conservation (WC) District.

3. The Flood Insurance Rate Map (FIRM) as published by the Federal Emergency Management Agency for the National Flood Insurance Program, effective on April 19, 2010 (adopted by Board of Selectmen on March 9, 2010 - Resolution 2010-1), display the boundaries of, and special limits within, the Floodplain (F) District.

4. The Aquifer Protection (AP) District is displayed on "Aquifer Map of Bow New Hampshire" produced by Cartographic Associates, Inc (CAI). The map is overlaid on the Town Tax Map composite which is annually updated by CAI. The location and extent of aquifers in Bow was taken from "Town of Bow, New Hampshire Proposed Aquifer Protection Overlay District Map" as shown in the Bow Master Plan Future Land Use Chapter, produced by Central NH Regional Planning Commission, September 2004. The Commission drew the aquifer information from "Geohydrology and Water Quality of Stratified-Drift Aquifers in the Upper Merrimack River Basin, South-Central New Hampshire" by US Geological Survey 95-4123 and from "Aquifer Evaluation Investigation and Development of Groundwater Protection Program Bow, New Hampshire" by SEA Consultants Inc, 1987. In addition, the AP District shall include the area on the map identified as Proposed Wellhead Protection Area on Figure 11 of the

October 16, 2009 Final Report for Large Production Well for Community Water System (Env-Ws 302 Final Report & Env-Ws 388 Large Withdrawal Permit application River Road Well) by Stantec Consulting Services, Inc, such map having been overlaid on the Town Tax Map composite by the Central NH Regional Planning Commission in October 2010 and included as Figure 3-1 of the Well Head Protection Program Implementation Plan approved by the Board of Selectmen on September 27, 2011. The Aquifer Protection Overlay District Map is hereby adopted as part of this Ordinance and is on file at the Bow Municipal Building.

B. Amendments to the Official Zoning Map

Whenever amendments are adopted that change District boundaries, whether a Base or Overlay District, the Official Zoning Map shall be revised to reflect such amendments, and the date of adoption shall be duly noted on said Map.

C. Interpretation of District Boundaries

1. The location of District boundaries shall be as shown on the Official Zoning Map or as otherwise described in this Ordinance.
2. Where any uncertainty exists with respect to the boundary of any District as shown on the Official Zoning Map, the following rules shall apply:
 - a. Where a boundary is indicated as a highway, street, alley, railroad, watercourse or Town Boundary, it shall be construed to be the centerline thereof or such Town Boundary;
 - b. Where a boundary is indicated as approximately parallel to a highway, street, alley, railroad, watercourse or Town Boundary, it shall be construed as parallel thereto and such distance from the centerline thereof as shown on the Official Zoning Map;
 - c. If no dimension is given on the Official Zoning Map, the location of any boundary shall be determined by use of the scale shown on the Official 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; and
 - e. All boundary questions not covered by (a) through (d) above shall be resolved by the Board of Adjustment.

ARTICLE 5: USE REGULATIONS

5.01 Uses Permitted by Right

A use denoted by the letter "P" in the Table of Use Regulations (Section 5.11), is permitted by right in the Districts so indicated, subject to all other applicable sections of this Ordinance and other local, state, and federal laws, rules, and regulations.

5.02 Uses Permitted by Special Exception

A use denoted by the letter "S" in the Table of Use Regulations (Section 5.11), may be permitted as a Special Exception in the Districts so indicated. The Zoning Board of Adjustment may grant Special Exceptions in accordance with the procedures and conditions as specified in Article 13, APPEALS TO THE ZONING BOARD OF ADJUSTMENT, of this Ordinance, subject to all other applicable sections of this Ordinance and other local, state, and federal laws, rules and regulations.

5.03 Uses Permitted by Conditional Use Permit

A use denoted by the letter "C" in the Table of Use Regulations (Section 5.11), may be permitted in the Districts so indicated by a conditional use permit. The Planning Board may grant a conditional use permit in accordance with the procedures and conditions as specified in Article 12, CONDITIONAL USE PERMITS, of this Ordinance, subject to all other applicable sections of this Ordinance and other local, state, and federal laws, rules, and regulations.

5.04 Supplementary Regulations

Certain uses are subject to provisions contained in Article 7, SUPPLEMENTARY REGULATIONS AND STANDARDS FOR SPECIFIC USES, of this Ordinance. The section number of the applicable supplementary regulations is indicated in the extreme right hand column of the Table of Use Regulations (Section 5.11), under the heading "Supplementary Regulations Reference". Uses subject to supplementary regulations must comply with all other applicable sections of this Ordinance and other local, state, and federal laws, rules, and regulations.

5.05 All Uses Subject to Overlay District Regulations

All uses are subject to the provisions and regulations of the Overlay Districts as established in Article 4, ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP, of this Ordinance, and characterized in Article 10, OVERLAY DISTRICTS, of this Ordinance. Wherever there is a conflict between the provisions of an Overlay District and a Base District, the provision which imposes the greater restriction or higher standard shall control.

5.06 Uses Not Permitted and Uses Not Specified

A. Use Not Permitted

A use denoted by a dash (-) in the Table of Use Regulations (Section 5.11), is not permitted in the Districts so indicated.

B. Use Not Specified

For land uses that are not listed in 5.11 Table of Use Regulations, the Zoning Administrator, after consultation with the Building Inspector and Town Planner, may assign a proposed use to an existing use category where the Zoning Administrator finds that the proposed use is related to a specified use and is essentially the same as a specified use in terms of traffic, noise, odor, other pollution, and likely impacts to abutting properties.

Where the Zoning Administrator finds that the proposed use is not sufficiently similar to a specified use to assign it to an existing land use category, an owner of property in Bow or designated agent may file an administrative appeal with the Zoning Board of Adjustment. The ZBA, after consultation with the Planning Board, shall determine how the proposed use will be permitted, if at all, including designation of districts and whether it shall require a Special Exception or Conditional Use Permit. Annually, the Planning Board shall review such proposed uses and consider proposing for Town Meeting adoption an amendment to the Table of Use Regulations to address such uses.

5.07 Site Plan Review Regulations

The development, expansion, or change of a non-residential use or of a residential use that includes multi-family dwelling units is subject to the approval of the Planning Board pursuant to the Site Plan Review Regulations of the Town of Bow, N.H.

5.08 Subdivision Regulations

The development or change or expansion of any use that includes a subdivision of a lot, tract, or parcel of land is subject to the approval of the Planning Board pursuant to the Land Subdivision Regulations of the Town of Bow, N.H.

5.09 Change of Use

A change of use of a property shall be deemed to occur whenever there is a change from one principal use as listed in the Table of Use Regulations (Section 5.11) to another principal use as listed in said Table. If there are multiple principal uses of a property, a change shall be deemed to occur whenever the mixture of types of principal uses changes, or whenever the proportion of space devoted to individual principal uses changes to such an extent that the number of required parking spaces pursuant to Article 9, OFF-STREET PARKING REGULATIONS, of this Ordinance, is altered.

5.10 Multiple Principal Uses on a Single Lot

Multiple principal uses may be established on a single lot provided that all such uses are permitted uses as indicated in the Table of Use Regulations (Section 5.11) for the District in which the lot is located, and further provided that all requirements of this Ordinance must be met for each individual use, including the granting of Special Exceptions and/or conditional use permits if so required. Where multiple structures containing dwelling units are permitted on a single lot, each structure containing dwelling units shall meet minimum lot size requirements as if it were on a separate lot. Where approved by Site Plan Review, each structure on such lot need not meet frontage requirements as if it were on a separate lot.

5.11 Table of Use Regulations

In the Base Districts as established in Article 4, ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP, of this Ordinance, no building, structure or land shall be used or occupied except as set forth in the following Table of Use Regulations, subject to all other provisions and standards of this Ordinance, and other local, state, and federal laws, rules and regulations. The Table of Use Regulations is divided into two parts, one for principal uses, and the other for accessory uses.

PRINCIPAL USES	DISTRICTS									Supplementary Regulations Reference
	RU	R	R-1	C	I-1	I-2	CV	IN	BD	

A. RESIDENTIAL										
1. Single Family	P	P	P	-	-	-	-	-	-	
2. Duplex or Two-Family	P	P	-	-	-	-	-	-	-	Section 7.05
3. Multi-Family	S	S	-	-	-	-	-	-	-	Section 7.05
4. Housing for the Elderly	P	P	P	-	-	-	P	-	-	Section 7.05
5. Manufactured Housing Park	C	-	-	-	-	-	-	-	-	Section 7.03
6. Manufactured Housing Subdivision	P	-	-	-	-	-	-	-	-	Section 7.03
7. Boarding or Rooming House	S	S	S	-	-	-	-	-	-	
8. Open Space Residential Development	P	P	P	-	-	-	-	-	-	Section 7.02

B. PUBLIC AND INSTITUTIONAL										
1. Churches	S	S	S	S	S	S	S	S	S	
2. Public or Private Schools	S	S	S	S	S	S	S	S	P	
3. Hospitals	-	-	-	P	P	P	-	P	P	
4. Residential Care Facility	S	S	S	P	P	P	P	P	P	RSA 151:2 I(e)
5. Child Day Care Center	-	-	-	S	S	S	P	P	P	Section 7.08
6. Adult Day Care Facility	-	-	-	S	S	S	-	S	P	RSA 151:2 I (f)
7. Libraries and Museums	-	-	-	S	P	P	P	P	P	
8. Social, Fraternal Clubs and Lodges	-	-	-	P	P	P	S	S	P	
9. Municipal & Public Works Facilities	S	S	S	P	P	P	P	P	P	
10. Cemeteries	S	S	S	S	S	S	S	S	S	
11. Essential Public Utilities and Appurtenances	S	S	S	P	P	P	P	P	P	Section 7.12
12. Home Based Day Care (see RSA 672:1V-a)	P	P	P	S	S	S	S	S	S	

PRINCIPAL USES	DISTRICTS										Supplementary Regulations Reference
	RU	R	R-1	C	I-1	I-2	CV	IN	BD		

C. RECREATION AND ENTERTAINMENT											
1. Publicly Owned Recreation Facility	P	P	P	P	P	P	P	P	P	P	
2. Commercial Outdoor Recreational Facility	S	S	S	P	P	P	-	-	P		
3. Indoor Commercial Recreational Facility	-	-	-	P	P	P	C	-	P		
4. Movie Theater or Concert Hall	-	-	-	P	P	P	S	S	P		
5. Campgrounds or Youth Camps	S	-	-	-	-	-	-	-	-	Section 7.21	
6. Golf Courses	S	S	S	S	S	S	-	-	S		

D. OFFICES											
1. General Professional, Business, Financial, or Government Offices	-	-	-	P	P	P	P	P	P		
2. Medical, Dental or Health Care Offices	-	-	-	P	P	P	P	P	P		
3. Banks	-	-	-	P	P	P	P	P	P		

Legend of Districts

RU = Rural
 R = Residential
 R-1 = Residential One Family
 C = Commercial
 CV = Civic
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 I-2 = General Industrial
 IN = Institutional
 BD = Business Development

Legend of Uses

dash = Not permitted
 C = Conditional Use Permit required
 P = Permitted Use
 S = Special Exception required

PRINCIPAL USES	DISTRICTS									Supplementary Regulations Reference
	RU	R	R-1	C	I-1	I-2	CV	IN	BD	

E. COMMERCIAL										
1. Retail Sales and Rental of Goods and Merchandise										
a. Less than 6000 SF of floor area	-	-	-	P	P	P	P	P	P	
b. No floor area limit	-	-	-	P	P	P	S	S	P	
2. Personal and Business Services	-	-	-	P	P	P	P	P	P	
3. Hotels, Motels, and Inns	-	-	-	P	P	P	S	S	P	
4. Animal Hospital	-	-	-	P	P	P	-	-	P	Section 7.09
5. Commercial Kennels	-	-	-	S	S	S	P	P	S	Section 7.09
6. Mortuary or Funeral Homes	-	-	-	S	-	S	-	S	S	
7. Auction and Auction Houses	-	-	-	P	P	P	S	S	P	
8. Mini-Storage	-	-	-	S	P	P	-	-	P	

F. RESTAURANTS										
1. Within a fully enclosed structure	-	-	-	P	P	P	P	P	P	
2. With service outside	-	-	-	P	S	P	S	S	P	

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PRINCIPAL USES	DISTRICTS									Supplementary Regulations Reference
	RU	R	R-1	C	I-1	I-2	CV	IN	BD	

G. AUTOMOTIVE & TRANSPORTATION										
1. Motor Vehicle Sales and Rental	-	-	-	P	S	S	-	-	S	
2. Sales and Installation of Vehicle Parts and Accessories	-	-	-	P	S	P	-	-	P	
3. Motor Vehicle Repairs and Maintenance	-	-	-	P	S	P	-	-	P	
4. Gasoline Sales	-	-	-	P	S	S	-	-	S	
5. Car Wash and Truck Wash	-	-	-	P	S	S	S	S	S	
6. Motor or Rail Freight Terminal	-	-	-	S	S	P	-	-	P	
7. Bus or Train Station	-	-	-	P	S	P	-	-	P	
8. Sales or Rental of Recreational Vehicles, Camping Trailers, or Boats, including Servicing & Repair	-	-	-	P	S	S	-	-	S	
9. Marina (including the servicing and repair of boats)	-	-	-	P	S	P	-	-	P	
10. Heliport and Airstrip	-	-	-	S	S	S	S	S	S	Section 7.19

Legend of Districts

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PRINCIPAL USES	DISTRICTS									Supplementary Regulations Reference
	RU	R	R-1	C	I-1	I-2	CV	IN	BD	

H. INDUSTRIAL										
1. Manufacturing, Processing, Repairing, and Assembling Goods and Merchandise	-	-	-	S	P	P	-	-	P	Section 7.12
2. Warehousing and Storage of Non-Flammable, Non-Explosive Goods	-	-	-	S	P	P	-	-	P	Section 7.12
3. Bulk Storage of Fuels, Chemicals, or Flammable Materials	-	-	-	-	S	S	-	-	S	Section 7.12
4a. Sales of Construction Equipment and/or Materials with Outdoor Display or Storage	-	-	-	S	-	P	-	-	P	
4b. Sales of Construction Equipment and/or Materials up to 15,000 SF with no Outdoor Display or Storage	-	-	-	P	P	P	-	-	P	
5. Materials Recycling Center	-	-	-	-	S	S	-	-	S	
6a. Removal and Excavation of Earth Materials	S	-	-	-	S	S	-	-	S	Section 7.14
6b. Minor / Pre-development Excavation of Earth Materials	C	C	C	C	C	C	C	C	C	Section 7.14
7. Processing of Earth Materials	-	-	-	-	S	S	-	-	S	
8. Planing Mill or Sawmill	S	-	-	-	-	S	-	-	S	Section 7.13
9a. Contractor's Yard	-	-	-	-	-	P	-	-	S	
9b. Tradesman's Shop	-	-	-	P	P	P	-	-	P	
10. Laboratory or Research Facility	-	-	-	P	P	P	-	-	P	
11. Junk Yard	-	-	-	-	-	S	-	-	S	Section 7.17
12. Commercial Electricity Generation	-	-	-	S	S	P	S	S	P	

PRINCIPAL USES	DISTRICTS									Supplementary Regulations Reference
	RU	R	R-1	C	I-1	I-2	CV	IN	BD	

I. AGRICULTURAL										
1. Farming and Agricultural Operations										
a. Agricultural	P	S	S	S	S	S	S	S	S	
b. Horticultural	P	S	S	S	S	S	S	S	S	
c. Livestock	P	P	P	-	-	-	-	-	-	Section 7.18
2. Silvicultural Operations	P	P	P	P	P	P	P	P	P	
3. Stables and Equestrian Facilities	C	S	S	-	-	-	-	-	-	Section 7.18
4. Commercial Greenhouses including Wholesale and Retail Sales	S	S	S	P	P	P	-	-	P	

J. MISCELLANEOUS										
1. Condominium Conversion	S	S	S	S	S	S	S	S	S	
2. Radio or Television Tower or Antenna or Personal Wireless Service Facility	C	C	C	C	C	C	C	C	C	Section 7.10
3. Sexually Oriented Businesses	-	-	-	-	-	C	-	-	-	Section 7.11

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ACCESSORY USES	DISTRICTS									Supplementary Regulations Reference
	RU	R	R-1	C	I-1	I-2	CV	IN	BD	

A. RESIDENTIAL											
1. Home Occupation	P	P	P	P	P	P	P	P	P	P	Section 7.06
2. Cottage Industry	S	S	S	S	S	S	S	S	S	S	Section 7.07
3. Storage of Equipment / Surplus Associated with an Off-Premise Occupation	S	S	S	S	S	S	-	-	S		
4. Accessory Structures and Facilities including but not limited to Tool Sheds, Greenhouses, Swimming Pools, and Tennis Courts	P	P	P	P	P	P	P	P	P	P	Section 7.15
5. Grazing, Care, Raising, and/or Keeping of Livestock for Personal Use	P	P	P	S	S	S	S	S	S	S	Section 7.18
6. Accessory Dwelling Unit	P	P	P	P	P	P	P	P	P	P	Section 7.04
7. Home Based Day Care (RSA 672:1 V-a)	P	P	P	P	P	P	P	P	P	P	Section 7.08
8. Storage and Use of a Registered Boat, Recreational Vehicle, Camping Trailer, or Motor Vehicle	P	P	P	P	P	P	P	P	P	P	Section 7.17

B. NON-RESIDENTIAL											
1. Drive In or Drive Through	-	-	-	S	S	S	S	S	S	S	
2. Dwelling Unit for Resident Caretaker or Security Personnel	-	-	-	S	S	S	S	S	S	S	Section 7.26
3. Farm or Roadside Stand	P	P	P	P	P	P	-	-	P	P	Section 7.15

ACCESSORY USES	DISTRICTS RU R R-1 C I-1 I-2 CV IN BD	Supplementary Regulations Reference
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C. RESIDENTIAL AND NON-RESIDENTIAL										
1. Signs	P	P	P	P	P	P	P	P	P	Article 8
2. Child Day Care Center	S	S	S	P	P	P	P	P	P	Section 7.08
3. Small Wind Energy Systems	P	P	P	P	P	P	P	P	P	Section 7.25
4. Small Electricity Generation	P	P	P	P	P	P	P	P	P	

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ARTICLE 6. DIMENSIONAL REGULATIONS

6.01 Minimum Lot Size

Except as provided in Article 11, NON-CONFORMING LOTS, USES, AND STRUCTURES, of this ordinance, no structures shall be constructed, and no use shall be established, on a lot having less buildable land area than the minimum amount indicated in the Table of Dimensional Regulations (Section 6.07). Where the lot is not served by a municipal sewer system and an on-site subsurface disposal system is required, the lot size shall not be less than the area required by the New Hampshire Water Supply and Pollution Control Commission or as specified in the Table of Dimensional Regulations (Section 6.07), whichever is the larger.

6.02 Minimum Lot Frontage

Except as provided in Article 11, NON-CONFORMING LOTS, USES, AND STRUCTURES, of this Ordinance, no structures shall be constructed, and no use shall be established, on a lot having less frontage than the minimum dimension indicated in the Table of Dimensional Regulations (Section 6.07). Minimum lot frontage shall be a continuous, unbroken line along one (1) street. The minimum lot frontage dimension must be maintained within the lot as a minimum lot width to a depth of one hundred (100) feet from the front lot line. In the case of lots fronting on a cul-de-sac, the minimum frontage may be reduced to fifty (50) feet, provided that the required minimum frontage dimension for the applicable district is applied to the lot width at a point one hundred (100) feet from the front lot line.

6.03 Minimum Yard Requirements

Except as provided in Article 11, NON-CONFORMING LOTS, USES AND STRUCTURES, of this Ordinance, no structures shall be constructed on any portion of a lot that lies within a minimum required front, rear, or side yard, the dimensions of which are indicated in the Table of Dimensional Regulations (Section 6.07). As a part of a Site Plan Review Approval, the Planning Board may reduce or eliminate yard requirements for structures necessary to utilize rail lines or rail spurs.

A. Front Yard

The minimum front yard within a lot shall be determined by a line parallel to the front lot line at a distance from said lot line as specified in the Table of Dimensional Regulations (Section 6.07). Where a lot is a corner lot or otherwise has multiple street frontages, front yards shall be observed adjacent to all such frontages.

B. Rear Yard

The minimum rear yard within a lot shall be determined by a line parallel to the rear lot line at a distance from said lot line as specified in the Table of Dimensional Regulations (section 6.07).

C. Side Yard

The minimum side yard within a lot shall be determined by lines parallel to the side lot lines at a distance from said lot lines as specified in the Table of Dimensional Regulations (Section 6.07).

6.04 Maximum Lot Coverage

Except as provided in Article 11, NON-CONFORMING LOTS, USES, AND STRUCTURES, of this Ordinance, no structures, or impervious surfaces shall be constructed on a lot such that the area of the lot covered by such structures, and impervious surfaces when calculated as a percentage of the total lot area, shall exceed the maximum percentage as specified in the Table of Dimensional Regulations (Section 6.07). For the purpose of determining maximum lot coverage, impervious areas are defined generally as areas the surface treatment of which substantially restrict or prevent water from being absorbed into the underlying soils. In addition to the areas under the roof line of structures and open patios, impervious areas include the portion of a lot used for parking, maneuvering, vehicular access, outside storage, and developed walkways. Landscaped areas which consist of plantings are not generally considered impervious.

6.05 Maximum Number of Stories and Height of Structures

No structures shall be constructed in excess of the number of stories and the maximum height as specified in the Table of Dimensional Regulations (Section 6.07). The height restrictions shall not apply to necessary appurtenant structures not designed for human occupancy including but not limited to spires, steeples, cupolas, domes, chimneys, smokestacks, flagpoles, or antennae.

