BUILDING, ZONING
AND LAND USE ORDINANCE

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TOWN OF NEWFIELDS, NEW HAMPSHIRE
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Prepared by the Newfields Planning Board

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ARTICLE I ZONING ORDINANCE

Adopted Adjourned Town Meeting, March 14, 1959 and as amended

1.1 AUTHORITY AND PURPOSE

An ordinance to promote the health, safety, convenience and general welfare of the community by regulating the use of land in the Town of Newfields. **[Note: No map changes are to be made from the existing ordinances.]**

In pursuance of authority conferred by Chapter 31, Sections 60-89, New Hampshire revised Statutes annotated, 1955, as amended, for the purpose of promoting the health, safety, morals and general welfare of the community by regulating according to districts the use of land and buildings, the size of yards and courts and other open spaces, and the density of population in order to provide for adequate light and air, safety from fire, panic and other dangers, the promotion of wise and efficient use of land, the promotion of good civic design and arrangement which includes the provision for public utilities and other public services, the conservation of the value of land and buildings, and the preservation of the rural charm now attached to the town, now therefore, the following ordinance is hereby enacted by the voters of the Town of Newfields, New Hampshire in Official Town Meeting convened.

1.2 SHORT TITLE

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

1.3 REQUIREMENTS

All buildings or structure hereinafter erected, reconstructed, altered, enlarged, or moved and uses of premises in the Town of Newfields shall be in conformity with the provisions of this Ordinance. No building structure, land or water areas shall be used for any purpose or in any manner, except as permitted with the district in which such building, structure, land or waterbody is located.

This Ordinance does not grant property rights, it does not authorize any person to trespass, infringe upon or injure the property of another, it does not excuse any person of the necessity of complying with other applicable laws and regulations.

1.4 PLANNING BOARD RULES OF PROCEDURE

The Newfields Planning Board shall consist of 7 members and 2 alternatives appointed in accordance with RSA 673:2(II) by the Board of Selectmen. **(Amended 3/9/2010)**

The Planning Board shall adopt rules in accordance with RSA 676:1. **(Amended 3/10/15)**

1.5 EXPIRATION OF VARIANCES, SPECIAL EXCEPTIONS, AND RELIEF FROM ADMINISTRATIVE DECISION

1.5.1 In accordance with NH RSA 674:33, Variances, Special Exception and Relief from Administration Decisions authorized under this Ordinance and State Law shall be valid if exercised within 2 years from the date of final approval, or as extended below in accordance with Section 1.5.4 or by the zoning board of adjustment for good cause, provided that no such variance, special exception or administrative decision shall expire within 6 months after the resolution of a planning application filed in reliance thereon. **(Amended 3/10/15)**

1.5.2 If after commencement of construction, a non-conforming use is discontinued for a period of one (1) year, then any ZBA Decision(s) associated with said use shall be deemed to have expired and cannot be re-established without a new application process and affirmative decision of the ZBA.

1.5.3 If after commencement, a property is abandoned for a period of two (2) years, then any ZBA Decision(s) associated with said property shall be deemed to have expired and cannot be re-established without a new application process and affirmative decision of the ZBA.

1.5.4 The applicant may receive up to two (2) one-year extensions from the ZBA. If a building permit is not secured within the specific time, including approved extensions, the ZBA Decision will expire and the authorization granted by the ZBA, shall be considered null and void. An application for extensions must be submitted to the ZBA at least thirty (30) days prior to the expiration date.

1.6 AMENDMENTS

The regulations and restrictions, as provided in this Ordinance, may from time to time be amended, supplemented, changed, modified, or repealed by a resolution adopted at a regular or special meeting of the Town, setting forth the proposed amendment. A public hearing shall be held thereon, after notice as required by law, and prior to the Town Meeting at which the amendment is to be proposed. Such amendment shall not become effective except by the favorable vote of the majority of the voting members attending and voting at a regular or special meeting of the Town.