6.06 Driveways

All driveways shall have provisions for turnarounds which avoid backing onto public streets.

Vehicle access to all lots shall be from public rights-of-way. The location of driveways shall minimize traffic hazards. No portion of any driveway shall be closer than fifty (50) feet to any intersecting street, nor shall the maximum grade of the driveway exceed twelve (12) percent. Common driveways providing access to two or more residential lots are prohibited.

6.07 Table of Dimensional Regulations

In the Base Districts, as established in Article 4, ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAPS, of this Ordinance, no structure, or impervious surface shall be constructed except in conformance with the standards set forth in the following Table of Dimensional Regulations (Section 6.07), subject to all other provisions and standards of this Ordinance, and other local, state, and federal laws, rules, and regulations. Lots in planned business subdivisions approved after March 15, 2000 may be permitted by the Planning Board, in non-residential zone districts, which do not meet the minimum size or frontage requirements. On such lots, the Planning Board may approve yard requirements which are less than the minimum shown in the Table of Dimensional Regulations. See Section 7.23

TABLE OF DIMENSIONAL REGULATIONS								
Base District	Minimum Lot Size	Minimum Lot Frontage	Minimum Yard Requirements			Maximum Lot Coverage	Maximum Height	Maximum Stories
			Front	Rear	Side			
			Feet	Feet	Feet			
RU	2	200	35	20	20	30	35	2 ½
R	2	200	35	20	20	30	35	2 ½
R-1	2	200	35	20	20	30	35	2 ½
C	2	200	35	20	20	80	35	2 ½
I-1	5	300	50	30	30	80	40	3
I-2	2	200	50	30	30	80	40**	3
CV	1	200	35	20	20	60	40	3
IN	1	200	35	20	20	60	40	3
BD	See Figure 15-1 of the Business Development District Ordinance [published separately] for dimensional regulations							

* Off-street parking and loading spaces shall not be located within the minimum setback areas in the R and RU districts. In the C, I-1, I-2, INST, and CIVIC districts, off-street parking and loading spaces may be located within the setback areas provided the minimum distance between the parking surface area and the property line is no less than ten (10) feet. Driveways and similar access ways may be located within the side or rear setback area in any zone provided the minimum distance between the driveway or access way and the property line is no less than ten (10) feet.

** In the I-2 zone, structures up to 100' in height may be permitted by Special Exception.

ARTICLE 7. SUPPLEMENTARY REGULATIONS AND STANDARDS

7.01 Applicability

This section contains supplementary provisions which pertain to specific uses as annotated in Article 5, Section 5.11 Table of Use Regulations. The regulations and standards of Article 7 shall be applicable to the designated uses in any district, whether permitted by right, by special exception or by conditional use permit. The applicability of these standards and regulations is not intended to limit the authority of the Planning Board or the Zoning Board of Adjustment from applying other reasonable conditions to a development approval.

7.02 Open Space Residential Development

Definition Section

Homeowners Association - an organization of property or unit owners duly incorporated under New Hampshire Law for the purpose of managing and maintaining common areas.

A. Authority and Purpose

The provisions of Section 7.02 are adopted as an innovative land use control as authorized by RSA 674:21. The open space residential development allows for an alternative pattern of land development without an overall increase in density. The purposes of this section are to further the goals and objectives of the Master Plan by:

1. Facilitating the economical and efficient provision of public services;
2. Promoting open space conservation;
3. Protecting the natural and scenic attributes of the land;
4. Maintaining controls for the development of affordable housing in the Town of Bow;
5. Preserving open space while providing greater flexibility in the design of residential subdivisions;
6. Encouraging diversity and originality in lot layout and individual building design to achieve a harmonious relationship between development and the land; and
7. Promoting the functionality and livability of existing and new neighborhoods.

B. General Provisions and Restrictions

1. All Open Space Residential Developments shall comply with all provisions of this Ordinance, except as herein provided, and shall be governed by the current Subdivision Regulations of the Town of Bow except as modified herein.

2. Except as herein provided, there shall be no greater number of units than permitted by the requirements of a non Open Space Residential Development. The Planning Board shall adopt criteria in the Subdivision Regulations to ensure that the number of units is no more than would be permitted in a traditional subdivision layout.

3. Common open space shall be so defined on a subdivision plan and shall be made subject to a deed restriction or placed under a conservation easement which shall thereafter prohibit further subdivision or development of the open space.

4. Only one Single Family Dwelling, with an Accessory Dwelling Unit as permitted in 7.04, shall be permitted per lot.

C. Area Frontage and Setback Requirements

1. The minimum original tract size proposed for Open Space Residential Developments shall be 10 acres.

2. Common open space shall consist of at least fifty percent (50%) of the total original tract area, and at least twenty-five percent (25%) of this open space must be Buildable Land.

3. For the purpose of visual and/or aesthetic screening, a buffer zone having a minimum depth of fifty (50) feet shall be provided inside and abutting the perimeter of the entire original Open Space Residential Development tract. Where existing vegetation is not sufficient to achieve adequate screening, the Planning Board may require additional plantings. To improve neighborhood functionality or achieve continuity with similar neighborhoods, the Planning Board may waive or modify the requirements for the buffer zone.

The buffer zone shall not be disturbed unless approved by the Planning Board. Prior to commencement of construction activity on the parcel, the required buffer shall be marked at 50 feet intervals with signs approved by the Planning Board.

Prior to Subdivision approval, the Planning Board may approve modifications of the buffer zone as provided in this section. After completion of the required public improvements and occupation of dwelling units, the Planning Board may approve modifications of the buffer zone by Conditional Use Permit (see 7.02 D 5 below).

4. The minimum lot size after subdivision shall be three-fourths (3/4) buildable acre for lots with individual wells and on site sewage disposal. For Open Space Residential Developments with municipal or community water supply or sewage disposal, the Planning Board may approve lots with a minimum of one-half (1/2) buildable acre. Where the buffer required in 7.02 C 3 above is provided within individual lots, the area of the buffer shall not be counted towards the requirement for minimum lot size.

5. Road and lot frontage in an Open Space Residential Development shall be a minimum of one hundred (100) feet. Cul-de-sac lots shall have a minimum frontage of fifty (50) feet with minimum lot width of one hundred (100) feet to exist at a distance of one hundred (100) feet back from the road frontage.

For Open Space Residential Developments with municipal or community water supply or sewage disposal, the Planning Board may approve lots with a minimum frontage of eighty (80)

feet, forty (40) feet on cul de sacs.

Where the Planning Board finds that the Purposes of Open Space Residential Development would be furthered, the Board may approve common driveways providing access to two or more residential lots (see Article 6.06).

6. To ensure the protection of existing homes, where a proposed Open Space Residential Development lot would abut a non-Open Space Residential Development lot with an existing residence built thereon, the Planning Board is empowered to require that the abutting Open Space Residential Development lot conform to the minimum lot size and frontage requirements of Article 6, Section 6.07 Table of Dimensional Regulations.

7. The minimum yard requirements contained within Article 6, Section 6.07 Table of Dimensional Regulations shall apply to development within an Open Space Residential Development. In Open Space Residential Developments with municipal or Community Water Supply or Sewage Disposal Systems, the Planning Board may permit side setbacks of no less than 15 feet for interior lot lines. Minimum yard requirements (setbacks) shall be measured from the inside limit of the buffer required in 7.02 C 3 above to the drip line of the structure.

D. Approvals and Revisions

1. Proposed Articles of Association and by-laws must be approved in writing by the State of New Hampshire (if applicable) and by the Planning Board prior to the granting of development approval, but only after legal review by the Board's counsel. The cost of legal review by the Board's legal counsel shall be borne by the developer. Any proposed changes in such documents shall require the prior written approval of the Planning Board.

2. Membership in a Homeowners Association shall be mandatory for Open Space Residential Development property owners and made a required covenant in all deeds issued to lot or property owners. The Association shall provide voting and use rights in the open space area(s) when applicable and shall charge dues or levy assessments to cover expenses which may include tax liabilities of common areas, and for the maintenance of such common open space areas, improvements, and rights-of-way, etc. The Association shall be responsible for the perpetuation, maintenance, and function of all common open space lands, uses and facilities. The Association shall be responsible for educating members of the obligations for all buffers, common lands, uses, and facilities. Such association shall not be dissolved, nor shall such Association dispose of any common open space or natural land by sale or otherwise without prior written consent of the Planning Board. The developer of the Open Space Residential Development shall be responsible for all obligations of the Association until the Association is formed and in operation, including educating each purchaser of the obligations for all buffers, common lands, uses, and facilities.

3. Any and all open space lands within the Open Space Residential Development tract shall be held in common ownership by the dwelling unit owners or by the Homeowners Association. The Planning Board may permit the transfer of conservation land and / or a conservation easement to the Town of Bow, Bow Open Spaces, or other approved conservation organization. No changes to the open space design or uses permitted are allowed without prior approval of the Planning Board.

4. In the event that the Association established to own and maintain the open space areas, or any successor Association, or the owner or owners of the dwelling units located

within the development who own said open space shall, for any reason, fail to maintain the open space in reasonable order and condition in accordance with the final approved plan, the Planning Board shall serve written notice upon such Association, successor Association, or residents setting forth the deficiencies in the maintenance, order and condition of the open space. Such notice shall include a demand that said deficiencies be cured forthwith and that a statement of intent to comply and a date of compliance shall be filed with the Planning Board within fourteen days of such notice. If the Association or owners of the dwelling units fail to cure the deficiencies forthwith, the Association and each of the owners of the dwelling units shall be liable for the fines and penalties provided for in RSA 676:17 et. seq. in addition to all other legal and equitable remedies.

5. Following completion of required improvements and occupation of dwelling units in an Open Space Residential Development, the Planning Board may approve, by Conditional Use Permit, modifications to the required buffer zone. In determining whether to grant a conditional use permit, the Planning Board shall, in addition to the standards set forth in Section 12.05 of the Ordinance, take into consideration the existing condition of the buffer prior to disturbance, the character and use of neighboring properties abutting the area of the buffer zone proposed for disturbance, the impact of the proposed disturbance including any benefits or detriments to properties abutting the affected buffer including lots in the Open Space Residential Development, and whether the proposed plan enhances the function of the buffer zone. Notwithstanding the foregoing, the buffer zone may not be disturbed for the placement of buildings.

7.03 Manufactured Housing Parks and Subdivisions

Definition Section

Manufactured Housing, Manufactured Home - any structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating, and electrical heating systems contained therein. Manufactured housing shall not include pre-site built housing.

Manufactured Housing Park - a tract of land providing sites or lots, supported by required improvements and utilities, that are leased for the long term placement of manufactured housing, and that includes services and facilities for the residents. A manufactured housing park does not include the parking of unoccupied manufactured housing units for inspection and sale as a commercial business.

Manufactured Housing Subdivision - a subdivision to create lots for sale upon which manufactured housing units may be placed.

The development of Manufactured Housing parks shall be subject to the following standards and conditions:

- A. Minimum tract size for a Manufactured Housing Park: five (5) acres

- B. Minimum gross area per unit: three fourths (3/4) acre
- C. Minimum tract frontage of Manufactured Housing Park: three hundred (300) feet
- D. Minimum space between Manufactured Housing Units: fifty (50) feet
- E. Minimum distance of nearest Manufactured Housing Unit to side and rear lot lines: fifty (50) feet
- F. Minimum distance of nearest Manufactured Housing Unit to right-of-way of any public street: one hundred fifty (150) feet
- G. All internal roadways shall be well drained, graveled, and hard surfaced or paved and maintained in good condition and illuminated at night.
- H. The maintenance of all common areas, water and sewer utilities, lighting, roadways, drainage, recreation and other common areas and facilities shall be the responsibility of the property owner or owners, or of a Homeowners Association formed for such purpose.
- I. Where the site abuts a residential premise, public or institutional use, or public street or way, a densely planted hedge screen, solid fence, wall or combination at least five (5) feet in height shall be provided along the full length of the property line of such abutting use or way.
- J. The applicable sanitary regulation promulgated by State Board of Health under authority of Chapter 147, New Hampshire Revised Statutes Annotated, as most recently amended, shall be adhered to.
- K. Connection to a municipally owned and operated sewer system or private system approved by the New Hampshire Water Supply and Pollution Control Commission shall be required.

7.04 Accessory Dwelling Units

Definition Section

Dwelling Unit, Accessory - a dwelling unit within a single family dwelling that is designed, constructed, altered or converted for the express purpose of enabling a person or persons to reside in the same residential structure but in separate living quarters.

Only one accessory dwelling unit per lot shall be permitted. An accessory dwelling unit may be incorporated within a single family dwelling provided that:

- A. The single family dwelling is located on a lot having at least the minimum lot area or frontage required by the Ordinance, or is located on a non-conforming lot which is served by a municipal sewer;
- B. The single family dwelling is located on a lot either served by municipal sewer, or is connected to a septic system with adequate capacity to service the total number of bedrooms within the single family residence and the accessory dwelling unit;

- C. The accessory dwelling unit shall not exceed 800 square feet of Habitable Floor Area;
- D. One of the dwelling units shall be occupied by the owner of the property; and
- E. Prior to occupancy of the second dwelling unit, the owner must record an approved "Notice of Limited Occupancy" at the Merrimack County Registry of Deeds.

7.05 Elderly, Duplex, and Multi-Family Dwellings

A. Housing for the Elderly

1. Where the development is for housing for the elderly and municipal sewer is available, the following minimum required acreage shall apply:

The minimum parcel size for the development shall be 4.0 buildable acres

- a. Where the development has its access on Arterial or Collector Street

	Single & Duplex Units*	Multi-Family Units *
Units 1 - 8	4.0 Buildable Acres	4.0 Buildable Acres
Units 9 +	4.0 Buildable Acres for Units 1 - 8 +.5 Buildable Acres for each additional Unit	4.0 Buildable Acres for Units 1 - 8 + .5 Buildable Acres for each additional Unit

* Minimum lot size shall be calculated based on the total number of units allowed for the entire site, not calculated for individual buildings.

- b. Where the development has its access on Local Street

	Single & Duplex Units *	Multi-Family Units *
Units 1 - 5	4.0 Buildable Acres	4.0 Buildable Acres
Units 6 +	4.0 Buildable Acres for Units 1 - 5 +.5 Buildable Acres for each additional Unit	4.0 Buildable Acres for Units 1 - 5 + .5 Buildable Acres for each additional Unit

* Minimum lot size shall be calculated based on the total number of units allowed for the entire site, not calculated for individual buildings.

2. Where municipal sewer is not available, the following minimum required acreage shall apply:

The minimum parcel size for the development shall be 4.0 buildable acres

- a. Where the development has its access on Arterial or Collector Street

	Single & Duplex Units *	Multi-Family Units *
Units 1 - 4	4.0 Buildable Acres	4.0 Buildable Acres

Units 5 - 10	4.0 Buildable Acres for Units 1 - 4 + 1.0 Buildable Acres for each additional Unit	4.0 Buildable Acres for Units 1 - 4 + .5 Buildable Acres for each additional Unit
Units 11 +	10.0 Buildable Acres for Units 1 - 10 + 1.5 Buildable Acres for each additional Unit	7.0 Buildable Acres for Units 1 - 10 + .5 Buildable Acres for each additional Unit

* Minimum lot size shall be calculated based on the total number of units allowed for the entire site, not calculated for individual buildings.

b. Where the development has its access on Local Street
Single Family & Duplex Units *

	Single Family & Duplex Units *	Multi-Family Units *
Units 1 - 3	4.0 Buildable Acres	
Units 1 - 5		4.0 Buildable Acres
Units 4 - 10	4.0 Buildable Acres for Units 1 - 3 + 1.0 Buildable Acres for each additional Unit	
Units 6 - 10		4.0 Buildable Acres for Units 1 - 5 + .75 Buildable Acres for each additional Unit
Units 11 +	11.0 Buildable Acres for Units 1 - 10 + 1.5 Buildable Acres for each additional Unit	7.75 Buildable Acres for Units 1 - 10 + 1.0 Buildable Acres for each additional Unit

* Minimum lot size shall be calculated based on the total number of units allowed for the entire site, not calculated for individual buildings.

3. All other dimensional regulations apply;

4. In developments of Housing for the Elderly where a proportion of the units could be available to persons who do not qualify as elderly, the requirements of the Table of Dimensional Regulations shall be applied to those units.

B. Duplex and multifamily dwellings in the "RU" and "R" Districts

1. The building height shall not exceed two (2) stories and

2. The minimum required acreage shall be two (2) acres of buildable land for the first dwelling unit, plus one half (½) acre of buildable land for each additional dwelling unit. Minimum lot size shall be calculated based on the total number of units allowed for the entire site, not calculated for individual buildings. Multiple duplexes and/or multi-family structures are permitted on a single parcel. Not more than five (5) multi-family dwelling units are permitted in a structure. A Reasonable Exception for multi-family structures containing more than five (5) units may be approved by Conditional Use Permit.

In addition to the criteria in Article 12.05, the applicant for a CUP for a Reasonable Exception must demonstrate that the structures proposed [with more than five (5) units] have advantages

over structures with fewer units in terms of impacts to natural resources, public safety, and / or municipal finances, and that the larger units are appropriately screened from abutting parcels and public streets.

C. Special Provisions Applicable to Housing for the Elderly and multifamily dwellings in all Districts

1. Standby emergency electricity generators shall be provided for all developments of Housing for the Elderly and specified multifamily dwellings. These provisions shall apply to all new developments and to renovations equal to or greater than 50% of structure value, that add elevator or chair lift, or that provide for health and life sustaining appliances. Generators shall provide electricity throughout periods of power outages and shall have sufficient fuel available for two days of continuous operation. The generators shall provide sufficient supply of electricity to operate emergency lighting, water supply system, elevators, (wheel) chair lifts, and heating systems throughout the development, and operate appliances needed to sustain life and health in individual dwelling units. The electrical system shall be constructed to deliver the required electricity throughout the development. The owner or home owners association shall submit provisions for maintenance of generation systems, including provisions for refueling during extended power outages.

The requirement for standby emergency electricity generators shall only apply to multifamily dwellings that exceed two floors above grade or that contain more than twelve (12) dwelling units in a single structure.

2. The Planning Board shall adopt provisions in the Site Plan Review Regulations to implement the requirements for standby generators and shall be authorized to approve the design, installation, and provisions for maintenance of generation systems. The Board shall be authorized to grant Waivers from the herein requirements through the Site Plan Review Application process.

The Planning Board may grant such Waivers or partial Waivers where

- a. each unit in the development has direct access to the outside within three (3) vertical feet of adjacent grade;
- b. no elevators or (wheel) chair lifts are constructed;
- c. heating systems are designed to operate without electricity;
- d. other provisions are made for life and health sustaining appliances; or,
- e. in cases where the applicant demonstrates that installation of standby generators would constitute a hardship.

7.06 Home Occupation

Definition Section

Home Occupation - A commercial activity that is conducted by a person entirely within a dwelling unit on the same lot where such person resides, and is of a nature which does not require the use of on-site advertising, frequent customer travel to the site, the on-site storage of heavy equipment, or other exterior evidence of business use which differentiates the appearance of the property from that of other dwellings used exclusively as residences.

The purpose of establishing conditions for home occupations is to ensure that such uses

remain subordinate to the principal use of the property as a residence. No home occupation shall be permitted which would have a significant adverse impact on the surrounding neighborhood. To be considered compatible with a residential neighborhood, a home occupation must meet all of the following conditions:

A. No goods, stock in trade, or other commodities may be visible from outside the building; and

B. There are no on-premise retail sales of goods or merchandise from inventory held on the premises, with the exception of sales made via mail order, via telecommunication, or incidental sales that are directly related and subordinate to the Home Occupation (such as hair products at a salon) that do not generate separate trips to the home; and

C. The home occupation shall not employ more than two (2) persons who are not residents on the premises; and

D. The use shall not create objectionable traffic, noise, fumes, odor, dust, vibration, heat, glare, or electrical interference; and

E. Not more than 25% of the habitable floor area of the dwelling may be utilized by the occupation; and

F. Except for permitted signs and required parking, there shall be no external evidence of the occupation which differentiates the residence in appearance from other residential properties similarly situated; and

G. Off-street parking shall be provided as specified in Article 9; and

H. A single sign is allowed as permitted in Article 8: and

I. The use is not one of the following, which are expressly prohibited as home occupations:

1. Commercial kennels;

2. Uses involving the parking or storage of tractor trailers, or the parking or storage of trucks with a gross vehicle weight (GVW) greater than 16,000 lbs.;

3. Auto or small engine repair or maintenance, welding, or other uses which involve the visible storage on the property of automobiles or the parts thereof.

7.07 Cottage Industry

Definition Section

Cottage Industry - a type of home occupation that is conducted within a dwelling unit or its accessory structures, in which a resident proprietor engages in an on-site business, the nature of which may involve non-family employees, or may require frequent customer traffic, exterior advertising or business identification signs, shipping and delivery of manufactured, assembled or repaired products or an exterior appearance which otherwise deviates from that of other

dwellings used exclusively as residences.

In order to avoid adverse impacts on a neighborhood, a cottage industry shall not be authorized unless it meets **all** of the following standards and conditions:

- A. The cottage industry is subordinate to the principal use of the property as a residence;
- B. Not more than 25 percent of the habitable floor area of the dwelling unit, plus not more than 1,000 square feet of floor area in any accessory building, may be utilized by the cottage industry;
- C. The proprietor of the cottage industry is the owner-occupant of the property;
- D. Not more than three persons who are not occupants of the residence may be employed by the cottage industry;
- E. The lot on which the cottage industry is to be located is a conforming lot under this ordinance;
- F. Retail sales shall be limited to incidental sales of goods which are manufactured, assembled, or grown on site, or products which are directly related to the goods or services rendered by the cottage industry;
- G. The use shall not create objectionable traffic, noise, fumes, odor, dust, vibration, heat, glare, or electrical interference. To assure that such conditions are met, additional conditions limiting the hours of operation may be established as a further condition of the approval of a cottage industry;
- H. Off street parking shall be provided as specified in Article 9;
- I. A single on-premise sign identifying the business which conforms to the limits of Article 8, Section 8.07, Signs permitted in Residential Districts, is allowed;
- J. Any outside storage of materials, vehicles, or stock-in-trade of the cottage industry shall be limited to 1,000 square feet and shall be screened from the view of surrounding properties;
- K. The use is not one of the following uses, which are expressly prohibited as cottage industries:
 - 1. Commercial kennels;
 - 2. Uses involving the parking or storage of tractor trailers, or the parking or storage of trucks with a gross vehicle weight (GVW) greater than 16,000 lbs., or the regular delivery and shipping of materials or goods by such vehicles;
 - 3. Auto or small engine repair or maintenance, welding, or other uses which involve the visible storage on the property of automobiles or the parts thereof; and
 - 4. Warehousing and distribution uses.

7.08 Day Care Centers

Definition Section

Day Care Center - means either full-day or any portion thereof, care centers, for which services are regularly provided for seven (7) or more unrelated children or adults.

Home Based Day Care - means child care services as defined in RSA 672:1 V-a which limits providers to six (6) full-time preschool children and three (3) part-time school age children, including the children domiciled at the home.

All day care centers and home based day care as defined herein shall be required to have restrictive fencing, as approved by the Town of Bow permit issuing authority, enclosing all outdoor play areas, for the safety of the children. Where a day care center is to be operated as an accessory use to a principal residential use, the rules of Section 7.07, Cottage Industry, shall also apply. The Building Inspector shall not issue a Certificate of Occupancy for such use until the applicant files evidence of approval under state permitting and licensing of day care providers issued in accordance with RSA 170-E:8, I through IV.

7.09 Animal Hospital or Commercial Kennel

No animal hospital or commercial kennel shall be located within one hundred and fifty (150) feet of any off-site dwelling, nor within two hundred (200) feet of any residential zoning district boundary. The kennel area shall be completely enclosed within a wall or fence, and shall meet the standards of Article 7, Section 7.16 Screening Standards.

7.10 Radio/TV Tower or Antenna and Personal Wireless Service Facility (PWSF)

Definition Section

Antenna shall mean any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any frequency and bandwidth.

Antenna only applications shall mean proposed installations where antenna(s) are mounted on an existing building or on an existing tower and where the ground level floor area of new related structures is not more than 1200 square feet.

Average tree canopy height shall mean the average height above ground level of all trees over a specified height within a three hundred (300) foot radius of the center of the mount of a PWSF, such average to be determined by inventorying the trees to remain after the construction of the PWSF.

Board or Planning Board shall mean the Town of Bow Planning Board, which shall be the regulator of this Ordinance.

Camouflaged shall mean a personal wireless service facility that is disguised, hidden, part of an existing or proposed building or structure, or placed within an existing or proposed building or structure.

Collocation, as defined in RSA 12-K:2, X, as from time to time amended, shall mean the placement or installation of new PWSFs on existing towers or mounts, including electrical transmission towers and water towers, as well as existing buildings and other structures capable of structurally supporting the attachment of PWSFs in compliance with applicable codes. Collocation does not include a Substantial Modification.

Collocation Application, as defined in RSA 12-K:2, XI, as from time to time amended, shall mean a request submitted by an applicant to an authority for collocation on a tower or mount.

FAA shall mean the Federal Aviation Administration.

FCC shall mean the Federal Communications Commission.

Height shall mean, when referring to a tower or other structure, the distance measured from ground level of the natural grade of a site to the highest point on the tower or other structure, even if said highest point is an antenna.

Modification, as defined in RSA 12-K:2, XVIII, as from time to time amended, shall mean the replacement or alteration of an existing PWSF within a previously approved equipment compound or upon a previously approved mount. Routine maintenance of an approved PWSF shall not be considered a modification.

Modification Application, as defined in RSA 12-K:2, XIX, as from time to time amended, shall mean a request submitted by an applicant to an authority for modification of a PWSF.

Modification, Substantial, as defined in RSA 12-K:2, XXV, as from time to time amended, shall mean the mounting of a proposed PWSF on a tower or mount which, as a result of single or successive modification applications:

- (a) Increases or results in the increase of the permitted vertical height of a tower, or the existing vertical height of a mount, by either more than 10 percent or the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; or
- (b) Involves adding an appurtenance to the body of a tower or mount that protrudes horizontally from the edge of the tower or mount more than 20 feet, or more than the width of the tower or mount at the level of the appurtenance, whichever is greater, except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower or mount via cable; or
- (c) Increases or results in the increase of the permitted square footage of the existing equipment compound by more than 2,500 square feet; or
- (d) Adds to or modifies a camouflaged PWSF in a way that would defeat the effect of the camouflage.

Mount shall mean the structure or surface upon which antennas are mounted and include roof-mounted, side-mounted, ground-mounted, and structure-mounted types.

Personal Wireless Service Facility(ies) or PWSF(s) or facility(ies) shall mean any "PWSF" as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(C)(ii), including facilities used or to be used by a licensed provider of personal wireless services, which for purposes of this Ordinance shall also include, as the context may require, all towers and antennas used in connection therewith.

Personal Wireless Services shall mean any wireless telecommunications services, and

commercial mobile services including cellular telephone services, personal communications services, and mobile and radio paging services as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332 (c)(7)(C)(i).

Pre-existing Facilities shall mean any PWSF, tower or antenna lawfully constructed or permitted prior to the adoption of this Ordinance, as well as the replacement of any such PWSF, tower or antenna, provided that such replacement meets the requirements of Section 7.10 E. 1. Pre-existing Facilities shall also mean any PWSF, tower or antenna lawfully constructed in accordance with this Ordinance that predates an application currently before the Board.

Radio frequency radiation shall mean the electronic emissions from personal wireless service facilities.

Stealth Facility/Stealth Technology shall mean any PWSF designed to look like a structure which may commonly be found in the area surrounding such proposed facilities such as, but not limited to, flagpoles, farm silos, ranger or forest fire watch towers, or artificial trees.

Tower shall mean any structure that is designed in part and constructed primarily for the purpose of supporting one or more antennas. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, stealth facilities, utility poles, monopoles and the like.

Viewshed shall mean the geographic area visible from a particular point (location) of view.

A. Authority

This Ordinance is adopted by the Town of Bow on May 9, 2006, in accordance with the authority granted in New Hampshire Revised Statutes Annotated 674:16, 674:21, and 12-K.

B. Purposes

These regulations have been enacted in order to establish general guidelines for the siting of personal wireless service facilities (PWSF), including towers and antennas and to enhance and fulfill the following goals:

1. Further the goals, objectives and recommendations of the Bow Master Plan and preserve the authority of the Town of Bow to regulate and to provide for reasonable opportunity for the siting of personal wireless service facilities, by enhancing the ability of providers of personal wireless services to provide such services to the community quickly, effectively, and efficiently.

2. Reduce adverse impacts such personal wireless service facilities may create, including, but not limited to impacts on: aesthetics, environmentally sensitive areas, conservation lands, historically significant locations, ridge lines, scenic areas and vistas, viewsheds, flight corridors, health and safety by reducing injurious accidents to person and property, and prosperity by protecting property values.

3. Provide for co-location and minimal impact siting options through an assessment of technology, current locational options, future available locations, innovative siting techniques,

and siting possibilities beyond the political jurisdiction of the Town of Bow.

4. Permit the construction of new personal wireless service facilities only where all other reasonable opportunities have been exhausted, and to encourage the construction of new PWSFs in a way that minimizes the adverse visual impact of such facilities.

5. Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town of Bow.

6. Provide for the regular maintenance and safety inspections for any and all personal wireless service facilities.

7. Provide for the removal of abandoned personal wireless service facilities that are no longer inspected for safety concerns and code compliance. Provide a mechanism for the Town of Bow to remove these abandoned facilities to protect the citizens from imminent harm and danger at other than municipal expense.

8. Provide for the removal of personal wireless service facilities that are technologically outdated.

C. Overlay District

Personal wireless service facilities shall be permitted as a principal or accessory (secondary) use in all zoning districts within the Town of Bow governed by this Ordinance only after obtaining a Conditional Use Permit, with exceptions listed in D. 2., as provided in this Ordinance.

1. Existing Uses or Structures. The existence of a permitted use on a site shall not preclude the addition of a PWSF as a secondary use provided all other provisions of this Ordinance are satisfied. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a PWSF, tower, or antenna complies with district development regulations, including but not limited to set-back requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the PWSF, tower, or antenna may be located on an easement or leased parcel within such lot. PWSF, towers that are constructed, and antennas that are installed, in accordance with the provisions of this Ordinance, shall not be deemed to constitute the expansion of a nonconforming use or structure.

D. Applicability

1. General. The terms of this Ordinance shall apply to all personal wireless service facilities proposed to be located within the Town of Bow whether on property owned by the Town of Bow, on privately owned property, or on property owned by another governmental entity that acts in a proprietary capacity to lease such property to a carrier.

2. Exceptions.

a. Amateur Radio / Receive-Only Antennas. This Ordinance shall not govern any

tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally- licensed amateur radio station operator or is used exclusively for receive only antennas. This Ordinance adopts the provisions and limitations as referenced in RSA 674:16, IV.

b. **Essential Services & Public Utilities.** Personal wireless service facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town of Bow's ordinances and regulations. Siting for personal wireless service facilities is a use of land, and is addressed by this Section 7.10.

c. **Applications for Modification or Collocation.** Applications for Modification or Collocation shall be reviewed in conformance with RSA 12-K:10, as from time to time amended. 12-K:10 includes provisions that a decision as to completeness shall be rendered within 15 days, a decision to approve or disapprove shall be rendered within 45 days, shall not require a Zoning Board of Adjustment or Planning Board public hearing or approval, provides for automatic approval after 45 days, and limits municipal authority over PWSF mounted on utility poles.

E. Location, Construction, and Performance Requirements

1. **Setbacks.** All personal wireless service facilities, including equipment compounds, utility buildings, structures, towers and antennas must meet the minimum setback requirements of this Ordinance. Further, towers must be set back from all lot lines and public rights-of-way a minimum distance equal to 125% of the tower's height; provided, however, that this requirement shall not apply to PWSFs and appurtenant facilities (1) located on or within existing buildings or structures; or structures less than thirty-five (35) feet in height from surrounding grades, and (2) camouflaged as otherwise required by this Ordinance.

2. Height Limitations

a. **General.** Subject to any stricter standards as set forth below, a personal wireless service facility shall not exceed ninety (90) feet in height, measured as the vertical distance from the average finished grade surrounding the facility, to its highest point, including all attachments. The 90 feet height limit shall not apply to antenna only applications, Modifications, and Collocations. The height of any structure will be the minimum necessary in order to transmit and receive commercially feasible transmissions. The intent to serve a large area with one tall installation will not be accepted as justification of height. Multiple, minimum-height towers are preferred, and may be required.

b. **PWSFs in Wooded Areas.** A personal wireless service facility located in a wooded area, except for Modifications and Collocations, shall not project higher than twenty (20) feet above the average tree canopy height of the proposed site. Further, a PWSF located in a wooded area must be camouflaged to blend in with the natural character of such area and must employ stealth technology in order to make the site less obtrusive to surrounding properties and the community. Appropriate stealth technologies for wooded areas include: ranger or forest fire watch towers of a size typically found in the State of New Hampshire, artificial trees, or other structures acceptable to the Planning Board.

c. **PWSFs in Fields or Agricultural Areas.** A personal wireless service facility located in a field or other open area without a tree canopy shall employ stealth technology. Appropriate stealth technologies for fields or open areas include agricultural silos, windmills, or other structures acceptable to the Planning Board and of a size and configuration typically

found in the State of New Hampshire.

d. PWSFs in or on Existing Structures. A PWSF may be located on or within an existing building or structure provided that such facilities, except for Modifications and Collocations, shall employ stealth technologies and shall be architecturally compatible with the host building or structure.

e. New PWSF Structures. A PWSF may be located in a new building or structure provided that such building or structure (a) shall not exceed the maximum building height in the zoning district where a PWSF is proposed, and (b) shall be architecturally compatible with the buildings in the immediately surrounding area.

3. Location Prioritization. Any new personal wireless service facility shall be located in accordance with the following priorities, starting with the first. An applicant shall show proof of having exhausted each option before moving on to succeeding options. Antenna only applications shall be located in accordance with priority a or c, as applicable.

a. Concealed or camouflaged on or within an existing building or structure, including but not limited to an historic building, an agricultural building or structure, a water tank, a utility transmission pole, an outdoor lighting structure, or a church steeple.

b. On or within a new building or structure having a height not greater than the maximum building height in the zoning district where the PWSF is proposed.

c. On an existing PWSF (co-location);

d. On a new facility which is camouflaged using stealth technologies subject to the height limitations set forth above.

4. Easements or Leased Areas. If a PWSF is to be located on an easement or leased area, said easement or leased area shall have a minimum area equal to an area having a radius of 125% of the tower's height plus additional area for accessory structures and access, if required. Antenna only applications, Modifications, and Collocations need only provide easement or leased area for accessory structures.

5. Tower Construction. All new PWSFs must employ appropriate stealth technologies that are visually compatible and in scale with the rural character of the Town and its villages and shall satisfy the following additional requirements:

a. The design of the tower, buildings and related structures on a PWSF site shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend such facilities with the natural setting and man-made environment. The design also should call for installation of appropriate techniques to mitigate the effects of noise produced by the PWSF's equipment and reduce the impact of noise pollution to neighboring properties. These facilities shall also be subject to all other requirements of the Zoning Ordinance and Site Plan Review Regulations.

b. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a color satisfactory to the Board that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

c. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

d. Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind, except as required by law for such facilities.

e. An applicant constructing a PWSF in a wooded area shall utilize appropriate construction techniques to minimize damage to trees and other vegetation within the PWSF site and surrounding areas. Moreover, all trees used to determine the average tree canopy height for the PWSF site shall not be damaged or removed during construction, maintenance, repair and operation of the PWSF. In all cases, the applicant also shall demonstrate legal capacity to control tree-cutting and removal from the proposed camouflage area.

6. Viewshed Analysis. As a part of the initial application, except for Modifications and Collocations, the applicant shall submit a map showing the areas within 2000' from which the PWSF would be visible. As part of the review process the applicant shall conduct a viewshed analysis, using a methodology approved by the Board. Such analysis may include: (1) a mapped viewshed delineation; (2) a test balloon or crane extension moored at the site; or (3) other technology to indicate the visibility of proposed towers and/or antennas. Photographs or video footage of the balloon or crane test shall be provided to the Planning Board and shall provide views of the tower from the PWSF site and other vantage points as determined by the Planning Board.

7. Landscaping. The following landscaping requirements shall apply to personal wireless service facilities constructed under this ordinance.

a. Towers and all accessory buildings and fencing shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent property. The standard buffer shall consist of a landscaped strip at least ten (10) feet wide outside the perimeter of the compound. Natural vegetation is preferred.

b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived entirely.

c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, PWSFs sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer.

8. Federal Requirements. All PWSFs must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, the owners of the PWSFs governed by this Ordinance shall bring such facilities into compliance with such revised standards and regulations within six (6) months of the effective date of such revised standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency, or unless the controlling federal agency provides an exemption for pre-existing facilities. Failure to bring a PWSF into compliance with such revised standards and regulations shall constitute an abandonment and grounds for the removal of the PWSF in accordance with Section 7.10 I. at the owner's expense through the execution of the posted

security. Owners of telecommunications facilities shall provide documentation showing that each telecommunications facility is in compliance with all applicable federal and state requirements. Evidence of compliance must be submitted every 12 months.

9. Building Codes-Safety Standards. To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Board of Selectmen or designee concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards, unless the Board or Selectmen or designee determines that corrective action must be taken in less time to protect the public safety. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal of the tower in accordance with Section 7.10 I. at the owner's expense through execution of the posted security.

F. Conditional Use Permits

1. General. Any person seeking to construct a personal wireless service facility, except for antenna only applications, Modifications, and Collocations, shall apply to the Planning Board for Site Plan Review in accordance with the requirements set forth in the Town's Site Plan Review Regulations. In addition, each applicant shall submit the information required in this Section 7.10 F.

2. Issuance of Conditional Use Permits. In granting a Conditional Use Permit, the Planning Board may impose such conditions as the Board determines are necessary to minimize any adverse effect of the proposed PWSF on adjoining properties, and to preserve the intent of this Ordinance.

3. Procedure on Applications. The Planning Board shall act upon an application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4. In addition, applicants shall submit a list of all communities within twenty (20) miles of the Town of Bow, and the local newspapers used by the towns, with mailing addresses for each, as required by RSA 12-K. Applicants shall also pay all fees required to notify each community.

4. Decisions. Possible decisions that may be rendered by the Planning Board include approval, approval with conditions, disapproval without prejudice, or disapproval. All decisions shall be rendered in writing, in accordance with RSA 676:3. Further, in accordance with the National Wireless Telecommunications Siting Policy - Section 332(c)(47 U.S.C. 332(c)), a denial shall be based upon substantial evidence contained in the written record. Pursuant to RSA 676:5, any decision made under this ordinance cannot be appealed to the Board of Adjustment, but may be appealed under State or Federal law.

5. Application Requirements. All applications shall meet the standards set forth in Section 7.10 E.

6. Other Factors. Other factors to be considered by the Board in reviewing applications shall include:

- a. The height of the proposed tower or other structure shall not exceed that which

is essential for its intended use and public safety.

- b. Nature of uses on adjacent and nearby properties.
- c. Surrounding topography.
- d. Proposed ingress and egress to the site.
- e. Availability of suitable existing towers and other structures as discussed in Section 7.10 E.3.

7. Plan Requirements. Each applicant requesting a Conditional Use Permit under this Ordinance shall submit a scaled plan in accordance with the Site Plan Review Regulations and further information including the below items. Items b., g., h., j., k., l., n., and o. are not required for antenna only applications.

- a. A scaled elevation view;
- b. Topography;
- c. Propagation Maps showing proposed radio frequency coverage and coverage from alternative sites within the Town of Bow;
- d. Radio frequency coverage;
- e. Setbacks;
- f. Adjacent uses (up to 400 feet away);
- g. The location of all buildings and structures within 500 feet of the proposed tower;
- h. Diagram of the average tree canopy height determined for the proposed PWSF site;
- i. Driveways and parking;
- j. Fencing, including anti-climbing techniques;
- k. Landscaping;
- l. Proximity of tower to residential development;
- m. Impact on identified historical resources;
- n. Surrounding tree cover and foliage;
- o. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
- p. Visual impacts of the Viewshed, ridge lines, open fields and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.

8. Other Information Required. In order to assess compliance with this Ordinance, the Planning Board shall require the applicant for a PWSF to submit the following information prior to any decision by the Board:

a. The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.

b. The applicant shall submit written proof that it has conducted an evaluation of any requirements of the National Environmental Policy Act (NEPA) pertaining to the proposed wireless telecommunication facility, tower or antenna, as may be required under applicable FCC rules, and the results of any such evaluation. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and/or NEPA, the applicant shall submit the EA or EIS to the Board prior to the beginning of the federal thirty (30) day comment period, and the Town proceedings with respect to the proposed wireless telecommunication facility, tower or antenna shall become part of the FCC application requirements.

c. The applicant shall submit written proof that it has complied with the requirements of Section 106 of the National Historic Preservation Act.

d. Each applicant for a PWSF shall provide to the Planning Board an inventory of all existing personal wireless service facilities and towers that are within the jurisdiction of the Town of Bow and those within two miles 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. This inventory shall include all existing towers, all towers that have been approved but not yet built, and all towers that have been proposed. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this Ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however, the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

9. New PWSF Construction. If an applicant proposes to build a new PWSF tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. The evidence shall consist of:

a. Substantial evidence that no existing PWSFs, towers or structures are located within the geographic area which meet the applicant's engineering requirements. The applicant must provide a description of the geographic area targeted for coverage.

b. Substantial evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements, with supporting reasons.

c. Substantial evidence that the existing towers or PWSF structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

d. Substantial evidence that the applicant's proposed antenna or PWSF structures would not cause electromagnetic interference with other antennae on the existing towers, and vice versa.

e. Substantial evidence that the fees, costs, or contractual provisions required by

the owner in order to share the existing tower or PWSF structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

- f. Substantial evidence that the applicant can demonstrate other limiting factors that render existing towers and PWSF structures unsuitable.
- g. Information on the number of sites for PWSFs each provider will require.
- h. Information on sites outside of the Town of Bow that are being considered.
- i. Information on how future technology may reduce or eliminate the need for towers.
- j. Information on the impact, if any, of the PWSF on a competitor's facility on the same property.
- k. Information on whether it is feasible for carriers to locate base station equipment underground.
- l. A description of why less visibly intrusive alternatives for this facility were not proposed.
- m. Mandatory submittal of studies of alternative sites in the Town of Bow that have been considered for siting.

10. Co-location on New PWSE. The applicant proposing to build a new PWSF shall submit an agreement with the Town of Bow that allows for the maximum allowance of co-location upon the new facility. Such statement shall become a condition to any approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other personal wireless service 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 Bow and grounds for a denial.