1.7 CONFLICTS AND PENALTIES

Upon any well-founded information that this Ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of this Ordinance in accordance with RSA 676:17.

[Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance or other regulation, that provision which imposes the greater restriction or higher standard shall govern.]

1.8 ADMINISTRATION

It shall be the duty of the Board of Selectmen and the Board is hereby given power and authority to enforce the provisions of this Ordinance. The Building Inspector shall issue any and all building permits requested when such permit is in accordance with the provisions of this Ordinance.

After passage of this Ordinance, it shall be unlawful to erect any structure or building, or alter any building or relocate any building without first obtaining a building permit from the Building Inspector.

1.9 SEVERABILITY

The invalidity of any provision of this Ordinance shall not affect validity of any of the provisions.

If any section, clause, provision of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding will not affect or impair any other section, clause, provision or portion of this ordinance.

[EFFECTIVE DATE]

ARTICLE II DEFINITIONS

2.1 DEFINITIONS

2.1.1 Abandonment – The visible or otherwise apparent intention of an owner to discontinue the use of a building or premises or the removal of a characteristic equipment or furnishings used in the performance of any non-conforming use without its replacement by similar equipment or furnishings. The replacement is any non-conforming use or building by a conforming use or building.

2.1.2 Accessory Dwelling Unit – means a residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

2.1.3 Accessory Use or Structure – A use of a structure subordinate to the principal use of a building on the same lot serving a purpose customarily incidental to the use of the principal building.

2.1.4 Alter, Alterations – Any change involving the structural frame of a building or the use of a building.

2.1.5 Building – Any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind and which is constructed and permanently affixed on the land. Building includes open porches, open breezeway and other roofed areas.

2.1.6 Commercial Mining – The excavation of sand, gravel, or stone exceeding fifty (50) cubic yards per year.

2.1.7 Conversion – The conversion of existing residential buildings into not more than two dwelling units, provided that all dimensional and parking requirements can be met and the structure was in existence prior to January 1, 1973.

2.1.8 Customary Home Occupation – Any use as permitted in Section 4 which is conducted entirely within the principal structures and carried out by the inhabitants thereof which use is clearly incidental and secondary to the use of the principal structure. There shall be no display of goods visible from the street and advertising will be limited to one sign not to exceed two square feet. Such uses as clinics, bakeries, gift shops, tea rooms, animal hospitals and kennels, (for more than 8 dogs) and others in similar nature shall not be considered as home occupations.

2.1.9 Dwelling – Any building or portion thereof designated or used exclusively as the residence or sleeping place of one or more persons.

2.1.10 Dwelling Unit – One (1) or more rooms including cooking facilities and sanitary facilities in a dwelling structure, designed as a Unit for occupancy by not more than one (1) family for living and sleeping purposes.

2.1.11 "Farming" means all operations involved with the growing of crops, the raising of animals, and any activities associated with marketing the products including agritourism and other activities under RSA 21:34-a. For the complete definition, refer to NH RSA 21:34-a. **(Amended 3/9/2010) (Amended 3/12/13, 3/11/14)**

2.1.12 Frontage – The contiguous horizontal distance, on an accepted public street between the intersections of the side lot lines with the front lot line.

2.1.13 Floor Area – The sum of the gross horizontal areas of all floors of any building or buildings on a lot, measured from the exterior walls. In particular, the floor area shall include:

2.1.13.1 In dwellings, any basement space designed to be used for temporary residential purposes.

2.1.13.2 In other than dwellings, any basement or cellar space used for any purpose.

2.1.13.3 In all buildings, interior balconies, mezzanines, and all spaces other than basement or cellar spaces with structural head room of at least seven feet and are designed for year round use.