11. Size / Coverage Requirements. The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Board may retain the services of a consultant qualified in personal wireless services to review the application and all associated information submitted by the applicant. The Board may further require, pursuant to RSA 676:4, I (g), that the applicant reimburse the Town of Bow for reasonable costs of this review. No application shall be approved until such fees, if applicable, are paid in full.

G. Waivers

The Planning Board may grant waivers to these regulations provided that a majority of the Board finds that the criteria set forth in Article 13.02 B. 2. a. for unnecessary hardship of the Zoning Ordinance have been satisfied.

- 1. Conditions. In approving waivers, the Board may impose such conditions, as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.
- 2. Procedures. A petition for any such waiver shall be submitted in writing by the

applicant for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

H. Bonding and Security Insurance. Requirements for surety shall conform with RSA 12-K:11, 1 (k), as from time to time amended. In recognition of the extremely hazardous situation presented by abandoned, unmonitored and/or non-maintained PWSFs, towers and antennas and their appurtenances, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of such facilities in the event that such facility is abandoned, unmonitored or not maintained and the owner thereof is incapable and/or unwilling to remove the facility in accordance with Section 7.10 I. Such security shall not be required for Modifications and Collocations. The Planning Board shall require the applicant to submit proof of appropriate liability insurance with respect to the proposed PWSF, tower or antenna prior to the construction of such facilities. The applicant shall provide the Planning Board proof of acceptable insurance and security on an annual basis unless required sooner by the Planning Board. Failure to adhere to bonding and security requirements shall result in any and all related permits being revoked at the discretion of the Board.

I. Removal of Abandoned PWSFs. Any PWSF, tower, antenna or appurtenance that is not operated and/or properly maintained for the commercial transmission of wireless communication for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said facility provides proof of quarterly inspections acceptable to the Board. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Board. In the event the Board of Selectmen, at its sole discretion, determines the structure to be an imminent safety hazard, the owner shall present the Board of Selectmen or its designee with a plan to secure the area and remove the structure within seven-two (72) hours. The owner shall be responsible for all costs to restore the area to an acceptable condition. Otherwise, a declaration of abandonment shall only be issued following a public hearing, noticed per Town of Bow regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned PWSF, tower or antenna is not removed within ninety (90) days of the determination of abandonment, the Board may execute on the security posted in accordance with Section 7.10 H. and have the facility removed. If there are two or more users of a single facility, this provision shall not become effective until all users cease using the facility.

J. Requirement to Maintain and Monitor. The owner shall at all times maintain the facility in acceptable condition. Said maintenance shall include, but not be limited to, painting, structural repairs, security, and maintenance of buffer areas and stealth technologies as applicable. Where stealth technology has been employed to reduce the aesthetic impact of a PWSF, said technology or camouflaging techniques must be maintained in perpetuity for the life of the PWSF. Failure to maintain said technology/techniques shall be considered abandonment and grounds for removal of said facility in accordance with Sections 7.10 H. and I. of this Ordinance.

As part of the issuance of the site plan approval or building permit, the property owner shall agree that the Board of Selectmen or its designee may enter upon the premises to inspect the facilities as it deems necessary. No prior notice shall be required for said inspection. Results of any inspection by the Board of Selectmen shall be shared with the property owner and the facility owner, when different.

7.11 Sexually Oriented Businesses

Definition Section

Adult Bookstore or Adult Video Store - A business that devotes more than 15% of the total display, shelf, rack, table, stand or floor area, utilized for the display and sale of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, CD-ROMS or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1; or instruments, devices or paraphernalia which are designed for use in connection with "sexual conduct" as defined in RSA 571-B:1, other than birth control devices. AN ADULT BOOKSTORE OR ADULT VIDEO STORE DOES NOT INCLUDE AN ESTABLISHMENT THAT SELLS BOOKS OR PERIODICALS AS AN INCIDENTAL OR ACCESSORY PART OF ITS PRINCIPAL STOCK AND TRADE AND DOES NOT DEVOTE MORE THAN 15% OF THE TOTAL FLOOR AREA OF THE ESTABLISHMENT TO THE SALE OF BOOKS AND PERIODICALS.

Adult Cabaret - A nightclub, bar, restaurant, or similar establishment which during a substantial portion of the total presentation time features live performances which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1 and/or feature films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

Adult Drive-In Theater - An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

Adult Motel - A motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis upon the depiction or description of materials which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

Adult Motion Picture Arcade - Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

Adult Motion Picture Theater - An establishment with a capacity of five or more persons, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1, for observation by patrons. A "substantial portion of the total presentation time" shall mean the presentation of films or shows described above for viewing on more than seven days within any 30 consecutive day

period.

Adult Theater - A theater, concern hall, auditorium or similar establishment either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

Nude Model Studio - A place where a person who appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals and is observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration or such display is characterized by an emphasis on activities which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

Sexual Encounter Center - A business or commercial enterprise that as one of its primary business purposes, offers for any form of consideration: (A) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (B) activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; or where the activities in (A) or (B) is characterized by an emphasis on activities which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

Sexually Oriented Businesses: A sexually oriented business is any place of business at which any of the above defined activities is conducted:

A. Purpose and Intent

It is the purpose of this article to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Bow; and, it is the intent to promote the health, safety and general welfare of the citizens of the Town of Bow; and, it is the intent of this article that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of sexually oriented businesses; and the provisions of this amendment have neither the purpose nor the effect of imposing limitation or restriction on the content of any communicative materials, including sexually oriented materials; and, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and, neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

B. Allowed locations and location restrictions of sexually oriented businesses

1. Sexually Oriented Businesses, as defined above shall be permitted only in the General Industrial I-2 District provided that all other regulations, requirements, and restrictions for the zone in which the sexually oriented business is to be located are met; and, no sexually oriented business shall be permitted within 1000 feet of another existing sexually oriented business or one for which a building permit has been applied for.

2. No sexually oriented business shall be permitted within 1000 feet of any residence, apartment or manufactured housing.

3. No sexually oriented business shall be permitted within 1000 feet of any church, place of worship, parish house, convent, public, parochial, or private school, kindergarten, State approved day care center or public sports/recreation parks; and, no sexually oriented business shall be permitted within 1000 feet of the Town boundaries.

4. No sexually oriented business shall be permitted within 1000 feet of another existing sexually oriented business on the date of the passage of this amendment; and no sexually oriented business shall be permitted within a building, premise, structure or other facility that contains a sexually oriented business as defined herein.

C. Measure of Distance

The distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures from the closest exterior structural wall or temporary or permanent physical divider between each business.

D. Additional Reasonable Regulations

The Planning Board is empowered to review and approve permit applications for sexually oriented businesses, and to impose reasonable restrictions for buffering, outdoor lighting, parking, adequate ingress and egress from the site off of and onto public roads, pedestrian movement, and to provide for appropriate landscaping and building aesthetics in the "Site Plan Review Regulations of the Town of Bow, New Hampshire", and to avoid site development layout which may result in negative environmental impacts.

E. Severability

The invalidity of any section or provision of this article shall not invalidate any other section or provision thereof.

7.12 Industrial and Utility Uses

A. Uses

Uses restricted to indoor operation. Manufacturing, assembly, processing, packaging, research and testing operations shall be conducted entirely within an enclosed building or structure.

B. Fuel Storage

Coal, fuel oil, bottled gas and similar materials shall not be located within three hundred (300) feet of any existing dwelling or where any dwelling which could be permitted under the terms of this ordinance. Storage tanks shall be surrounded by a diked area sufficient to contain the accidental spillage of the materials which are stored on site. All such storage shall comply with all applicable state and local laws and codes relating to the storage of such materials.

C. Performance Requirements for Industrial Uses and Utilities

Industrial uses and utilities shall operate in such a manner that noise, vibration, electromagnetic transmission, odors, air pollution, and all such other emissions shall not be

perceptible without instruments at the boundary of the District in which the use is permitted. Applicants for industrial uses shall submit with their applications a list of all chemicals, pesticides, fuels, solvents, lubricants and other flammable or other potentially hazardous or toxic materials to be used, stored or generated on the premises. This list shall be updated and filed annually with the Building Inspector and the Fire Chief.

7.13 Planing Mills, Sawmills and Similar Uses

A. Content of Application and Plot Plan

The applicant for a use involving a planing mill, sawmill or similar wood processing uses shall indicate in the application whether a portable or stationary operation is proposed. The following minimum information must be included on a plot plan for such use:

1. Log storage area in square feet
2. Sticking yard in square feet
3. Service area in square feet
4. Show travel pattern throughout mill area including sticking area on the site plan
5. Show travel routes on Local and State highways.

B. Plan for disposal of waste materials and reclamation

The applicant shall describe the provisions which will be made for disposal of slabs, edgings, and trimmings; bark; sawdust; and shavings. The applicant shall also indicate the provisions which will be implemented for the reclamation of the affected area after operations have terminated.

C. Site Development and Operation Standards

The site shall maintain buffer growth of trees along its entire perimeter for a depth of at least fifty (50) feet. Operation and management practices shall comply with all NH State fire laws.

7.14 Excavation of Earth Materials

Definition Section

Earth - sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing or any other mining activity or such other naturally-occurring unconsolidated materials that normally mask the bedrock.

Excavation - either a land area which is used, or has been used, for commercial taking of earth, including all slopes, or the taking of earth, as the context requires.

Excavation site - any area of contiguous land in common ownership upon which excavation may take place.

Minor / Pre-development Excavations (M/PdE) - an Excavation conducted immediately prior to

the development of land which meets all of the following criteria: (a) will be completed within one year; (b) will involve the removal from the site of less than 10,000 cubic yards in the I-1, I-2, C, & BD districts or 2000 cubic yards in the RU, R, R-1, CV, or IN districts ; and (c) for which all local, state, and federal development permits, including, but not limited to subdivision and site plan approval, building permits, sewage disposal, water supply, highway access, alteration of terrain, and/or wetlands permits have been obtained, and for which a complete PA-38 Intent to Excavate form has been filed.

Regulator - For the purposes of regulating excavation pursuant to RSA 155-E, the Zoning Board of Adjustment, except for Minor / Pre-development Excavations, in which case, the regulator shall be the Planning Board.

A. Operation and Reclamation Standards for Excavation

The Regulator shall not issue a permit for the excavation of earth materials unless the owner provides sufficient evidence to demonstrate that the proposed excavation will comply with the minimum operational standards of RSA 155-E:4-a and the following minimum standards. Where indicated, the Planning Board may waive the below operational standards for Minor / Pre-development Excavations (M/PdE).

1. OPERATIONAL STANDARDS

- a. All property corners shall be staked or clearly marked by a Registered Land Surveyor. Every property line shall be clearly marked at reasonable intervals to prevent encroachment on abutting property. Planning Board may waive for M/PdE.
- b. All loam and topsoil to be stripped and piled and re-spread to a minimum depth of four (4) inches of loam evenly on the completed pit, or in accordance with an alternate plan approved by the Regulator.
- c. No excavation shall be made below the grade of adjacent streets where feasible. In any case, a minimum buffer strip of fifty (50) feet will be required separating the proposed excavation from any street. Planning Board may waive for M/PdE.
- d. No excavation shall be left with less than six (6) feet of cover above estimated seasonal high water level. The cover shall consist of clean native or fill material.
- e. Working slopes are to be made safe with no overhanging trees or frost embankments allowed to exist after working hours.
- f. All finished slopes shall not be steeper than two (2) horizontal to one (1) vertical. The proposed grade of the permit area shall have a minimum gradient of one percent (1%). Planning Board may waive for M/PdE.
- g. The Town may select a Registered Land Surveyor to verify the grades of the excavation not more frequently than once per year and the applicant shall pay the complete cost of such services. In the event the applicant fails to pay these costs within thirty (30) days of being billed, the permit will be temporarily revoked and the bonding company will be notified.

h. Premises to be left at elevations of contours shown on the approved plan. No excavation below these grades will be permitted, except to bury boulders, unless for other good reasons agreed to by the Regulator.

i. No more than four (4) acres of the excavation site upon which excavation may take place under a permit may be disturbed without restoring the completed section as outlined in the permit. The only exception will be for access roads. This article applies to excavation sites of eight (8) acres or more. No other areas to be disturbed before inspection by the Regulator.

j. All stumps are to be chipped or removed from the site in accordance with law. All rocks are to be removed, buried, or used for landscaping in accordance with the restoration plans. Planning Board may waive for M/PdE.

k. No equipment or vehicles involved in the operation will be operated in the excavation site prior to 7:00 a.m. or on the streets prior to 7:00 a.m. or after 6:30 p.m. Monday through Saturday, or at any time on Sunday, except as otherwise approved by the Regulator.

l. The applicant shall pay for traffic police and/or signage during trucking of materials onto public ways as the Police Chief deems necessary.

m. All vehicles shall be loaded so as to prevent any spillage and utilizing dust covers.

n. The contractor shall provide such dust control procedures as to eliminate any annoyance or inconveniences to the inhabitants.

o. All ways to be cleaned of spilled material at the end of each day or more frequently if required by the Building Inspector.

p. The applicant must furnish the Town with a duly executed and acknowledged easement, permitting its officers, agents and employees to enter upon the subject land for a period beginning with the date of the permit and ending one (1) year after the expiration of the permit for the purpose of putting the land in the condition called for by the permit.

q. No part of the operation shall be in violation of any State law.

r. The applicant must sign an agreement to observe all the conditions of the decision.

2. RECLAMATION STANDARDS

Where indicated, the Planning Board may waive the below reclamation standards for Minor / Pre-development Excavations (M/PdE).

a. The entire area of the excavation shall be replanted so as to stabilize the land with a minimum of four (4) inches of loam and seeding or the planting of appropriate trees. A bond or irrevocable letter of credit will be retained to guarantee said stabilization. Planning Board may waive for M/PdE.

b. Vegetation suitable to prevent erosion and soils suitable to sustain such vegetation, except for exposed rock ledge.

c. All debris resulting from the excavation shall be removed.

d. All slopes shall be graded to natural repose for the type of soil of which they are composed. Planning Board may waive for M/PdE.

e. Any standing bodies of water created in the excavation project that may constitute a hazard to health and safety shall be eliminated unless the Regulator specified different restoration.

f. The reclamation shall comply with the express reclamation standards of RSA 155-E:5 Planning Board may waive for M/PdE.

B. Prohibited Excavations

No permit shall be granted where the Regulator finds that:

1. The excavation would be unduly hazardous and/or injurious to the public either during or after the pit operation.

2. The excavation is not permitted by zoning or other applicable ordinances except where the Board of Adjustment feels that a variance is warranted.

3. The excavation would substantially damage a known water bearing stratum so designated by the Water Resources Management and Protection Plan developed under RSA 674:2, VIII.

4. The excavation is planned beneath or adjacent to inland surface water in such a manner that a permit is required from the NH Department of Environmental Services (NHDES) Wetlands Bureau or other State and federal agencies with jurisdiction over the premises, but the Board of Adjustment may approve the application when all necessary permits have been obtained.

5. The project cannot comply with the reclamation provisions of RSA 155-E as amended from time to time.

6. Other prohibited projects defined by RSA 155-E:4.

C. Content of Application for Excavation Permit

Any owner or owner's designee shall, prior to excavation of his land, apply to the Regulator for a permit for excavation. The applicant shall also send a copy of the application to the Conservation Commission for written comments. When the scope of an existing permitted excavation is proposed to be altered so as to affect either the size or location of the excavation, the rate of removal of earth, or the plan for restoration, the owner shall submit an application for amendment of his excavation permit. An application for amendment shall be subject to the same application requirements and approval procedures as provided for a new excavation permit with the addition that an inspection of the current site must be made by the Regulator before the amendment is granted. The application shall be signed and dated by the applicant, shall conform to the provisions of this section and shall contain all information required by RSA 155-E:3 and at least the following information [the Planning Board may waive the below requirements for Minor / Pre-development Excavations (M/PdE)]:

1. The names and addresses of the owner of the land to be excavated, the person who will actually do the excavation and all abutters to all of the owner's or applicants land which is contiguous with the proposed excavation site.
2. A sketch and description of the location and boundaries of the proposed excavation, and the number of acres to be involved in the project.
3. Detailed grading plans showing both original ground and final grades after excavation if the soil removal operation is particularly complex or of such scale and duration to warrant same. All plans must be upgraded at least every three (3) years or as directed by the Regulator.
4. A sketch and description of the proposed access to the excavation site and the visual barriers which will be provided during the proposed excavation.
5. The breadth, depth and slope of the proposed excavation and the estimated duration of the project.
6. The elevation of the highest annual average ground water table within or next to the proposed excavation.
7. A plan for the reclamation of the area affected by the excavation. Such plan shall comply with the provisions of RSA 155-E and shall include or provide at a minimum:
 - a. A detailed written explanation of the restoration plan;
 - b. A diagram, acceptable to the Regulator, showing the restored topography and drainage at the completion of the restoration;
 - c. A written report and diagram explaining the phasing of site restoration showing designated areas, and completion dates for fully depleted areas, if the site is not to be restored all at once;
 - d. Seeding and mulching specifications; and
 - e. Such other information as the Regulator may require.
8. State and Federal Approvals: Copies of all Applications to the State of New Hampshire for approval of on-site septic systems, alteration of terrain permits, dredge and fill permits, and driveway permits, and copies of Applications to federal agencies for Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334 or for any other permit or approval required by the State of New Hampshire or federal agency for the Excavation must be filed with the Regulator prior to approval of the Excavation. Final Approval of the Excavation shall be conditioned upon filing with the Regulator copies of permits for all such state and federal approvals.

D. Decision on Application

1. Public Hearing on Application. After the Regulator accepts a completed application for an excavation permit, a public hearing shall be held on such decision or any matter determined thereby. A notice of said hearing shall be sent to all abutters, as well as the Conservation Commission, by certified mail, and shall specify the grounds for the hearing as well as the

date, time and place, all as required by RSA 155-E. All costs incurred for the public hearing notification shall be the responsibility of the owner or agent acting on behalf of the owner and payable prior to the hearing.

2. Decision on Application. Following the public hearing, an excavation permit shall be issued if the Regulator determines that all conditions of this section will be met. Such permit may be issued subject to additional conditions established by the Regulator. Upon disapproval of an application for an excavation permit, or an amendment to an excavation permit, the Regulator shall state the reasons for denial, in writing, to the applicant.

3. Duration of Permit. The Regulator may issue a permit to remove soil materials for a period of up to three (3) years duration. Upon written request of the applicant and where the ZBA finds that the operation has been in conformance with prior permits and established a record of compliance for at least four (4) years, the ZBA may grant renewal permits for long term excavations for a period of up to five (5) years. The Regulator may require brief written reports on an annual basis from the permit holder outlining the degree of compliance with the conditions of the permit.

4. Assignability. A permit issued under this section shall not be assignable or transferable without the prior written consent of the Regulator.

5. Appeal of Decision. Following the approval or disapproval of an application for an excavation permit, any interested person may seek a rehearing or appeal the decision of the Regulator in accordance with the provisions of RSA 155-E:9.

6. Compliance Hearings After Approval. The Regulator may order a public hearing to review the conditions of or the continuance of the permit if a Cease and Desist Order has been issued by the Building Inspector or there has been a valid complaint presented which in the opinion of the Regulator warrants investigation and a hearing.

7. Revocation of Approval. An excavation permit may be modified or revoked at any time that, in the opinion of the Regulator, the operation is causing undue wear and tear or littering streets or roads in the Town or is causing undue annoyance to its inhabitants or is being carried on in violation of any of the terms and conditions of the permit. The modification or revocation of a permit shall not relieve the owner from any of his obligations under this permit. The Building Inspector may suspend operations pending a hearing by the Board of Adjustment concerning any violation.

E. Fees and Surety

1. Permit and Inspection Fees. The Regulator may charge the applicant a Permit Fee of up to Fifty Dollars (\$50.00) for a permit or an amended permit issued under this Section. The Regulator may also charge the applicant an Inspection Fee of Fifty Dollars (\$50.00) per inspection per permit to cover the costs of inspections deemed necessary to verify compliance with the permit. In addition, the applicant will be responsible for the payment of costs of all engineers or professionals hired by the Regulator to advise the Town with respect to any proposed application to verify compliance with the terms of the permit. If the applicant fails to pay any fee described above, the Regulator may revoke the relevant permit.

2. Performance Surety. This permit will not become effective until the applicant furnishes the Town with a bond with a surety company as surety or secured by a deposit of cash or

other approved securities satisfactory to the Board of Selectmen in an amount based on the estimated cost of restoration at the completion of the project. The Zoning Board of Adjustment may employ one (1) independent consultant at the applicant's expense to assist in determining the amount of the bond. The bond is to remain in effect until released in writing by the Board of Selectmen.

F. Existing and Abandoned Excavations

1. Any existing or abandoned excavation as defined in RSA 155-E:2 shall be subject to all of the applicable terms and provisions of RSA 155-E, as well as all of the provisions of which may be lawfully applied to the excavation.

2. If no permit pursuant to RSA 155-E has been issued by the Regulator for a lawful existing excavation, such site shall be subject to the following provisions:

a. The excavation may not be expanded beyond the owner's contiguous land holdings as of August 24, 1979, if the excavation was a lawful permitted use at that time.

b. The excavation may not be expanded into present zoning districts where excavations are not permitted.

c. The owner of an existing or excavation site must file the reports required by RSA 155-E:2 I(d) in a timely fashion, or he will be required to apply for and receive a permit before he may proceed with his excavation.

d. An existing excavation site shall be subject to the operation and reclamation standards of this section and as provided for in RSA 155-E:I.