2.1.14 Hotel/Motel – A facility offering lodging to transients, staying only a short time, brief in duration. Efficiency units with accommodations similar to those found in dwelling units are not accepted use as Hotel/Motel. **(Amended March 1988))**

2.1.15 Full Frost-proof Foundation – A foundation which extends completely around the outer perimeter of a building; is made or poured concrete or concrete block laid with mortar at least 8" think with a poured footing 4" x 14" or a 10" wall with or without a footing and extends at least 3 ½ feet below the finish grade line.

2.1.16 Industry, light – Any industry which does not produce any: smoke, odor or other air pollutants; noise, vibration, glare or heat; which are discernable by the senses of the observer standing at the property line or

which result in the generation of more than 10 trips per day of vehicles over 20,000 lbs. net capacity, to and/or from the premises.

2.1.17 Industry, heavy – Any other industry.

2.1.18 Junk Yard – An open area where waste, used or second-hand materials are brought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. The term Junk Yard shall not include uses established entirely within enclosed buildings.

2.1.19 Junk Yard Motor Vehicle – As defined in New Hampshire Revised Statutes Annotated, Chapter 267, as amended by Chapter 275, laws of 1955. The term "Motor Vehicle Junk Yard" as used herein shall include any business and any place of storage or deposit, whether in conjunction with another businesses or not, which has stored or deposited two or more unregistered motor vehicles which are no longer operable or in condition for legal use on the public highways, or used parts of motor vehicles or old iron metal, glass, paper, cordage or other waste or discarded or secondhand material which has been a part or intended to be a part of any motor vehicle, the sum of which parts or material shall be equal in bulk to two or more motor vehicles. Motor Vehicle Junk Yard shall also include any place of business or storage or deposit of motor vehicles purchased for purpose of dismantling the Vehicles for parts or for use of the metal for scraps and where it is intended to burn material which are parts of a motor vehicle or cut up the parts there.

2.1.20 Lot – A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by the Ordinance, and having the required frontage on an accepted public street or within an approved subdivision. **(Amended 3/13/1990)**

2.1.20.1 Lot, Corner – A lot abutting upon two (2) or more streets at their intersection.

2.1.20.2 Lot, Depth – The main horizontal distance between the front and rear lot lines.

2.1.20.3 Lot Lines – the property lines bounding the lot.

2.1.20.3.1 Lot Line Front – The lot line separating the lot from an accepted public street.

2.1.20.3.2 Lot Line, Rear – The lot line opposite and most distant from the front lot line.

2.1.20.3.3 Lot Line, Side – Any lot line other than a front or rear lot line. A side lot line separating a lot from an accepted public street, is called a side street lot line.

2.1.20.4 Lot Width – The distance between the two side lot lines measured at the required set back line, or along the lot line at the accepted public street.

2.1.20.5 Lot, Frontage – A measure of property where it abuts an accepted public street. Frontage requirements specified within Article III, Schedule II of the Ordinance shall be contiguous. **(Amended 3/1996)**

2.1.21 Lot, Non-Conforming – Any lot which does not conform with the minimum width, depth and area dimensions specified for the district in which said lot is located.

2.1.22 Lot of Record – Any lot, a deed to which has been recorded in the office of the Rockingham County Register of Deeds.

2.1.23 Mobile Home – A transportable single-family dwelling, which may be towed on its own running gear, and which may be temporarily or permanently affixed to real estate, used for non-transient residential purposes and which conforms with American Standards Association Code Provision A-119 or 1963, "American Standard to Installation in Mobile Homes of Electrical, Heating and Plumbing Systems" as amended, or Mobile Home Manufacturers Association "Mobile Home Standards for Plumbing, Heating and Electrical Systems" as amended.

2.1.24 Multi-Family Dwelling – A building containing three or more dwelling units.

2.1.25 Non-Conforming Building or Structure – A non-conforming building or structure the use of which, in whole or in part, does not conform to the use or regulations of the district in which the building or structure is located.

2.1.26 Non-Conforming Use – A lawful use that does not conform to the prescribed use regulations of the district in which it is located.

2.1.27 Nuisance – Any use that may be obnoxious or injurious by reason of the production or emissions of odor, dust, smoke, refuse matter, fumes, excessive noise, vibration, or similar conditions that are dangerous to the comfort, peace, enjoyment, health or safety of the community or lending to its disturbance or annoyance.

2.1.28 Parking Space – An off-street area, accessible and suitable for parking one motor vehicle.

2.1.29 Rooming and Boarding Houses – A building other than a hotel or motel where lodging is provided for compensation, without individual cooking facilities.

2.1.30 Shopping Center – More than three retail establishments erected as a unit with common parking facilities.

2.1.31 Sign, Advertising – A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises where the sign is located.

2.1.32 Special Exception – A use permitted within a District only after a determination by the Board of Adjustment that certain conditions specified in the zoning ordinance have been met.

2.1.33 Structure – A constructed framework, the uses of which requires permanent location, including swimming pools and wastewater disposal systems, but not fences. **(Amended 3/11/97)**

2.1.34 Two-Family Dwelling Unit – A building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from wall to exterior wall, except for a common stairwell exterior in both dwelling units. **(Amended 3/11/97)**

2.1.35 Variance – An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by a zoning ordinance. It is a right granted by a Board of Adjustment pursuant to power vested in such administrative body by statute or ordinance and is a form of administrative relief from the literal import and strict application of zoning regulations. (American Law of Zoning, 3rd., Anderson, 1986)

2.1.36 Yard – Any open space which lies between the principal building or group of buildings and the nearest lot line and is unoccupied by any structure except as herein permitted.

2.1.36.1 Yard Front – An open space which lies between the principal building or group of buildings and the front lot occupied by any structure.

2.1.36.2 Yard Rear – Any open space extending the full width of the lot between a principal building and the rear lot line, unoccupied by any structure.

2.1.36.3 Yard Side – An open space extending from the front yard to the rear yard between a principal building and the nearest side lot line, unoccupied by any structure.

ARTICLE III ESTABLISHMENT OF DISTRICTS AND USES

3.1 ZONING DISTRICTS

To implement the provisions of this Ordinance, the Town of Newfields is hereby divided into the following Districts:

R-V -Residential Village **(Amended 3/14/2007)**

R-A -Residential-Agricultural

C -Commercial

I -Industrial

LC -Land Conservation

FO -Floodplain Overlay District **(Amended 3/14/2007)**

3.2 BOUNDARIES

The boundaries of zoning districts are hereby established as shown on the official zoning map, Town of Newfields, adopted 1959 and as amended and certified by the Town Clerk, which with all explanatory matter thereon, is hereby made a part of this ordinance.

Where physical or cultural features existing on the ground vary from those shown on the zoning map, the Planning Board shall request the Board of Selectmen to render its determination with respect thereto.

The Flood Hazard Boundary Map #330228A dated January 17, 1975, revised March 12, 1976, promulgated by the Department of Housing and Urban Development, as amended, shall be an overlay to the zoning map as previously described. When a property is located in a Flood Hazard Area, all new construction and substantial improvements shall conform to the requirements for the Flood Hazard Area, as enumerated in Section 4.11 of this ordinance as well as those for the underlying zone.

Also be aware that in addition to this overlay the Town of Newfields has adopted a number of additional resource overlay districts that impose additional development constraints in specific cases. These overlay districts are fully described in Articles 6 through 9 of this publication.

3.3 DESCRIPTION OF DISTRICT BOUNDARIES

3.3.1 Residential-Village District

The Residential-Village District shall include all lands from the corner of Summer Street and Piscassic Road to the overhead railroad bridge on Main Street; and Piscassic road from Main Street through and including Tax Map 206, Lot 5 to a depth of 300 feet each side, also to include Section 1.2, and 3 of the Newfields Gardens as described in Plot Plan filed October 31, 1958; and the area enclosed by Main Street, Summer Street, Pleasant Street, Squamscott Street and the Boston & Maine Railroad. **(Amended 3/14/2007)**

3.3.2 Residential-Agricultural District

The Residential-Agricultural District shall include all lands not heretofore or hereafter specifically mentioned.