3. An abandoned excavation, as defined in RSA 155-E:II shall be subject to the reclamation standards of this section and as provided for in RSA 155-E:II.

7.15 Accessory Buildings

A. Location of Accessory Buildings

In any District, no permanent accessory building or structure shall be permitted in any required yard area.

B. Farm Produce Stand

The display of goods shall be limited to an area located at least twenty (20) feet from any street right of way line.

7.16 Screening Standards

Definition Section

Screen or Screening - the visual shielding or obscuring of one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

A. Screen or Screening

Where required under the provisions of this Ordinance, screening shall comprise 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.

B. Transitional Screening between Residential and Non-Residential Districts

In the Commercial, Limited Industrial, General Industrial, Civic, and Institutional Zoning Districts, any new use or activity adjoining property in the Rural, Residential, and Residential One Family Zoning Districts shall not locate within fifty (50) feet of the boundaries separating the two (2) Zoning Districts and shall provide for and maintain a semi-opaque screen to be installed along the entire length of the Zoning District boundary and within fifty (50) feet of the boundary. The same provision shall apply to residential districts in abutting municipalities, including, but not limited to, the Medium Density Residential (MDR) District in Hooksett and the Single Family Residential (SFR) and Open Space Residential (RO) Districts in Concord.

The screen shall be opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least twenty (20) feet. The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces.

The semi-opaque screen may be composed of a wall, fencing, landscaped berm, planted vegetation, or existing vegetation. Compliance of planted or existing vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of the existing vegetation. At maturity, the portion of intermittently visual obstructions should not contain any unobstructed openings more than ten (10) feet wide. Suggested planting patterns which will achieve this standard are included in Appendix B of the Site Plan Review Regulations.

7.17 Outdoor Storage of a Boat, Recreational Vehicle, Camping Trailer, or Motor Vehicles

In any District, a boat, recreational vehicle, or camping trailer shall not be stored in any required yard area.

No such equipment shall be used for living quarters, or housekeeping purposes in the Town of Bow. The Building Inspector may authorize by permit, the temporary occupancy of recreational vehicles and camping trailers, where adequate sanitary facilities are provided. Such temporary use shall not exceed 10 days within any 30 day period or 30 days within one calendar year.

On any parcel in any District, not more than one unregistered vehicle or trailer may be stored, except in a licensed junk yard as defined in RSA 236:112. All vehicles in excess of the one unregistered vehicle or trailer, must bear a valid inspection sticker.

The storage of antique, specialty, or collectible motor vehicles by legitimate hobbyists may be permitted by the Code Enforcement Officer.

7.18 Grazing, Care, Raising, or Keeping of Livestock

Livestock shall include all horses, cattle, goats, pigs, sheep, llamas, poultry, ostriches, emus, and similar animals. No livestock shall be kept on lots smaller than two acres. The Table below establishes minimum area requirements for various species. The minimum pasture and enclosure areas shall not include any areas within 20 feet of a dwelling unit.

Livestock shall be kept such that no nuisance results. Animal waste shall not be stored within one hundred (100) feet of any lot line. Livestock must be kept within a secure enclosure which meets or exceeds the recommendations of the UNH Cooperative Extension. All livestock must have available shelter which meets or exceeds the recommendations of the UNH Cooperative Extension. No shelter or enclosure, other than a pasture, shall be located within 100 feet of the street or abutter's property line.

Pastures are areas suitable for grazing livestock which maintain grass cover throughout the grazing season. If a pasture is grazed down such that bare spots in excess of 100 square feet exist or such that less than 90% of the area maintains grass cover, then the area no longer qualifies as a pasture and must meet the setback requirements for a livestock enclosure. Livestock may be kept without any pasture areas, if a suitable enclosure is available and sufficient feed is provided.

Small Backyard Flocks shall mean up to six (6) chicken hens. The minimum requirements for Small Backyard Flocks shall include the following. Small Backyard Flocks may be kept on lots of a minimum of one acre. Small Backyard Flocks shall be kept within secure enclosures at all times. The animal waste generated by Small Backyard Flocks shall be properly managed such that noxious odors are not detectable at property boundaries and such that pests and flies are not attracted. The shelter or enclosure for a Small Backyard Flock shall be located a minimum of fifty (50) feet from any lot line. A Small Backyard Flock shall have a minimum of three (3) square feet of enclosed housing per hen and a minimum of ten (10) square feet of enclosed exercise yard per hen.

Temporary and Principal Uses. In temporary situations [up to six (6) months] or where livestock are proposed to be kept as a principal use, the Planning Board may approve, by conditional use permit, alternate provisions for pasture and enclosures and may waive shelter requirements.

Minimum Pasture, Enclosure, and Shelter Requirements

Livestock Type	Pasture	Outside Enclosure	Shelter
Horses & Cattle	1 animal / 1 acre	500 SF / animal	120 SF/animal (3 sided)
Goats	2 animals / 1 acre	50 SF / animal	10 SF / animal (4 sided)
Pigs	not allowed to be pastured	100 SF / animal	10 SF / animal (3 sided)
Sheep, Deer, & Llamas	7 animals / 1 acre	100 SF / animal	12 SF / animal (3 sided)
Poultry	not allowed to be pastured	caged	100 SF for 24 hen chickens or ducks; 50 broilers; 12 turkeys
Ostriches & Emus	6 animals / 1 acre	100 SF / animal	20 SF / animal (4 sided)

Bison & Elk	1 animal / 1 acre	500 SF / animal	120 SF / animal (3 sided)
Other	as determined by ZBA	as determined by ZBA	as determined by ZBA

7.19 Heliports and Airstrips

A. Site Plan Review Required

1. No person shall make any improvements for the purpose of creating a landing and/or takeoff area or strip for any aircraft until such improvements have been approved as a site plan review.
2. Heliports and Airstrips are considered non-residential uses and are not considered to be accessory uses in any zone. Heliports and Airstrips may be permitted as a second primary use on any lot after site plan review approval.

B. Flight Pattern

1. As a part of the site plan review application, the property owner or agent must file a written description of the size and type of all aircraft to be permitted use of the heliport or airstrip. The description must provide access to information on noise, speed, climbing and descending capabilities, safety records/reliability, and other pertinent information.
2. As a part of any proposal to construct a heliport or airstrip, the property owner must present plans bearing the seal of a professional engineer or other similarly qualified individual. The plans must depict the range of flight paths of aircraft permitted to use the facility, including flight paths under all weather conditions expected.
3. The owner or applicant must provide written permission from any landowner over whose property aircraft might fly at altitudes of less than 200' above ground level.

7.20 Location of Privately Owned Water Supplies

Privately owned water supplies shall not be dug, drilled, or developed closer than seventy five feet (75') to highway rights-of-way and drainage ditches or both.

7.21 Campgrounds

Campgrounds provide lodging for itinerant or temporary visitors. No recreational vehicle, travel trailer, or tent shall remain on any campground site for more than 90 days. Manufactured housing, as herein defined, shall not be permitted in any campground.

7.22 Off-Site Parking Allowed by Special Exception

A. Off-site parking authorized

Off-street parking spaces shall be located on the same lot as the principal use(s) they are intended to serve, except where off-site parking is approved as a Special Exception. Such off-site parking area shall be specifically dedicated to the principal use(s) that it serves.

B. Special Exception criteria for off-site parking

The Zoning Board of Adjustment is authorized to grant a Special Exception for the use of off-site parking, subject to a finding by the Board of Adjustment that the following conditions will be met by the applicant:

1. The parking facility will be located within five hundred (500) feet of the public entrance of the applicant's commercial establishment, and the facility will not extend inside the boundary line of a residential district.
2. The applicant has adequately demonstrated that the parking demands of the use may reasonably be satisfied by the alternative parking arrangement.
3. The establishment seeking approval must not be a non conforming use but may be within a non conforming building or on a nonconforming lot.
4. Any lighting system shall be appropriately shielded such that glare does not interfere with adjacent residential properties.
5. Specific measures have been proposed by the applicant to remedy existing on-site parking design deficiencies of the use(s) seeking approval. Such measures shall be deemed conditions of approval.
6. The Zoning Board of Adjustment, in issuing a special exception under this Article, may impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this ordinance.

7.23 Planned Business Subdivisions

In non-residential zone districts, the Planning Board may reduce the minimum lot size, frontage, and yard requirements for approved planned business subdivisions. The Planning Board may also permit the maximum lot coverage to be calculated on the subdivision overall, rather than on individual lots.

Prior to approving a planned business subdivision the Planning Board must find that permanent adequate provisions for light and air, vehicular and pedestrian access, emergency vehicular access, health, safety, and aesthetics are in place. The Planning Board must also find that the planned business subdivision will result in increased public benefits such as creative design, higher utilization of business development properties, increased diversity of desired services, reduced public service costs, improved aesthetics, reduced environmental impacts, and greater taxable value. The Planning Board may attach conditions to the approval of planned business subdivisions to ensure that the increased public benefits will be long term.

7.24 Semi-Opaque Screens

The Planning Board shall adopt recommended plants for semi-opaque screens. The materials shall be published in the Site Plan Review Regulations.

7.25 Small Wind Energy Systems

Definition Section

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.

A. 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.

B. Procedure for Review

1. Building 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 building permit from the building inspector. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.

2. Application: Applications submitted to the building inspector shall contain a site plan depicting or accompanied by 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 building inspector shall notify all abutters and the local governing body by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded 30 days to submit comments to the building inspector prior to the issuance of the building permit. The building inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the building

inspector shall follow the procedures set forth in RSA 36:57, IV.

C. Standards

The building inspector shall evaluate the application for compliance with the following standards:

1. **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 Requirement Number			
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

a. Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.

b. Guy wires used to support the tower are exempt from the small wind energy system setback requirements.

2. **Tower:** The maximum tower height shall be 150 feet.

3. **Sound Level:** The small wind energy system shall not exceed 60 decibels in the Residential (R), Rural (RU), and Residential One Family (R-1) Districts and shall not exceed 70 decibels in all other Districts, both 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.

4. **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.

5. **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.

6. **Code Compliance:** The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.

7. **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.

8. 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.

a. 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. All electrical conduits shall be underground.

b. 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.

c. 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.

9. 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.

10. 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.

D. Abandonment

1. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

2. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building inspector. "Physically remove" shall include, but not be limited to:

a. Removal of the wind generator and tower and related above-grade structures.

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

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 out-of-service has lapsed, the building inspector may issue a Notice of

Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the building inspector 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 building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

4. If the owner fails to respond to the Notice of Abandonment or if, after review by the building inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind 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 building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

E. 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. Violations are subject to the procedures of section 14.07 Violations.

7.26 Dwelling Unit for Resident Caretaker or Security Personnel

A. The dwelling unit shall be intended for a resident caretaker or security personnel directly associated with a permitted business. Not more than one such dwelling unit shall be permitted per lot and the lot shall meet the minimum area requirement for the district in which it is located, unless otherwise approved by the Planning Board through Site Plan Review process.

B. The dwelling unit shall

1. be occupied by the owner or employee of the business;
2. be limited to 800 square feet of Habitable Floor Area;
3. have a maximum of one bedroom; and,
4. be either served by municipal sewer or connected to a septic system with adequate capacity to service both the dwelling unit and business premise.

ARTICLE 8. SIGN REGULATIONS

Definition Section

Portable Sign - a sign not permanently attached to a building, the ground, or a vehicle. Portable signs are designed to be transportable and include, but are not limited to, the following: sandwich boards; air propelled signs; variable message boards; signs designed to be transported by means of wheels; balloons used as signs; signs attached to or painted on vehicles parked and visible from the public right-of-way unless said vehicle is used in the normal day-to-day operations of the business.

Sign - any device that is sufficiently visible to persons not located on the lot where such a device is located, and designed to attract the attention of such persons or communicate information to them about products, accommodations, services, or activities on the lot where the device is located. Signs include, but are not limited to, banners, billboards, flags, and pennants.

Banner - is a sign of lightweight, plastic, fabric, or similar non-rigid material that is temporarily mounted.

Billboard - an outdoor advertising structure displaying a sign or signs not related to a use, service, or activity on the premises, other than signs described in Section 8.06

Flag - is a sign of any fabric containing distinctive colors, patterns, or symbols, and used as a symbol of a governmental subdivision, educational institution, business or other entity such as the US, state, municipal or school flags. The height of a flag pole shall not exceed the vertical feet height limit of the zone.

Pennant - is a sign of any lightweight plastic, fabric, or similar non-rigid material whether or not containing a message of any kind, suspended from a rope, wire, or other material, usually in a series, designed to move in the wind.

Temporary Sign - is a sign that is used for not more than 30 consecutive days and for not more than 60 days in any 12 month period and is not permanently mounted. Banners and Flags may be permitted as a Temporary Sign in accordance with the provisions of section 8.10 A.

8.01 Purposes of Sign Regulations

The purposes of these sign regulations are to:

- A. Encourage the effective use of signs as a means of communication in the Town of Bow;
- B. Maintain and enhance the aesthetic environment of the Town while retaining the Town's ability to attract and encourage economic development and growth;
- C. Improve traffic safety;
- D. Minimize possible adverse effects of signs on nearby public and private property; and

- E. Enable fair and consistent enforcement of these sign regulations.

8.02 Permit Required for Signs

Except for signs in a street right of way or as otherwise provided in this Article, no sign may be erected, placed, replaced, moved, enlarged, illuminated or altered in the Town of Bow without a permit in accordance with the provisions of this Ordinance. A permit application and fee shall be submitted to the Building Inspector and shall include a set of plans at an appropriate scale showing the location, size, method of illumination, and materials proposed for said sign. The Building Inspector shall review the permit application and act to approve or deny it within thirty (30) days [within five (5) business days for applications for Temporary Signs] after the filing of the application. Signs in a street right of way are permitted in accordance with the Town Right of Way Ordinance adopted by the Board of Selectmen on October 8, 2002, as from time to time amended.

8.03 Signs Allowed and Exempted from Permit Requirements

The following signs are exempt from the permit requirements of Section 8.02 of this Article, but are subject to the standards contained herein. Any failure to comply with these standards and any other provisions of this Article shall be considered a violation of this Ordinance:

- A. Signs required or erected by governmental agencies are exempt.
- B. Incidental signs directing and guiding traffic on private property that do not exceed two (2) square feet each and that bear no advertising matter;
- C. One sign per lot containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent. In the case of approved condominiums, one sign per unit is permitted directly in front of the unit for sale, lease, or rent. Such signs shall not exceed four (4) square feet in area and shall be removed immediately after sale, lease, or rental;
- D. Construction site identification signs: A maximum of two signs per lot are permitted.

One sign may contain the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent. Such signs shall not exceed four (4) square feet in area and shall be removed immediately after sale, lease, or rental.

A second sign may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain information related to sale or leasing of the premises. Not more than one (1) such sign may be erected per site, and it may not exceed thirty-two (32) square feet in area. Such signs shall not be erected prior to the issuance of a building permit, subdivision, site plan, or other approval as applicable, and shall be removed within thirty (30) days after the issuance of the final occupancy permit or acceptance of the subdivision or site plan improvements.

Such signs shall not be illuminated.

- E. Building marker signs, and historic marker signs that do not exceed four (4) square feet in area.

8.04 Design, Construction, and Maintenance of Signs

All signs shall be designed, constructed, and maintained in accordance with this ordinance, the Building Code, and the Electrical Code. Except for Portable Signs, Banners, Flags, and Pennants, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or other structure.

Signs shall not be subject to the minimum yard requirements of Article 6.07 Table of Dimensional Regulations. Except for signs in a street right of way, all signs shall be set back a minimum of 10 feet from property lines and street right of way lines.

8.05 Sign Area Computation

Computation of Area of Individual Signs:

The computation of the area of a sign shall be the surface area and shall be considered to include all lettering or elements of a sign, accompanying designs and symbols, together with the background, whether open or closed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself and which are not designed to attract attention. Where the sign consists of letters or symbols affixed to a surface or building, without any distinguishing border, panel or background, the area shall be considered to be the smallest rectangle or shape which encompasses all of the letters and symbols. The area of one side of a double faced sign shall be regarded as the total area of the sign provided that such sign faces are parallel to each other, part of the same sign structure, and not more than forty-two (42) inches apart.

8.06 Signs Prohibited Under This Ordinance

All signs not expressly permitted under Sections 8.07 and 8.08 of this Ordinance, or signs not expressly exempt from permit requirements under Section 8.03 of this Ordinance, are prohibited in the Town of Bow. Such signs include the following:

- A. Signs which flash, move or create an illusion of movement except those parts which solely indicate date, time, or temperature.
- B. Beacons, or any light with one or more beams directed into the atmosphere or one or more points not on the same lot as the light source;
- C. Inflated signs, and tethered balloons;
- D. Signs painted directly on the exterior surface of a building;
- E. Signs, or any point in a sign, over, on, attached to, or in any way made part of a roof;
- F. Signs that are located in, over, or on a public right-of-way are regulated under the Town of Bow Right of Way Ordinance;
- G. Signs attached to a tree or utility pole; and
- H. Signs that could be mistaken for the words "stop", "yield", "caution", and "danger", or

that contain red, amber, and green lights that may resemble traffic control lights.

8.07 Signs Permitted in Residential Districts

A. The following signs are permitted in the Residential (R), Rural (RU), and Residential One Family (R-1) Districts, provided that such signs are not illuminated:

1. One (1) Home Occupation or Cottage Industry Sign shall be permitted in any zone where a permitted home occupation or cottage industry is conducted. A home occupation or cottage industry sign is an Advertising Sign or a Free Standing Sign identifying a home occupation or cottage industry. The maximum area of the sign shall not exceed two (2) square feet.
2. One (1) Residential Sign shall be permitted for a subdivision of six (6) or more lots in the R, RU, or R-1 Districts. A residential sign is a sign that identifies the name of a residential subdivision. The maximum area of the sign shall not exceed twenty (20) square feet.
3. One (1) Subdivision Sale sign is permitted per subdivision. The sign shall be removed within three (3) years from the date of permit, or upon sale of the last lot within the subdivision, whichever occurrence happens first. This time can be extended upon application for extension and approval thereof by the Zoning Board of Adjustment by Special Exception. A subdivision sale sign identifies that lots within a residential subdivision are for sale. The maximum area of one side of the sign shall not exceed thirty-two (32) square feet, and the sign may be double-faced.

8.08 Signs Permitted in Non-Residential Districts

A. Permanent, Portable, and Temporary Signs

Except for signs in a street right of way, signs, including Portable Signs, in non-residential districts, which include the Civic (CV), Commercial (C), Institutional (IN), Limited Industrial (I-1), General Industrial (I-2), and Business Development (BD) Districts shall comply with **15.13 Signage Requirements** of the Business Development District. Except as applied to Temporary Signs, Reasonable Exceptions and Waivers of the Sign Regulations of Article 8 and the Signage Requirements of Section 15.13 may only be approved by the Planning Board. Where neither a Site Plan nor a Subdivision application is required, requests for Reasonable Exceptions and Waivers shall be submitted as a Conditional Use Permit application.

B. Flags and Banners

Flags and Banners shall be permitted on approved Outdoor Display Lots and as a Temporary Sign in accordance with 8.10 in the C, I-1, I-2, CV, IN, and BD Districts in conformance to the standards below.

1. Outdoor Display Lots shall be depicted on site plans approved by the Planning Board and recorded at the Merrimack County Registry of Deeds. Lawfully pre-existing Outdoor Display Lots (see Article 11. Non-Conforming Lots, Uses, and Structures) may be approved for Flags and Banners by Conditional Use Permit approved by the Planning Board.
2. Flags and Banners shall be a maximum of 15 square feet when displayed within 50' of a property boundary or street Right Of Way, and a maximum of 25 square feet elsewhere on the property, except for US and State of NH flags, which should be displayed in accordance with

accepted flag protocol (Flag Code found in Title 4 of the US Code).

3. The square footage of Flags and Banners shall not be counted against the allowable area of Permanent, Portable, and Temporary Signs per Article 15.13.

4. Flags and Banners may contain logos, pictures, and lettering.

5. The total square footage and number of Flags and Banners shall be limited as shown on the table below. US and State of NH flags displayed in accordance with item 2 above shall not be counted against the limits for the number and total square footage of Flags and Banners.

	<u>Area of Approved Display Lot in Square Feet</u>				
	Up to 5000	5001 to 10,000	10,001 to 15,000	15,001 to 20,000	Greater than 20,000
Maximum total square footage	30	60	90	120	see formula 1. below
Maximum number	3	6	9	12	see formula 2. below

Formulas

1. $120 + [(area\ of\ display\ lot\ in\ SF - 20,000) / 5000 \times 15]$
2. $12 + [(area\ of\ display\ lot\ in\ SF - 20,000) / 5000 \times 15 / 10]$

The area (square footage) shall be calculated based on the total dimensions of the largest side for two sided Flags and Banners and shall not include the area of poles, rope, or other mounting apparatus.

8.09 Status of Non-Conforming Signs

A sign installed prior to the date of adoption of this ordinance for which a permit has been previously issued shall be deemed a permitted non-conforming sign. Such non-conforming signs shall be subject to the following regulations:

- A. If the non-conforming sign is removed, for any purpose other than maintenance, it shall be replaced only with a sign that is in conformance with the provisions of this Ordinance.
- B. Grandfathered signs shall be maintained;
- C. Should a non-conforming sign be destroyed by any means to an extent of more than seventy-five (75%) percent of its replacement cost at the time of its destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance, and
- D. All signs shall comply with the provisions of this Ordinance prohibiting movement of signs and flashing lights within ninety (90) days from the effective date of this Ordinance.