Rezoned Residential-Agricultural and remainder of the present Industrial District on each side of the B & M Railroad tracks Northwest of Rockingham Junction (Concord track). **(Amended March 8, 1977)**

Rezoned Residential-Agricultural the present Industrial Zone along the westerly division of the B & M Railroad south of Newfields between the land of the Newfields Building Corporation and the Exeter-Newfields boundary.

3.3.3 Commercial Districts:

The Commercial District shall include land on Route 108 from the Stratham town line to the Newmarket town line to a depth of 600 feet on the east side of said highway, and on the westerly side of Route 108 from Rockingham Junction 2 mile on the westerly division of the Boston & Maine Railroad and thence south easterly to the intersection of Route 108 and the Stratham town line.

Rezone to commercial that portion of Lot 16, Tax Map 201, which is currently zoned residential, so that said Lot 16 shall be zoned entirely commercial instead of partially commercial and partially residential. **(Amended 3/12/1991)**

3.3.4 Industrial District **(Amended March 1969)**

The Industrial District shall include the land Easterly of Pleasant Street between Squamscott Street on the North and land of the Battle heirs and land of Merle B. Sharp on the South. **(Amended March 8, 1997)**

A triangular area bounded on the Northwest and Eastern sides by the B & M Railroad and on the Southern side by land of the Society for the Preservation of NH Forests with the apex of the triangle at Rockingham Junction, the area to include part of the present Industrial District. **(Adopted 3/8/1977)**

The land includes in parcels 13, 14 and 15 of inset 2A, Map 2, of the 1976 tax map, formally land of Norton and Ryan, on the easterly side of Route 85, now designated as lots 1, 10 and 11 of the 1991 tax map and described as the Kingston Warren Property. **(Rezoned 3/13/1977)**

3.3.5 Land Conservation Zone

The Land Conservation Zone shall include all lands in the Newfields Shoreland Protection District, as defined in Article IX Section 9.3.5.

3.4 ESTABLIHSMENT OF DISTRICT USES

3.4.1 Two sets of regulations shall apply to all districts:

3.4.1.1 Use regulations – Schedule I
3.4.1.2 Dimensional regulations – Schedule II

3.4.1.2.1 All distances measured for this article are to be measured from a “birds eye” view. This is to ensure that fluctuations in topography do not have the net result of lessening horizontal setback distance requirements. **(Amended 3/14/2000)**

3.4.2 The restrictions and controls intended to regulate development in each district are set forth in Schedules I and II which are supplemented by other sections of this ordinance.

SCHEDULE I – USE REGULATIONS	**R**	**R-A**	**C**	**I**	**LC**
The following schedule of Use Regulations lists all the principal uses allowed as a matter of right and those allowed special exception, in the various zoning districts, normal accessory uses are subject to the same restrictions. All uses permitted are subject to the regulations and provisions of other sections of this ordinance. Uses other than listed are prohibited.					
3.4.1 Farming, Produce (commercial)	X	P	P	P	S
3.4.2 Fire & Police stations & town offices	P	P	P	P	X
3.4.3 Forestry, wildlife preserves, hunting & fishing clubs	S	P	P	P	P
3.4.4 Public parks & playgrounds	P	P	P	P	P
3.4.5 Churches, schools	P	P	P	X	X
3.4.6 Single family dwellings	P	P	P	X	X
3.4.7 Two family dwelling(s)	P	P	X	X	X
3.4.8 Multi-family dwelling	X	X	X	X	X
3.4.9 Mobile Homes (1)	X	P	P	X	X
3.4.10 Rooming & Boarding Houses	P	P	X	X	X
3.4.11 Nursing Home	X	X	P	X	X
3.4.12 Home Occupations	S	P	P	P	X
3.4.13 Retail stores, restaurants, personal & professional services, offices	X	X	P	X	X
3.4.14 Auto Sales, service, washing	X	X	P	X	X
3.4.15 Funeral parlors, theaters	X	X	P	X	X
3.4.16 Shopping Centers (2)	X	X	S	S	X
3.4.17 Hotel – Motel	X	X	P	X	X
3.4.18 Drive-in Theater	X	X	P	P	X
3.4.19 Fuel, oil, gas storage, distribution	X	X	S	S	X
3.4.20 Commercial Mining (3)	X	X	S	S	X
3.4.21 Light industry	X	X	S	P	X
3.4.22 Heavy industry	X	X	X	S	X
3.4.23 Marinas	X	P	P	P	S
3.4.24 Commercial greenhouse, blacksmiths, commercial stables	X	P	P	P	X
3.4.25 Personal riding horses (4)	P	P	S	S	S
3.4.26 Recreational campground	X	X	X	X	X
3.4.27 Utilities, gas, electric, sewer, water	P	P	P	P	S

3.4.28 Junk Yard or Motor Vehicle yards (5)	X	X	S	S	X

P = Permitted; S = Permitted by Special Exception; (see footnotes); X= Prohibited

NOTES:

(1) Mobile Homes – see 4.1
(2) See 4.13.8 Shopping Centers
(3) See 4.13.9 Commercial Mining
(4) See 4.13.10 Junk Yards
(5) See 4.8 Conversion of Existing Residential

SCHEDULE II – DIMENSIONAL REGULATIONS (see footnotes)

No principal or accessory building or structure shall be allowed within the setbacks set forth below, excepting fences.

Restrict the 43,560 square foot (1 acre) minimum lot area and 100 foot minimum frontage standards applied to areas with public sewer to the R-Residential District only. **(Adopted 3/1984)**

Minimum Frontage allowed in Commercial District (C) shall be: Commercial Use, 50 feet; Residential Use 200 feet. **(Adopted 3/14/2000)**

District	Min. Lot Dimensions (sf)		Maximum Height	Min. Frontage (9)	Min. Depth Front (1), Rear (2)	Min. Side Yard (2, 3, 6)	Min. Floor Area Per Dwelling Unit	% Building Coverage
	No Public Service	With Public Service						
R								
SINGLE	87,120	43,560	35 FT	100 FT	25, 20	20	625	25%
2 FAMILY		65,340		150 FT				25%
R/A								
SINGLE	87,120		35 FT	200 FT	25, 20	20	625	25%
2 FAMILY	130,680			275 GT				25%
C								
COMMERICAL USE	87,120		35 FT	50 FT	60, 25	25, *50	625	(8)
RESIDENTIAL USE	87,120		35 FT	200 FT	60, 25	25, *50	625	(8)
I								
LC (5)	87,120		40 FT	50 FT	60, 25	25	625	(8)
Aq (7)								
SINGLE	130,680			200 FT				25%
2 FAMILY	130,680			275 FT				25%

NOTES:

1. Measured from the front building line to the nearest edge of an accepted public street,
2. Measure from building line to the property line of any abutter.
3. Provided that no side yard abutting a street measured less than the required front yard dimension.
4. No human occupancy shall be permitted above the height; however, ornamental towers or spires; water towers, communication towers and equipment may exceed the height limit by up to 40%.
5. See 4.10 Land Conservation
6. See 4.9 Open Space
7. See Article VIII “Aquifer Protection District” for additional requirements in certain designated areas.
8. Subject to site plan review.
9. Compliance with the minimum frontage requirements shall be determined based upon measurement of the contiguous, uninterrupted distance between the side lot lines. **(Adopted 3/13/1996)**

ARTICLE IV SUPPLEMENTARY REGULATIONS FOR CERTAIN USES

4.1 TRAILERS, MOBILE HOMES, TRAILER PARKS AND MOBILE HOME PARKS

4.1.1 Trailers and Mobile Homes

A single trailer or a single mobile home may be located anywhere in the Residential-Agricultural and Commercial districts provided it meets all frontage, front yard, side and back yard, minimum land use area and minimum floor square feet area and sanitary protection requirements specified in this ordinance for buildings and lots located in the Residential-Agricultural district and including adequate water supply on premises.