8.10 Other Signs in Non-Residential Districts

A. Temporary Signs shall be subject to the permit requirements of Section 8.02. Temporary Signs shall not be placed in any required yard (setback). One unlit Flag or Banner per business premise may be used on-site to advertise the business in accordance with the

size and location limitations of section 8.08 B 2. Where a permanent Sign has been approved, but is not ready for installation, the Building Inspector may issue a permit for a second 30 day period. In accordance with the provisions of RSA 674:21 Innovative Land Use Controls, a decision of the Building Inspector in regards to a Temporary Sign may be appealed to the Town Manager. The Town Manager shall render a decision on appeal within five (5) business days. A decision of the Town Manager may be appealed to the Board of Selectmen, which shall render a decision on appeal within 15 calendar days.

The Planning Board may approve, by Conditional Use Permit:

B. General business area signs designed to direct travelers to business development areas in Town. Such signs may contain incidental advertising for individual businesses.

C. Signs whose purpose is to contribute to the general welfare of the community and which contain only incidental advertising.

ARTICLE 9. OFF-STREET PARKING REGULATIONS

9.01 Applicability

Adequate off-street parking shall be provided for all new development, and for changes or expansions of existing uses and buildings to the extent that such changes would necessitate an increase in the number of parking spaces required for the proposed use under the standards of the Site Plan Review Regulations of the Town of Bow. Required parking spaces shall not be used for storage of vehicles, recreational equipment or vehicles, goods, or materials, or for the sale, repair, or servicing of any vehicles. All off-street parking shall be provided on-site except as authorized by a Special Exception under Section 7.22 of this Ordinance.

Each single family, duplex, or two-family dwelling unit shall have a minimum of two parking spaces per dwelling unit. Each parking space shall have a minimum rectangular area at least nineteen (19) feet long and nine (9) feet wide as well as adequate maneuvering area to permit continuous access to the space.

Except as otherwise provided within this Ordinance, the Planning Board is authorized, through the Site Plan Review Regulations of the Town of Bow, to adopt and administer regulations governing parking and loading standards for all uses of land, whether or not a site plan review is required. The regulations adopted by the Planning Board shall specify the number and size of parking and loading spaces, necessary design criteria, and the procedures for modifying or waiving adopted standards. The Planning Board may also provide for landscaping, buffering, and other parking and loading standards necessary to further the purposes of this ordinance.

ARTICLE 10. OVERLAY DISTRICTS

10.01 Wetlands Conservation (WC) District

A. Authority for the WC District

The WC District is adopted pursuant to Section 1.03, Authority, of this Ordinance, and in accordance with the provisions of RSA 674:21, Innovative Land Use Controls. The WC District is considered to be an innovative land use control as environmental characteristics zoning. Within the WC District, the Planning Board is authorized to administer and grant conditional use permits in accordance with Article 12, Conditional Use Permits, of this Ordinance. Reasonable Exceptions from the terms of Section 10.01 may only be approved through a Conditional Use Process by the Planning Board where the applicant, in addition to the standards contained in 10.01 F 1 through 3 and Article 12, meets the additional standards of 10.01 F. 4.

B. Establishment of the WC District

1. The WC District is established in accordance with, and for the purposes so stated in Section 4.01, Establishment of Districts and Statement of Purpose of Each, of this Ordinance.

2. The WC District shall consist of the following lands:

a. Lands as indicated in Section 4.02, Zoning Map, of this Ordinance;

b. Lands that meet the definition of wetlands or Surface Waters as specified in Article 3, Definitions, of this Ordinance;

c. Lands designated as Prime Wetlands pursuant to RSA 482-A:15, N.H. Administrative Rules Env-Wt 700, and this Section; and

d. Buffers to Wetlands, Prime Wetlands, and Surface Waters as designated pursuant to this Section.

3. If a boundary of the WC District is disputed by either the Planning Board or an applicant, the exact location of the boundary shall be determined by the Planning Board in consultation with the Conservation Commission. The Planning Board, at the applicant's expense, may engage a certified wetland scientist to determine the precise location of the WC District boundary, using the methodology consistent with N.H. Administrative Rules Env-Wt 100-900, and in accordance with the "1987 Corps of Engineers Wetlands Delineation Manual", as modified by the 2011 *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region (Version 2.0)*, or most current methodology accepted by NH DES Wetlands Bureau and providing documentation in the form of the US Army Corps of Engineers WETLAND DETERMINATION DATA FORM – Northcentral and Northeast Region. In the alternative, the applicant may retain such a scientist, acceptable to the Planning Board and Conservation Commission, to make such determination. A report of the scientist's findings shall be submitted to the Planning Board and the Conservation Commission, and shall include, if warranted, a revised wetland map of the area in question along with a written report of the results of the investigation together with the completed data forms.

4. Signage Required. Required wetland buffers on parcels for which conditional use permits, subdivisions, and site plans have been approved shall be marked at 50' intervals with signs approved by the Conservation Commission.

C. Prime Wetlands

Wetlands designated as Prime Wetlands by the town of Bow, within the scope of RSA 483-A and N.H. Code of Administrative Rules Env-Wt 700, are described in the Bow Wetlands Report dated December 1989 and include the following wetlands:

PRIME WETLANDS

WETLAND NUMBER	LOCATION	TAX MAP SHEET NO.
32	Great Meadow Swamp Woodhill-Hooksett Road	33, 38
34	Center Brook and Horse Brook	33, 34, 38
35	Bow Bog Brook upstream of Interstate 93	34, 35
43	Brown Hill Road and Dunbarton Center Road	13, 18
44	White Rock Brook Branch Londonderry Turnpike West	13
45	Headwaters of White Brook	13, 18, 23
55	White Rock Brook Birchdale Road area	3, 4, 5
56	Turee Pond	8, 9, 10, 14, 15

D. Buffers to Wetlands and Setbacks from Wetlands

The minimum wetland buffer shall consist of undisturbed land in accordance with the following regulations, the only exception would be for driveway crossings.

TABLE OF MINIMUM WETLAND BUFFERS

All dimensions are given in feet.

- A. Buffers to Prime Wetlands * 150'
- B. Buffers to Surface Waters, Wetlands with very poorly drained soils, bogs 75'
- C. Buffers to vernal pools and Wetlands 0.25 acre or larger 50'
- D. Buffers to other wetlands, less than 0.25 acres 30'

The wetland buffer shall consist of ungraded and undisturbed land.

Buffers shall not be required if the wetland is one of the following types:

- A. A constructed vegetated swale, roadside ditch, or driveway ditch;
- B. A sedimentation, detention, or retention basin; or
- C. An excavated agricultural, irrigation, or fire pond.

TABLE OF MINIMUM WETLAND SETBACKS

All dimensions are given in feet.

- A. Setbacks from Prime Wetlands *
- B. Setbacks from Surface Waters, Wetlands with very poorly drained soils, bogs
- C. Setbacks from vernal pools and Wetlands 0.25 acre or larger
- D. Setbacks from other wetlands, less than 0.25 acres

A.	B.	C.	D.	Uses and Activities
150	75	75	75	On-site waste disposal systems for one and two family dwellings
150	125	125	125	On-site waste disposal systems for all other uses
150	75	50	30	Buildings and parking lots
200	200	200	200	Underground chemical and fuel tanks

Where an existing use within the buffer or setback is destroyed or in need of extensive repair it may be rebuilt provided that such rebuilding is completed within one year of the event causing destruction, the new or rebuilt use shall not extend further into the wetland or setback area than the original use. The buffer shall consist of natural vegetation.

All construction, forestry and agricultural activities within one hundred feet (100') of any wetland shall be undertaken with special care to avoid erosion and siltation into the wetlands. When deemed necessary, a Sediment and Erosion Control Plan may be requested by the Planning Board or the Conservation Commission.

* For uses or activities that involve construction within 25 feet of a required Prime Wetland Buffer, the boundary of the buffer shall be marked with orange construction fencing or silt

fence as appropriate prior to the commencement of construction activities. Such fencing shall be maintained throughout the construction process.

E. Uses Prohibited, Permitted, and Requiring a Conditional Use Permit in the WC District

TABLE OF USES FOR THE WETLAND CONSERVATION (WC) DISTRICT
 PW Wet & PWB
 Buffer

Uses and Activities	PW	Wet & PWB Buffer	
Salt storage, junk yards, resource recovery facilities, transfer stations, landfills, solid or hazardous waste facilities	-	-	-
Bulk storage of chemicals, petroleum products, toxic & hazardous materials	-	-	-
Dumping/disposal of snow & ice from roadways & parking	-	-	-
Erection/construction of structures	-	-	-
Recontouring/grading of land	-	-	-
Draining, dredging, filling, or change in flow of water	-	-	-
Pollution of wetlands, surface or ground waters	-	-	-
Agricultural ¹	-	P	C
Logging ² operations	P	P	P
Activities which alter the natural drainage system resulting in a change in the flow of water, water level or water table	-	C	-

Abbreviations:

PW = Prime Wetlands	P = Permitted
Wet = Wetlands	C = Conditional Use Permit
PWB = Prime Wetlands Buffer	- = Not Permitted

¹ Includes agricultural activities as defined in NH RSA 21:34-a and as governed by RSA 430, provided that such activities and operations are in conformance with the most recent best management practices determined by the USDA Natural Resources Conservation Service, NH Department of Agriculture, Markets & Food, and UNH Cooperative Extension.

² Logging operations must (1) utilize best management practices as described in Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire; and (2) Comply with all applicable state laws including RSA 227-J:9 Cutting of Timber Near Certain Waters and Public Highways, obtaining and filing an intent to cut form according to RSA 79:10 (as appropriate), and filing a complete Notification of forest Management Activities Having Minimum Wetlands Impact according to RSA 482-A:3, V.(a), or obtaining a NHDES Wetlands permit according to RSA 482-A.

TABLE OF USES FOR THE WETLAND CONSERVATION (WC) DISTRICT - Continued

Uses and Activities	PW	Wet &	PWB Buffer
Water impoundments for the purpose of creating a water body for wildlife, on-site detention of stormwater runoff, or for recreational uses	-		C
Outdoor recreational activities including hunting, fishing, swimming, and boating; Wildlife or fisheries management activities; Educational activities and scientific research	P		P
Activities incidental to ordinary residential use such as normal ground maintenance, mowing, trimming, removal of dead or diseased vegetation – not regrading or recontouring land or clearing vegetation	P		P
Construction, repair, and/or maintenance of streets, roads, and other access ways and utility right of way easement, including power lines and pipelines	C		C
Uses permitted within the base district, but which are not otherwise permitted in the WC District	C		C

Abbreviations:

PW	=	Prime Wetlands	P	=	Permitted
Wet	=	Wetlands	C	=	Conditional Use Permit
PWB	=	Prime Wetlands Buffer	-	=	Not Permitted

F. Standards for Granting of a Conditional Use Permit in the WC District

1. An application for a conditional use permit in the WC District shall be filed with the Planning Board pursuant to Section 12.02, Application and Review Procedure, of this Ordinance. The Planning Board shall refer the application to the Conservation Commission for review and comment prior to the public hearing on the application. In acting on the application, the Board shall consider any report received from the Commission.

2. In addition to the requirements of Article 12, Conditional Use Permits, of this Ordinance, the applicant shall provide adequate documentation in order for the Planning Board to make a finding that the proposed use or activity meets the following conditions:

- a. The proposed activity or use is consistent with the purposes of the WC District;
- b. The proposed activity minimizes the degradation to, or loss of wetlands and wetland buffers, and minimizes any adverse impact to the functions and values of wetlands and wetland buffers as determined by a wetlands evaluation in accordance with an established methodology such as *The Highway Methodology Workbook Supplement* (1999) of the US Army Corps of Engineers;

c. The proposed activity minimizes the environmental impact to abutting or downstream property and/or hydrologically connected water and/or wetland resources;

d. The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce the impact to the Wetland or Surface Water and/or its buffer area, provided however, this condition shall not apply to impoundments for the purpose of creating a water body for wildlife, on-site detention of stormwater runoff, or for recreational uses;

e. Federal and/or state permit(s) have been received for the proposed activity in accordance with N.H. Administrative Rules Env-Wt 100-900, the Federal Section 404 Permit; and

f. Where applicable, proof of compliance with all other state and/or federal regulations has been received.

3. The Planning Board, in acting on an application for a conditional use permit in the WC District, may attach conditions to its approval including but not limited to requirements for more extensive buffers, additional plantings in areas to be revegetated, performance guarantees, and a reduction in proposed impervious surfaces.

4. Reasonable Exceptions. The TABLE OF USES FOR THE WETLAND CONSERVATION (WC) DISTRICT specifically authorizes certain Uses and Activities within wetlands and buffers to wetlands. The TABLE OF WETLAND BUFFERS specifies the minimum standards for buffers to wetlands. Reasonable Exceptions may only be granted by the Planning Board through a Conditional Use Process where the applicant additionally demonstrates that granting the exception:

a. is consistent with the purposes of the Zoning Ordinance,

b. will not cause undue financial burden on the Town or adjacent properties,

c. creates a balance between the adverse impacts to wetlands and/or buffers and the reduction of adverse impacts to private property, and

d. is necessary for reasonable use of the property.

In addition, the Planning Board may require mitigation measures to offset the adverse impacts to wetlands and/or buffers.

G. Subsurface Disposal Systems in the WC District

The following conditions, based on characteristics of the receiving soil as they relate to U.S. Department of Agriculture Natural Resources Conservation Service drainage classes, shall dictate the setback requirements for all new leaching portions of new septic systems, as follows:

1. Where the receiving soil down gradient of the leaching portions of the septic system is a porous sand and gravel material with a percolation rate faster than two (2) minutes per inch, the setback shall be at least one hundred twenty-five (125) feet from a wetland;

2. For soils with restrictive layers within eighteen (18) inches of the natural soil surface, the setback shall be at least one hundred (100) feet from a wetland; and

3. For all other soil conditions, the setback shall be at least seventy-five (75) feet from a wetland.

H. Non-Conforming Structures and Uses in the WC District

Structures or uses that became non-conforming on or after January 6, 1990, as a result of the adoption of this Section, shall be subject to Article 11, Non-Conforming Lots, Uses, and Structures, of this Ordinance.

10.02 Floodplain (F) District

Definition Section The following definitions shall apply only to this Floodplain (F) District, and shall not be affected by the provisions of any other ordinance of the Town of Bow.

Area of Special Flood Hazard - the land in the flood plain within the Town of Bow subject to a 1 percent or greater chance of flooding in any given year. The area is designated as Zone(s) A and AE on the Flood Insurance Rate Map.

Base Flood - the flood having a one percent (1%) probability of being equaled or exceeded in any given year. The base flood is also known as the "100 year flood".

Basement - any area of a building having its floor subgrade on all sides.

Building - see "structure".

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

FEMA - means the Federal Emergency Management Agency.

Flood Boundary and Floodway Map (Floodway Map) - the official map of the Town of Bow, on which FEMA has delineated the "Regulatory Floodway". This map should not be used to determine the correct flood hazard zone or base flood elevation. The Flood Insurance Rate Map (FIRM) will be used to make determinations of flood hazard zones and base flood elevations.

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, and (2) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Elevation Study - means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood - related erosion hazards.

Flood Insurance Rate Map (FIRM) - an official map on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Bow.

Flood Insurance Study (FIS) - 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 - any land area susceptible to being inundated by water from any source.

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

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

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

Historic Structure - 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 a 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 - 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. *(Used for administration of flood hazard area regulations).*

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

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

Mean Sea Level - the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community's Flood Insurance Rate Maps are referenced.

New Construction - 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 - 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. *(For purposes of flood hazard regulations).*

Regulatory Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. These areas are designated as floodways on the Flood Boundary and Floodway Maps.

Riverine - relating to, formed by, or resembling a river (including tributaries), stream or brook.

Special Flood Hazard Area - see “Area of Special Flood Hazard”.

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

Structure - 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.

Substantial Damage - 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 - any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure. The market value of the structure should be : (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. 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 structure listed on the National Register of Historic Places. *(For administration of flood hazard area regulations).*

Violation - 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 Section C. 3., Section F. 2. and Section D. 3 & 4. is presumed to be in violation until such time as that documentation is provided.

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

A. Authority for the F District

The F District is adopted pursuant to Section 1.03, Authority, of this Ordinance, and in accordance with the provisions of RSA 674:21, Innovative Land Use Controls. The F District is considered to be an innovative land use control as environmental characteristics zoning. Within the F District, where so specified herein, the Planning Board is authorized to administer and grant conditional use permits in accordance with Article 12, Conditional Use Permits, of this Ordinance.

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 Town of Bow, N.H." together with the associated Flood Insurance Rate Maps (and Flood Boundary & Floodway Maps), both as adopted by the Board of Selectmen (see Resolution 2010-1 adopted March 9, 2010), which are declared to be a part of this ordinance and are hereby incorporated by reference.

B. Establishment of the F District

The F District is established in accordance with, and for the purposes so stated in Section 4.01, Establishment of Districts and Statement of Purpose of Each, of this Ordinance, and encompasses lands as indicated in Section 4.02, Zoning Map, of this Ordinance.

C. General Requirements for the F District

1. Within the F District, the Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a special flood hazard area, all new construction and substantial improvements shall be:

a. designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy:

b. constructed with materials resistant to flood damage;

c. constructed by methods and practices that minimize flood damages; and

d. 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.

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

3. For all new or substantially improved structures located in Zones A, A1-30, AE, AO and AH, the applicant shall furnish the following information to the Building Inspector, who shall maintain such information for public inspection and furnish it upon request.

a. the as-built elevation (in relation to the National Geodetic Vertical Datum [NGVD] of 1929) of the lowest floor (including basement), and include whether or not such structures contain a basement;

b. If the structure has been flood-proofed, the as-built elevation (in relation to NGVD) to which the structure was flood-proofed; and

c. any certification of flood-proofing.

4. The Building Inspector shall review proposed developments to assure 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.

5. No building permit shall be issued for the erection or placement of a structure or building within the Floodplain District unless such permit contains language advising the permit holder that the Town assumes no responsibility or liability for damages which may be incurred as result of said building or structure being located within the Floodplain District. Further, prior to the issuance of a building permit, the applicant shall produce evidence that an appropriate notice of this section and the limitation of municipal responsibility and liability has been recorded in the Merrimack County Registry of Deeds.

D. Alteration or Relocation of Watercourses

1. No fill shall be permitted in any natural drainage channel, or stream bed. No building, impervious surface, or stripping of topsoil shall be permitted within twenty-five (25) feet of any pond or the top of any stream bank, or within thirty-five (35) feet from the stream centerline, where a top of bank is not discernible. A greater setback may be required where it can be demonstrated that these minimum dimensions afford insufficient protection to the natural functioning of these areas. Furthermore, where the provisions of 10.01 Wetlands Conservation (WC) District require greater protection of any natural drainage channel or stream bed, the more restrictive standards shall apply.

2. In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector in

addition to the copies required by RSA 482-A:3. The applicant shall submit copies of state and federal permits required for the alteration or relocation. 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, the Planning Board, and the Zoning Board of Adjustment. The applicant shall submit to the Building Inspector, certification and supporting data provided by a licensed professional engineer assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

3. Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.

4. Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A and AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

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

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

E. Determination of 100-year Flood Levels in the F District

In special flood hazard areas the Building Inspector shall determine the one hundred (100) year flood elevation in the following order or precedence according to the data available:

1. In Zone AE, refer to the elevation data provided in the Bow Flood Insurance Study and accompanying FIRM and FHBM;

2. In A Zones, the Building Inspector shall obtain, review and reasonably utilize any one hundred (100) year flood elevation data available from Federal, State, or other source including data submitted pursuant to development applications to the Town of Bow.

F. Design Standards in the F District

The Building Inspector's 100 year flood elevation determination will be used as criteria in Zones AE and A and it shall be required that:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to a minimum of two feet (2') above the Base Flood elevation.

2. All new construction and substantial improvements of non-residential structures shall

have the lowest floor (including basement) elevated to a minimum of two feet (2') above the Base Flood elevation; or together with attendant utility and sanitary facilities, shall:

a. Be flood-proofed so that below a minimum of two feet (2') above the Base Flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

c. Be certified by a licensed 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;

3. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is a minimum of two feet (2') above the Base Flood elevation; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is an addition to applicable State and Local anchoring requirements for resisting wind forces;

4. Recreational vehicles placed on sites within Zones A and AE shall either:

a. Be on the site for fewer than 180 consecutive days;

b. Be fully licensed and ready for highway use; or

c. 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.

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

a. The enclosed area is unfinished or flood resistant, usable solely for parking of vehicles, building access or storage;

b. The area is not a basement;

c. Shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom on all openings shall be no higher than one (1) 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 floodwaters.

G. Appeals to the Zoning Board of Adjustment (ZBA) in the F District

1. Any appeal of a determination or decision made pursuant to this Section (other than a determination or decision related to a conditional use permit), shall be in accordance with Article 13, Appeals to the Zoning Board of Adjustment, of this Ordinance.

2. If a variance is requested, the applicant shall have the burden of presenting evidence sufficient to allow the ZBA to reach conclusions and make findings that the variance:

- a. Will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
- b. Will not result in increased flood levels during the base flood discharge, if the requested variance is in a regulatory floodway; and
- c. Is the minimum necessary, considering the flood hazard, to afford relief.

These findings shall be in addition to those required of the ZBA pursuant to Article 13.

3. In granting a variance, the ZBA shall notify the applicant in writing that construction below the base flood level will result in the following:

- a. Increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
- b. Increased risk to life and property.

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

4. A record of all variance actions shall be included in the Town's regular reports to FEMA's Federal Insurance Administrator.

10.03 Aquifer Protection (AP) District

Definition Section (applicable to the AP District)

Aquifer - a geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.

Gasoline station - means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale.

Groundwater - subsurface water that occurs beneath the water table in soils and geologic formations.

Impervious - not readily permitting the infiltration of water.

Impervious surface - a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt; earthen, wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.

Junkyard - a place as defined in RSA 236:112, I.

Outdoor storage - storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

Petroleum bulk plant (up to 20,000 gal/day) or terminal (over 20,000 gal/day) - means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline tank car, tank vehicle, portable tank, or container.

Public water system - a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

Regulated substance - petroleum, petroleum products, and substances listed under 40 CFR 302, current edition, excluding the following substances: (1) ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.

Sanitary protective radius - The area around a public water supply well which must be maintained in its natural state as required by Env-Dw 301 or Env-Dw 302 (for community water systems); Env-Dw 372.12 and Env-Dw 372.13 (for other public water systems).

Secondary containment - a structure such as a berm or dike with an impervious surface which is adequate to hold at least 110% of the volume of the largest regulated-substances container that will be stored there.

Solid Waste Landfill - a facility as defined in Env-Sw 103.32.

Stratified-drift aquifer - A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.

Surface water - those portions of waters of the state as defined by RSA 485-A:2, XIV.

Waste-water or Septage Lagoon - a place where industrial waste, septage, or sewage, as defined in RSA 485-A:2, VI, IX-a, & X, is stored and / or treated, as regulated by Env-Wq 700 (see 702.36 & 710.06 - 13) and Env-Wq 1600 (see 1602.23)

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

A. Authority for the AP District

The AP District is adopted pursuant to Section 1.03, Authority, of this Ordinance, and in accordance with the provisions of RSA 674:21, Innovative Land Use Controls. The AP District is considered to be an innovative land use control as environmental characteristics zoning. Within the AP District, the Planning Board is authorized to administer and grant conditional use permits in accordance with Article 12, Conditional Use Permits, of this Ordinance.

B. Establishment of the AP District

1. The AP District is established in accordance with, and for the purposes so stated in Section 4.01, Establishment of Districts and Statement of Purpose of Each, of this Ordinance, and encompasses lands as indicated in Section 4.02, Zoning Map, of this Ordinance.

2. If new data on local hydrogeology and topography, acceptable to the Planning Board, would lead to a different location of the boundary of the AP District, the Planning Board upon application shall grant a conditional use permit, thereby deeming the revised boundary location to be the correct legal boundary for purposes of this Section. Upon request of an applicant, the Planning Board may engage a licensed professional engineer or hydrogeologist, at the applicant's expense, to conduct such a boundary analysis or, in the alternative, the applicant may retain a licensed engineer or hydrologist acceptable to the Planning Board to conduct such analysis.

C. Applicability

This Ordinance applies to all uses in the Aquifer Protection District, except for those uses exempt under Section I. Exemptions of this Ordinance.

D. Performance Standards

The following Performance Standards apply to all uses in the Aquifer Protection District unless exempt under Section I. Exemptions:

1. For any use that will render impervious more than 15% or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall be prepared which the

planning board determines is consistent with New Hampshire Stormwater Manual, December 2008, Volumes II and III.

2. Conditional uses, as defined under Section G. Conditional Uses shall have a current National Pollutant Discharge Elimination System permit or develop stormwater management and pollution prevention plans and include information consistent with Stormwater Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices. (US EPA, 1992) The plan shall contain provisions to:

a. Minimize the release of regulated substances into stormwater, through a source control plan that identifies pollution prevention measures;

b. Prevent recharge to groundwater that will result in violation of Ambient Groundwater Quality Standards (Env-Wq 402.06) at the property boundary;

c. Stipulate that expansion or redevelopment activities shall require an amended stormwater plan and may not infiltrate stormwater through areas containing contaminated soils. The applicant may submit a Phase I Assessment in conformance with ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI) to demonstrate that such infiltration will not result in a violation of Ambient Groundwater Quality Standards.

3. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, June 2011 and any subsequent revisions;

4. All regulated substances stored in containers with a capacity of 5 gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;

5. Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner;

6. Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least 50 feet from surface water or storm drains, at least 75 feet from private wells, and outside the sanitary protective radius of wells used by public water systems;

7. Secondary containment must be provided for outdoor storage systems for regulated substances if an aggregate of 275 gallons or more of regulated substances are stored outdoors on any particular property. Secondary containment shall also be provided for outdoor conveyance systems;

8. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another;

9. Prior to any land disturbing activities, all inactive wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with We 604 of the New Hampshire Water Well Board Rules;

10. Disposal of stumps is permitted for same site disposal of stumps generated on site where a minimum separation of four feet (4') is maintained between stumps and estimated seasonal high water.

E. Permitted Uses

All uses permitted by right or allowed by special exception in the underlying district are permitted in the Aquifer Protection District unless they are Prohibited Uses or Conditional Uses. All uses must comply with the Performance Standards unless specifically exempt under Section I. Exemptions.

F. Prohibited Uses

The following uses are prohibited in the Aquifer Protection District.

1. The establishment of a hazardous waste disposal facility as defined under RSA 147-A;
2. The establishment of a Solid Waste Landfill;
3. The outdoor storage of road salt or other deicing chemicals in bulk, except for use on the site on which it is stored;
4. The establishment of a Junkyard;
5. Disposal of snow or ice, which is cleared from roadways and/or motor vehicle parking areas, from another lot or parcel;
6. The establishment of a Wastewater or Septage Lagoon, except for discharge to the ground approved by NHDES for treatment of groundwater;
7. The establishment of a petroleum bulk plant or terminal;
8. The establishment of gasoline stations;
9. The disposal of sewage sludge or biosolids.

G. Conditional Uses

An Aquifer Protection Conditional Use Permit (CUP) is subject to the provisions of Article 12 of this Ordinance, except where modified below. The Planning Board may grant a CUP for a use that is otherwise permitted within the underlying district, if the permitted use is involved in one or more of the following:

1. Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan is approved by the local Fire Department;
 - a. The Spill Prevention, Control and Countermeasure (SPCC) Plan shall be submitted to the Fire Chief who shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods or fires that may cause large releases of regulated substances. It shall include:

- (1) A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.
 - (2) Contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment.
 - (3) A list of all regulated substances in containers of 55 gallons or greater in use and locations of use and storage;
 - (4) A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure.
 - (5) A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.
2. The expansion of a Solid Waste Landfill;
 3. The expansion of outdoor operations of a Junkyard;
 4. The expansion of a Wastewater or Septage Lagoon;
 5. The expansion of a petroleum bulk plant or terminal;
 6. The expansion of a gasoline station; and
 7. The expansion of any other non-conforming use.

For Aquifer Protection CUP applications that involve development subject to Site Plan Review approval, the application shall be subject to Section 12.02 A of this Ordinance.

For all other Aquifer Protection CUP applications, the activity or development subject to CUP approval shall be accurately sketched on a copy of the recorded site plan or plan of similar reliability. Six full scale copies and one copy reduced to 11" X 17" paper shall be submitted. For Aquifer Protection CUP applications for which a recorded site plan is not available, six copies of a legible, accurate sketch of the activity or development subject to CUP approval and existing improvements shall be submitted. At least one copy shall be reduced to 11" X 17" paper.

In granting such approval the Planning Board must first determine that the proposed use is not a new prohibited use and will be in compliance with Section D. Performance Standards as well as all applicable local, state and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards.

H. Existing Nonconforming Uses

Existing nonconforming uses may continue without expanding or changing to another nonconforming use, unless allowed by CUP, but must be in compliance with all applicable

state and federal requirements, including Env-Wq 401, Best Management Practices Rules.

I. Exemptions

The following uses are exempt from the specified provisions of this ordinance as long as they are in compliance with all applicable local, state, and federal requirements:

1. Any private residence is exempt from all Performance Standards;
2. Any business or facility where regulated substances are stored in containers with a capacity of 5 gallons or less is exempt from Section D. Performance Standards 5 through 8;
3. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Section D. Performance Standards 5;
4. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Section D. Performance Standards 5 through 8;
5. Storage and use of office supplies is exempt from Section D. Performance Standards 5 through 8;
6. Temporary storage for up to one year of construction materials on a site where they are to be used is exempt from Section D. Performance Standards 5 through 8;
7. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance;
8. Household hazardous waste collection projects regulated under Env-Hw 401.03(b)(1) and 501.01(b) are exempt from Section D. Performance Standards 5 through 8;
9. Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Section K. Maintenance and Inspection of this ordinance.

J. Relationship between State and Local Requirements

Where both the State and the municipality have existing requirements the more stringent shall govern.

K. Maintenance and Inspection

1. For uses requiring planning board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Merrimack County. The description so prepared shall comply with the requirements of RSA 478:4-a.
2. Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Building Inspector or designee at reasonable times with

prior notice to the landowner.

3. All properties within the Aquifer Protection District known to the Building Inspector or designee as using or storing regulated substances in containers with a capacity of 5 gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under Section I. Exemptions, shall be subject to inspections under this Article.

4. The Town may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided for in RSA 41-9:a.

L. Enforcement Procedures and Penalties

Any violation of the requirements of this ordinance shall be subject to the enforcement procedures and penalties detailed in **14.07 Violations**.

M. State Rules, Regulations, and Statutes

The applicability of State Rules, Regulations, and Statutes shall be as amended from time to time.

ARTICLE 11. NON-CONFORMING LOTS, USES AND STRUCTURES

11.01 Determination and Status of Non-conforming Property

A. Evidence of non-conforming use or building

In reviewing an application for a building permit, or other application for land use change or structural alteration involving a non-conforming use or building, the Building Inspector shall make a determination as to the existence of a non-conformity. In so doing, the Building Inspector may require the property owner, to produce acceptable evidence attesting to said legal non-conforming status. Such evidence shall include, but is not restricted to such documents as rent receipts, documentation of utility services, affidavits, or other information as may be deemed to be necessary in a particular case.

B. Evidence of Non-conforming lot

The date of creation of a lot shall be considered established by its most recent lawful change in configuration by parcel area reduction, consolidation, land division, or other official action. A non-conforming lot shall be deemed to exist where the Building Inspector finds, based on evidence submitted by the property owner, that all of the following conditions are true:

1. The lot was created prior to the effective date of this Ordinance, or prior to the relevant amendments resulting in nonconformity of the lot, and no further division has occurred since that date;
2. The lot has not previously been reviewed under this Article;
3. The lot met the minimum size, frontage and area standards which were in effect when the lot was created; and
4. The lot does not conform with present size, frontage, or area standards for the zoning district.

C. Non-conforming use status limited to permanent lawful uses

The casual, temporary, or illegal use of land or structures, or land or structures in combination, shall not be sufficient to establish the existence of a non-conforming use or to create rights in the continuance of such use.

D. Right to Continue

Any legal use that exists at the effective date of this Ordinance (or the date of an amendment which created a non-conformity) but which would not be permitted under the provisions herein shall be allowed to continue as a legal non-conforming use.

E. Status of uses authorized by special exception

Any use in lawful existence at the time of passage or amendment of this Zoning Ordinance which would thereafter require a special exception or conditional use permit under its terms shall without further action be deemed a conforming use. Any enlargement or replacement of such use, in buildings or on land, shall require a special exception or conditional use permit, as

applicable, as though it were a new use.

11.02 Non-Conforming Lots

A. Actions by land use boards may not create non-conformity

Non-conforming lots shall not be created through the grant of a variance, special exception, conditional use or other development permit.

B. Use of a Non-conforming lot

A lot which failed to conform with size or dimension requirements which were in effect under ordinances or regulations at the time of division shall not by reason of that defect alone be denied any land development permit otherwise available under current ordinances. Non conforming lots of record may be developed for uses permitted within the zoning district under the following conditions:

1. Substandard lot size.

When a non-conforming lot can be used in conformity with all applicable regulations except for minimum lot size, then the lot may be used for a permitted use, provided that the development complies with all other standards which apply to that use under the zoning ordinance.

2. Substandard lot frontage.

In an "R", "RU", or "R-1" District only, a one-family dwelling may be allowed by way of Special Exception on a lot, created prior to Planning Board subdivision review authority (1967), having less than the required frontage, but having the required minimum area, provided the following conditions are satisfied:

- a. The lot must have at least one hundred and one (101) feet of frontage on a Class V or better road and a total of two hundred (200) feet of frontage on a public street.
- b. The lot in its present configuration must have been created by deed or approved subdivision recorded in the Registry of Deeds before January 1, 1983;
- c. No structures shall be erected on the lot except a one (1) family dwelling together with those attached or detached accessory structures customarily used with a one-family dwelling;
- d. The driveway shall be constructed and maintained as to afford reasonable access to the structures by public emergency vehicles on a year round basis;
- e. The lot shall not be subdivided except in strict accordance with the subdivision regulations of the Planning Board then in force.
- f. A site plan to be submitted in accordance with Site Review procedures.
- g. The Planning Board must approve the provisions for a turnaround.

C. Vesting

Lots in existence prior to the adoption of this ordinance shall be entitled to statutory vesting pursuant to NH RSA 674:39, as may be amended from time to time.

11.03 Non-Conforming Uses

A. Continuation of use

Where a non-conforming use, or where non-conforming characteristics of a use exist, such as signs, off street parking and loading, lighting, landscaping, or similar features, such non-conforming uses and characteristics of use may continue indefinitely except as provided in this Ordinance.

B. Change in ownership or management

Nothing herein contained shall be construed as prohibiting change in tenancy, ownership, or management of a non-conforming lot, use, or structure, provided such change is otherwise lawful.

C. Reversion to less conforming use not permitted

No building or lot in which a non-conforming use has been changed in whole or in part to a more conforming use shall again be devoted to a less conforming use.

D. Expansion or change in use authorized by special exception

No non-conforming use within a building, structure or lot shall be expanded or changed to another non-conforming use, unless it has been approved as a special exception, subject to the standards of this section, and to the conditions attached by the Zoning Board of Adjustment.

1. Findings required.

A special exception for a change or expansion of a non-conforming use may be issued by the Zoning Board of Adjustment only upon its finding that the proposed use (1) will not have an adverse impact on the surrounding neighborhood, and (2) that the change in use will be equally or more conforming with the purpose and intent of this Ordinance and the zoning district.

2. Criteria for change or expansion of use.

In making the required findings, the Zoning Board of Adjustment must determine that the change as proposed can reasonably meet **all** of the following conditions:

- a. The proposed change would not result in an increase in noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line; and
- b. The numbers and kinds of vehicular trips to the site will be comparable to, or lower than, those associated with the existing use; and
- c. The use will not place increased demand on outside storage or loading requirements, there will be no net loss in the number of existing off-street parking spaces serving the existing use(s);
- d. The visual appearance of the site and structure will either remain unchanged or will be improved;

- e. The proposed hours of operation for the use will result in an equal or lesser impact on the neighborhood;
- f. The non-conforming use area of the lot will not be increased as a result of the change in use;
- g. The gross floor area of the building housing the existing non-conforming use will not be expanded as a result of the change in use;
- h. The change in use will be equally or more compatible with the character of the neighborhood, or will otherwise be in the public interest; and
- i. The Zoning Board of Adjustment may attach reasonable conditions to its approval which would allow the applicant to satisfy the above criteria, or which would make the property more conforming with respect to bulk and setback requirements, signs, parking, loading, lighting, landscaping or screening.

E. Excavation

The change, expansion or continuation of non-conforming uses involving the excavation of earth materials shall be governed by the applicable sections of Article 7, Section 7.15 Excavation of Earth Materials and the applicable provisions of RSA 155-E as amended.

11.04 Non-conforming structures

A. Repair and maintenance

Normal repairs, renovations and maintenance may be made to any non-conforming building or structure, except as provided for in Article 11, Section 11.05, Termination of Nonconformity.

B. Structural alterations

Structural alterations of a building or structure which do not conform to the provisions of this Ordinance may be made only if the building is being altered to conform to the requirements of the zoning district in which it is located, or to the extent authorized by a special exception issued under the provisions of this Article.

C. Rebuilding after catastrophe:

Any non-conforming structure that is destroyed by casualty may be rebuilt to its former extent of non-conformance, provided that rebuilding is commenced within a one (1) year period and completed within a two (2) year period.

D. Replacement of non-conforming single family dwelling in residential district

Any single-family residence maintained as a non-conforming structure within a residential zoning district may be replaced with a similar structure of the same footprint dimension, or of a larger size, provided that the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to setback, height and parking requirements.

E. Replacement of residential accessory structures

Any non-conforming residential accessory structure such as a garage, shed, deck or porch may be razed and replaced in its entirety provided that it is replaced in the same location, and for the same purpose, with no expansion in the size of the structure whatsoever.

F. Temporary use of manufactured housing unit

Subject to state and town requirements for water supply and sewerage disposal, any owner-occupancy of a residence which has been damaged by fire or other disaster may place a manufactured home on the lot of such residence and reside therein while the residence is being rebuilt for a maximum of twelve months from the placement of such structure or the issuance of certificate of occupancy, whichever occurs first. A manufactured home which is placed on a lot under this provision shall not attain the status of a vested non-conforming use. [RSA 674:32, II]

G. Non-conforming signs

Non-conforming signs shall be governed by the sign regulations of this Ordinance under Article 8, Section 8.09, Status of Non-conforming Signs.

11.05 Abandonment and termination of nonconformity

A. Determination of abandonment

The voluntary discontinuance of a non-conforming use or occupancy of a non-conforming structure shall be considered the abandonment of such use or structure. Normal, seasonal cessation of a use, or a temporary discontinuance for purposes of maintenance, rebuilding after damage or destruction, or for maintenance or improvements permitted under this Article, or the active marketing of a property, shall not be included in calculating the period of discontinuance. Any one of the following shall constitute evidence of abandonment of a non-conforming use:

1. Failure to make a good faith effort to take the necessary steps to resume the non-conforming use or occupancy with reasonable dispatch in the circumstances, such as advertising and listing the property for sale or for lease; or
2. Discontinuance of the use of unimproved land, or the occupancy of a building or structure comprising a non-conforming use for twelve (12) consecutive months, or
3. In the case of a non-conforming structure which is damaged by means out of control of the owner, the failure to commence restoration within one (1) year, or to conclude restoration within two (2) years from the time restoration construction is initiated.

Upon application for appeal, the ZBA may grant, for good cause, reasonable extensions of time limits for the resumption of non-conforming uses, provided that the use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood.

B. Termination due to abandonment

Any non-conforming use or structure that is abandoned cannot be resumed but can be replaced by a conforming use or structure created in compliance with the provisions of this Ordinance. The abandonment of a non-conforming use shall result in the termination of the non-conforming status of that use. The use of the property shall thereafter conform to the regulations of the district and the non-conforming use may not be resumed.

C. Termination due to destruction

Except for destruction as a result of casualty, or pursuant to the placement of a non-conforming structure specifically authorized by this Article, the voluntary destruction of a non-conforming use, building or structure shall result in the termination of its non-conforming status.

ARTICLE 12. CONDITIONAL USE PERMITS

12.01 Planning Board to Administer

Wherever a conditional use is authorized by this ordinance, the authority to administer or grant conditional use permits shall be vested in the Planning Board. The duration of a conditional use permit shall be defined by the provisions of Article 14, section 14.05 Duration of permits and Approvals.

12.02 Application and Review Procedure

An application for a conditional use shall be initiated by filing with the Planning Board for an application for a conditional use permit. The following procedures shall apply to the processing of such application.

A. Procedure if Subdivision or Site Plan Approval Also Required

Where other required development approvals for a conditional use include subdivision or site plan approval by the Planning Board, the application and review procedure for a conditional use permit shall be made concurrently and in accordance with the procedures specified in the Subdivision Regulations or Site Plan Regulations as applicable to the particular development.

B. Procedure if Subdivision or Site Plan Approval Not Required

Where no subdivision or site plan approval would otherwise be required for the conditional use, the application and procedural requirements of the Site Plan Regulations shall be applied to the application and processing of conditional use permits with respect to content of applications, requirements for public notice, hearings and timing of decisions by the Planning Board.

C. Procedure for minor conditional use permits

The Planning Board may authorize, by rule or on a case by case basis, an administrative procedure for conditional use permits. Such minor CUP may be issued for:

1. Agricultural and logging operations in prime wetland buffers;
2. Construction of driveways in non-prime wetland buffers and Minimum Impact Applications for access to single family houses on lots in existence as of January 1, 1997.
3. Such conditional use permits may be issued without a public hearing, but all other procedural requirements, including notice to abutters, consultation with the Conservation Commission, and the findings of Section 12.05 shall remain in effect. Appeals of the decision on such conditional use permit applications shall be made to the Planning Board within 30 days.

12.03 Burden of Persuasion

The applicant bears the burden of persuasion, through the introduction of sufficient evidence through testimony or otherwise, that the development, if completed as proposed, will comply with this Article and will satisfy the specific requirements for the use contained in the

ordinance.

12.04 Standards of Review

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

- A. Specific authorization for the conditional use in Article 5, Section 5.11 Table of Use Regulations;
- B. The compliance of the development plan with the specific standards for such use contained in the Ordinance;
- C. The results of any special investigative or scientific studies prepared in association with the proposed development;
- D. Special reports or analyses of the project or its impacts prepared by the Town's departments, its consultants, its boards or commissions;
- E. The findings, goals and objectives of the Master Plan;
- F. The relationship of the development to the timing, location and cost of public improvements scheduled in the Bow Capital Improvements Program; and
- G. Testimony and evidence introduced at the public hearing on the application.

12.05 Hearing and Decision

Following a public hearing on the proposed use, the Planning Board shall issue a conditional use permit, if it finds, based on the information and testimony submitted with respect to the application, that:

- A. The use is specifically authorized by Article 5, Section 5.11 Table of Use Regulations as a conditional use;
- B. If completed as proposed by the applicant, the development in its proposed location will comply with all requirements of this Article, and with the specific conditions or standards established in this ordinance for the particular use;
- C. The use will not materially endanger the public health or safety;
- D. The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located;
- E. The use will not have a substantial adverse impact on highway or pedestrian safety;
- F. The use will not have a substantial adverse impact on the natural resources of the town; and
- G. The use will be adequately serviced by necessary public utilities and community facilities and services of a sufficient capacity to ensure the proper operation of the proposed

use, and will not necessitate excessive public expenditures to provide sufficient additional capacity or services.

12.06 Stipulations of Approval

In granting a conditional use permit, the Planning Board may attach reasonable conditions to its approval, including but not limited to performance guarantees and the phasing of a development, where such conditions are shown to be necessary to further the objectives of this ordinance or the master plan, or which would otherwise allow the general conditions of this Article to be satisfied. Representations made at a public hearing or in material submitted to the Planning Board by an applicant to obtain a conditional use permit shall be deemed conditions of the issuance of the permit. All other conditions of approval shall be stated in writing in the permit. The Planning Board may require that such conditions be annotated on a site plan or subdivision plan, or otherwise recorded at the Merrimack County Registry of Deeds.

12.07 Appeals

Any persons aggrieved by a Planning Board decision on a conditional use permit may appeal that decision to the superior court as provided in the manner provided by RSA 677:15. A Planning Board decision on the issuance of a conditional use permit cannot be appealed to the Zoning Board of Adjustment. (RSA 676:5, III).

ARTICLE 13. APPEALS TO THE ZONING BOARD OF ADJUSTMENT

13.01 Zoning Board of Adjustment (ZBA)

A. Appointment and Terms

Pursuant to RSA 673, Local Land Use Boards, a ZBA shall be established, consisting of five (5) members and up to five (5) alternate members, all appointed by the Board of Selectmen for three (3) year terms. Alternate members may fulfill the duties and responsibilities of a regular member when a regular member is disqualified from consideration of a particular application.

B. Organization and Rules of Procedure

On an annual basis, the ZBA shall elect a chairman and other officers from among its membership. The ZBA shall adopt, and from time to time amend, Rules of Procedure for the conduct of its business. The rules of procedure shall establish a regular meeting schedule so as to allow for the expeditious consideration of appeals.

13.02 Powers and Duties of the ZBA

A. Interpretation of the Ordinance

The ZBA shall:

1. Hear and decide appeals where it alleged that there is an error in any order, requirement, decision, or determination by the Building Inspector in the administration of this Ordinance. The ZBA may affirm or reverse such order, requirement, decision, or determination, in whole or in part, or may modify the same;
2. Hear and render determinations on any questions relative to the meaning of the text of this Ordinance; and
3. Hear and render determinations on any questions relative to the exact location of any district boundary shown on the zoning map.

B. Authorization of Variances

1. Upon appeal, the ZBA may authorize a variance from the terms of this Ordinance for a particular use, a parcel of land, an existing building, or a proposed building.
2. The ZBA may authorize a variance from this Ordinance only where it confirms in writing all of the following:
 - a. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship. Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:
 - (1) 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
 - (2) the proposed use is a reasonable one.

(3) If the criteria in subparagraphs (1) and (2) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

b. Authorization of a variance will not be contrary to the public interest; and

c. The spirit of this Ordinance shall be observed and substantial justice done in the authorization of a variance; and

d. No diminution in the value of surrounding properties would be suffered as a result of the authorization of a variance.

3. The applicant bears the burden of presenting evidence sufficient to allow the ZBA to reach conclusions and make findings to support the authorization of a variance.

4. In authorizing a variance, the ZBA may impose such conditions and stipulations as it deems necessary and proper in order to fulfill the purposes and intents of this Ordinance.

5. If the use or construction so authorized by a variance has not commenced within a two (2) year period from the date of the decision, then the variance shall be deemed to have expired and the ZBA's authorization shall be considered null and void.

6. If after commencement, a variance is abandoned for a period of two (2) years, then the variance shall be deemed to have expired and cannot be re-established without a new application process and affirmative decision of the ZBA.

C. Granting of Special Exceptions

1. The ZBA shall hear and decide requests for Special Exceptions that are specifically authorized in Article 5, Use Regulations, or otherwise in this Ordinance.

2. The ZBA shall grant a request for a Special Exception only where it confirms in writing each of the following findings:

a. The use requested is specifically authorized in the Ordinance;

b. The requested use will not create undue traffic congestion or unduly impair pedestrian safety;

c. The requested use will not overload any public water, drainage, or sewer system or any other municipal system, nor will there be any significant increase in storm water runoff onto adjacent property or streets;

d. The requested use will not create excessive demand for municipal police, fire protection, schools, or solid waste disposal services;

e. Any requirements and standards for the use as set forth in Article 7, Supplementary Regulations and Standards for Specific Uses, of this Ordinance are fulfilled;

- f. The requested use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood;
- g. The proposed location is appropriate for the requested use; and
- h. The requested use is consistent with the spirit and intent of this Ordinance and the Master Plan.

3. The applicant bears the burden of presenting evidence sufficient to allow the ZBA to make findings required to support the granting of a Special Exception.

4. In granting a Special Exception, the ZBA may attach conditions as it deems necessary to assure compliance with the purposes of this Ordinance. Such conditions may include but are not limited to the following:

- a. Increasing the lot size or yard dimensions;
- b. Limiting the lot coverage or building height;
- c. Specifying the location and limiting the number of vehicular access points to the property;
- d. Requiring additional on-site parking or loading spaces;
- e. Requiring additional landscaping and screening;
- f. Limiting the number of occupants of a building, and the methods and times of operation of a use;
- g. Restricting the number, size, and illumination of signs;
- h. Modifying the exterior appearance of a building; and
- i. Providing for specific locations or layout of facilities on the property.

5. If the use or construction so authorized by the granting of a Special Exception has not commenced within a two (2) year period from the date of the decision, then the Special Exception shall be deemed to have expired and the ZBA's decision rendered null and void.

6. If after commencement, a Special Exception is abandoned or discontinued for a period of two (2) years, then the Special Exception shall be deemed to have expired and cannot be re-established without a new application process and the affirmative decision of the ZBA.

D. Equitable Waivers of Dimensional Requirements

The ZBA shall have the authority to grant equitable waivers of dimensional requirements pursuant to the provisions and requirements of RSA 674:33-a.

13.03 Application Procedure for the ZBA

A. Application Fees

A non-refundable fee shall be submitted together with an application to cover the costs of the advertising, notification, and processing of the application as well as any special investigative studies deemed necessary by the ZBA.

B. Submission Materials

An application to the ZBA shall include a completed application form, and plans and supplemental information as may be required for the specific type of appeal. The application shall be filed at least fourteen (14) days before a regularly scheduled meeting of the ZBA.

C. Notification

A notice of a public hearing on an application shall be given to the applicant and to all abutters by certified mail not less than ten (10) days before the date of the hearing. Notice shall also be given to each member of the ZBA and a notice shall be sent to the Planning Board. A public notice shall be placed in a newspaper of general circulation in the Town of Bow, not less than ten (10) days before the date of the hearing.

D. Public Hearing

At the public hearing, the ZBA shall hear or receive oral or written testimony from the applicant and all abutters, and any non-abutters who can demonstrate that they are directly affected by the application upon which the hearing is being held. Representations made at the public hearing or material submitted to the ZBA shall be deemed to be conditions of any subsequent decision of the ZBA. The ZBA may convene or reconvene the public hearing at the site of the proposed use in order to permit observations concerning the site to become part of the record of the hearing and decision by the ZBA.

E. Referral to Planning Board

The ZBA shall, before taking final action on any application for a Special Exception, refer it to the Planning Board for review and recommendation. The ZBA may, before taking final action on any other matter, refer it to the Planning Board for review and recommendation. The action of the Planning Board shall be reported to the ZBA within forty-five (45) days of such referral. Any recommendation received from the Planning Board shall be disclosed at the public hearing and shall become a part of the record of the matter. In its review, the Planning Board shall consider the proposed use as it relates to the neighborhood and the Town, and its conformance to the spirit and intent of the Master Plan and this Ordinance.

F. Action on the Application

The ZBA shall approve, deny, or approve with conditions, each application upon which a hearing has been held. Action on the application may be tabled by the ZBA from the date of the hearing to another meeting of the ZBA. A concurring vote of three members of the ZBA shall be necessary for a decision on an application. Only members who were present at the hearing may vote on the application.

G. Issuance of a Decision

Within seventy-two (72) hours after a vote on an application, a written record of the decision shall be available for public inspection at the office of the ZBA. The record of decision shall state whether the application was approved or denied, include any conditions if approved, and state the reasons for the decision. A copy of the record of decision shall be sent to the applicant by first class mail, and copies shall be made available to the Building Inspector and the Planning Board. Following the 30 day time limit for appeals and within 90 days of the final decision, including decisions on Rehearing or Appeals to Superior Court, the applicant shall record the notice of decision at the Merrimack County Registry of Deeds. Within ten (10) days of the recordation, the applicant shall provide a certified copy of the recorded notice of decision to the Zoning Administrator. No action authorized by an application to the Zoning Board of Adjustment shall commence until the certified copy of the recorded notice of decision has been received by the Zoning Administrator. If an application is disapproved, the Zoning Board of Adjustment may direct the Zoning Administrator to record the notice of decision.

H. Rehearing

Within thirty (30) days after a decision of the ZBA, any party to the action or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the decision, and must specify such grounds in the motion for rehearing. The ZBA may grant a rehearing if, in the opinion of the ZBA, there is good reason for such based on the motion.

I. Appeal to Superior Court

No appeal from any decision of the ZBA may be taken to the Superior Court unless the appellant has first made application for a rehearing as provided above.

ARTICLE 14. ADMINISTRATION AND ENFORCEMENT

14.01 Administrative Official

A. Building Inspector

The Town Manager shall appoint a Building Inspector to administer, interpret and enforce the provisions of the Town of Bow Building Code. In the absence of the Building Inspector, these duties will be performed by the Town Manager or designee. The Chief of Police, Fire Chief and Town Health Officer, or their respective departments shall comply with the reasonable requests of the Building Inspector for assistance and cooperation in the administration and enforcement of the Town of Bow Building Code.

1. The Town of Bow Building Code includes the State of New Hampshire Building Code as contained within NH RSA 155-A, as may be amended by the State of NH.

a. Additions and Amendments to the Bow Building Code. In addition to the State of New Hampshire Building Code, the following additions and amendments shall apply within the Town of Bow.

From the International Residential Code (IRC):

SECTION R310 EMERGENCY ESCAPE AND RESCUE OPENINGS

R310.1. Emergency escape and rescue required. Basements and every sleeping room shall have at least one operable emergency and rescue opening. Such opening shall open directly into a public street, public alley, yard, or court. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Where emergency escape and rescue openings are provided they shall have a sill height of not more than 44 inches (1118 mm) above the floor. In newly constructed buildings where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening, a bulkhead enclosure and bulkhead door shall not be permitted. Homes constructed after the effective date of this ordinance shall have an at-grade basement access, other than through a garage, in the form an enclosed structure with an at-grade, vertical hung door opening inward. All other aspects of the access shall conform to the applicable building code. In an existing building where the basement is renovated to create habitable space, the bulkhead enclosure shall comply with Section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. Emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2. Emergency escape and rescue openings shall open directly into a public way, or to a yard or court that opens to a public way.

Exception: Basements used only to house mechanical equipment and not exceeding total floor area of 200 square feet (18.58 Square Meters).

From the International Residential Code:

SECTION R313 SMOKE ALARMS and CARBON MONOXIDE DETECTORS R313.2.1.

Alterations, repairs, or additions. When alterations, repairs, or additions requiring a permit occur, or when one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with smoke alarms and carbon monoxide detectors located as required for new dwellings, and the smoke alarms and carbon monoxide detectors

shall be interconnected and hardwired, except as provided below.

Exceptions:

Interconnection and hardwiring of smoke alarms and carbon monoxide detectors in existing buildings where the alterations or repairs do not otherwise require the removal of interior wall and ceiling finishes exposing the structure, unless there is reasonable alternative access to allow the hardwiring and interconnection to occur.

POTABLE WATER TEST RESULTS.

Prior to the issuance of a Certificate of Occupancy for any dwelling supplied by a private well system, the owner shall certify that the water supply is potable and submit to the Building Inspector the water quality test results for the NHDES recommended Standard Analysis as stated in Environmental Fact Sheet WD-DWGB-2-1 dated 2011, as may be amended.

B. Zoning Administrator

The Town Manager shall appoint, with the recommendation of the Planning Board, a Zoning Administrator to administer, interpret and enforce the provisions of the Town of Bow Zoning Ordinance. In the absence of the Zoning Administrator, these duties will be performed by the Town Manager or designee. The Chief of Police, Fire Chief and Town Health Officer, or their respective departments shall comply with the reasonable requests of the Zoning Administrator for assistance and cooperation in the administration and enforcement of the Town of Bow Zoning Ordinance.

C. Enforcing Authority

1. The duty of administering and enforcing the provisions of the currently adopted Town of Bow Building Code, which includes the State of New Hampshire Building Code as contained within NH RSA 155-A, as may be amended from time to time, is hereby conferred upon the Town Building Inspector or his duly authorized agent.

2. The duty of administering and enforcing the provisions of the currently adopted Town of Bow Zoning Ordinance is hereby conferred upon the Town Zoning Administrator or his duly authorized agent. A written record shall be kept of all interpretations of the Town of Bow Zoning Ordinance by the Zoning Administrator. This record shall be kept as a public document to insure consistency in the application of this ordinance.

14.02 Permits Required

A. New buildings and structures

It shall be unlawful for any person to erect, construct, reconstruct, renovate, add to, or alter a structure or non-exempt sign without applying for and receiving from the Building Inspector a building permit in compliance with the Town of Bow, NH Building and Permit Ordinance.

B. Change in use or modification of buildings and structures

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 all applicable approvals from the Planning Board and/or the Zoning Board of Adjustment.

C. Approvals required prior to building permit

No building permit shall be issued until all other required approvals are secured by the applicant. Such approvals may include, but shall not be limited to Special Exception, Variance, conditional use permit, site plan approval, or subdivision approval. Verification of compliance with such approvals and all associated conditions imposed pursuant to the approvals and with all provisions of the Zoning Ordinance, Site Plan Review Regulations, Subdivision Regulations, and Building Code shall be made by the Building Inspector prior to issuance of a building permit.

14.03 Content of Application

An application for a Building Permit shall be accompanied by all materials required for building permit applications by the Town of Bow, NH Building and Permit Ordinance, including a plot plan showing all lot and required yard dimensions, lot coverage, the site and location of all buildings and uses, driveway locations, and all other such information as may be required by the Building Inspector to process said applications. The proposed handling of water supply and sewerage disposal shall be described on all applications and shown on the plot plan. To assure proper recording and filing of an application, the applicant shall submit at least one copy of the plot plan on a sheet or sheets of a dimension not larger than eleven (11) inches by seventeen (17) inches.

14.04 Previously Approved Permit

Nothing in this Ordinance 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 within one (1) year before the effective date of this Ordinance, or before the amendment affecting such use or structure, provided such construction or use shall be actively started within sixty (60) days and completed within one (1) year of the effective date of this Ordinance or applicable amendment.

14.05 Duration of Permits and Approvals

A. Building permit

In cases where construction, erection, alteration, excavation, demolition or similar work has been authorized by a building permit, such permit shall automatically expire if:

1. The work has not commenced within a period of one (1) year; or
2. The work has not been completed within a period of two (2) years.
3. Extension. Prior to expiration of the above time limits, the applicant may petition the Building Inspector for one extension of not more than six (6) months to the time limits of either 1. or 2. above. Such petition shall be in writing and state the reason(s) for the extension request and include the applicable fee as determined by the Board of Selectmen. Upon review of request, the Building Inspector shall either grant or deny such request within five (5) business days. A denial may only be due to a nuisance, safety or health reason.

B. Special Exceptions, Variances, and Conditional Use Permits

With the exception of approvals for excavation (which are granted for a duration of three (3) to five (5) years pursuant to Article 7, Section 7.14 Excavation of Earth Materials), Conditional Use Permits issued by the Planning Board or Special Exceptions and Variances issued by the Zoning Board of Adjustment shall automatically expire two (2) years after the date of approval if at that time:

1. The conditions of approval have not been met; or
2. Any related state or local permit or approval is outstanding; or
3. The action authorized by the land use board(s) has not commenced.

14.06 Certificate of Use and Occupancy

A. Certificate required

It shall be unlawful to occupy any structure or lot for which a building permit is required herein without the owner applying for and receiving from the Building Inspector a certificate of use and/or occupancy. Certificates of Occupancy may be applied for coincidentally with the application for a building permit, and shall not be issued until the lawful erection or alteration of the building is complete. A Certificate of Occupancy shall be required for any of the following in conformity with the Building Code and this Ordinance:

1. Occupancy and use of a building hereafter erected or structural alteration requiring a building permit.
2. Change in use of an existing building or land to a use of a different zoning classification in the Article 5, Section 5.11 Table of Use Regulations (whether or not said use is permitted by right).

B. Verification of Compliance

Verification of compliance with approvals and all associated conditions imposed pursuant to the approvals referenced in Article 14, Section 14.02, Permits Required shall be made by the Building Inspector, the Town Planner and the Fire Chief, prior to issuance of a certificate of use and occupancy by the Building Inspector. The Certificate of Occupancy shall state that the building and use comply with the provisions of the Zoning Ordinance, Site Plan Review Regulations, Subdivision Regulations, and of the Building Code of the Town of Bow in effect at the time of issuance. No such certificate shall be issued unless the building and its use and its accessory uses and the uses of all premises are in conformity with the provisions of this Ordinance, the Site Plan Review Regulations, the Subdivision Regulations, and the Building Code at the time of issuance. A Certificate of Occupancy shall also be conditional on compliance with provision of adequate parking spaces and other facilities as required by this Ordinance, or by the specific conditions attached to an approval by the land use boards of the town, and shall lapse if such provisions or conditions have not been effected by the applicant.

Prior to the above described verification of compliance by Town officials, the applicant for a Certificate of Occupancy shall submit an Affidavit of Compliance to the Building Inspector. The Affidavit shall be signed by the property owner or authorized representative and include copies of applicable Notices of Decision. The Affidavit shall state that all requirements of the ordinance, regulations, and code listed in the paragraph above and conditions of approval by

the Planning Board and Zoning Board of Adjustment have been addressed. In the event that all items have not been completed, the applicant may request and the Building Inspector may grant a temporary Certificate of Occupancy. For multi-family and all non-residential development subject to Site Plan Review approval, such temporary Certificate of Occupancy shall be subject to the following. The applicant shall submit an Affidavit citing all incomplete items, provide a time frame for completion, and submit an independent estimate of the costs to complete said requirements and conditions. The applicant shall provide a cash escrow, or a savings bank deposit book properly endorsed to the Town and deposited with it, a Performance Guarantee in the form of a bond issued by a surety company registered and licensed to do business in the State of New Hampshire, a Letter of Credit or other collateral or surety arrangement, all in form and substance satisfactory to the Board of Selectmen. The Performance Guarantee shall be in an amount equal to 125% of the estimate of the costs to complete requirements and conditions.

14.07 Violations

A. Complaints about prohibited use

Any person who desires that the Town take action to cure a use of land that is noxious, offensive or detrimental to the public or the owners or occupants of adjacent property or prejudicial to the general welfare of the community or otherwise prohibited by this Ordinance must file a signed written complaint with the Building Inspector, who shall process such complaint under the provisions of this Article. The Building Inspector shall acknowledge receipt of such complaint within two weeks.

B. Notice and Order

The Building Inspector shall serve a Notice of Violation and Order to the owner or to any other 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. Such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation.

C. Owner to secure site from hazards

Any owner who has been served with a Notice of Violation and Order and ceases any work or other activity, shall not leave any structure or lot in such a condition as to be a hazard or menace to the public health, safety or general welfare.

D. Prosecution of violation

If the Notice of Violation and Order is not complied with promptly, the Selectmen shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct, or abate such violation.

E. Penalties

Any person, firm or corporation violating any of the provisions of this Ordinance, shall for each violation, upon conviction thereof, pay a fine in accordance with RSA 676:17 I (b) of Two

Hundred Seventy-five Dollars (\$275) for the first day that a violation is permitted to exist after receipt of a Notice to remove the same. Each day of violation shall constitute a separate offense. 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 municipality that the violator is in violation, whichever is earlier, such person, firm or corporation shall pay a fine of Five Hundred Fifty Dollars (\$550).

F. Imminent Hazards

Notwithstanding the above procedures, when the Board of Selectmen or Health Officer determines that a structure or use poses an imminent hazard to public health or safety, the Board of Selectmen or Health Officer may issue a cease and desist order or initiate other appropriate action or proceeding at law or in equity to address the imminent hazard.

14.08 Land Use Fees

All land use fees including building permits, certificates of occupancy and other fees associated with the Bow Zoning Ordinance or Building Code shall be established by schedules adopted by the Selectmen.

14.09 Conflict of Laws

The more restrictive standard shall apply whenever the provisions of this ordinance differ from those prescribed by any statute, regulation or restriction.

ARTICLE 15. BUSINESS DEVELOPMENT DISTRICT

The Business Development District Ordinance is published separately.

ARTICLE 16. IMPACT FEES AND METHODOLOGY REPORTS

The Impact Fee Ordinance and the Methodology Reports adopted by the Planning Board are published separately.

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