A trailer or mobile home may not be attached, fixed or “added on to” a dwelling in the Residential district for any purpose.

A building permit must be obtained before a mobile home is moved onto a lot and a permit paid to the Building Inspector who will inspect the installation to see that all requirements of this ordinance are complied with.

A full frost proof foundation is required under all mobile homes and trailers before their location on a lot.

4.1.2 Trailer parks, mobile home park and camping-tenting parks are prohibited in Newfields.

4.2 HORSES (RESIDENTIAL DISTRICT ONLY)

Horses, ponies or similar animals may be housed, pastured or maintained provided the following requirements are met:

4.2.1 There are 2 acres (87,120 sq. ft.) of open fenced land for each horse, pony, or similar animal.

4.2.2 No manure pile or stable shall be maintained within 100 feet of a property line unless written consent by affected abutter is obtained.

4.2.3 No manure pile or fenced paddock shall be erected or maintained by horses, ponies or similar animals within a 400 foot radius of the town wells.

4.2.4 A manure pile will be allowed providing the accumulation is not greater than seven days waste.

4.2.5 The horse, pony or similar animal will be led from the Monument on Main Street to the Railroad bridge from the Monument to the Newfields School and in the Newfields Gardens and walked at the edge of the street unless written permission is granted by the property owners to walk on adjoining lawns.

4.3 SWIMMING POOLS

4.3.1 Appendix G of the 2000 International Residential Code shall be the minimum requirement for all swimming pools and barrier fencing for those installations. **(Amended 3/14/2007)**

4.3.2 All pools hereafter constructed must comply with this ordinance, and all existing pools must comply by May 1, 2008. **(Amended 3/14/2007)**

4.3.3 These requirements shall not apply to natural bodies or water such as ponds and streams, nor shall it apply to ponds constructed primarily for agricultural or conservation purpose.

4.4 STREET INTERSECTIONS

At no street intersection in any district, shall any obstruction to vision exceeding thirty (30) inches in height be placed or permitted to grown or any lot within the triangle formed by the lot lines abutting the intersecting streets and the line connecting points on these lot lines at a distance of 15 from the point of intersection of these lot lines.

No driveway shall be permitted within 75 feet of any street intersection.

4.5 OFF-STREET PARKING AND LOADING REQUIRMENTS **(Amended 3/14/2007)**

4.5.1 Parking and Loading requirements shall be in accordance with the Town of Newfields Site Review and Subdivision Regulations.

4.6 SIGN REGULATIONS

Property owners of business, profession or service enterprises shall be allowed advertising signs which advertise activities conducted on the premises, and signs pertaining to lease, sale or use of property may be used or displayed according to the following:

4.6.1 General Restrictions

The following restrictions shall apply to all signs:

4.6.1.1 All signs shall be located on the same lot as the uses which they identify.

4.6.1.2 No roof sign shall be permitted to extend more than four (4) feet above the eyes (roof line).

4.6.1.3 One unlighted sign of a tradesman not larger than 6 sq. ft. erected during the period such person is performing work on the premises on which such sign is erected is permitted.

4.6.1.4 All signs, or any portion thereof, shall be set back at least 10 ft. from any property line.

4.6.1.4.1 Signs shall be placed in a safe location that does not obstruct access and sight distance for access to and from the property.

4.6.1.4.2 Signs that are lighted in accordance with 4.6.1.10 shall be shielded to protect from glare onto roadways and abutting properties.

4.6.1.5 Signs shall be limited to the following sizes and the following number per zoning district. Entrance and exit locations signage does not count toward this signage provided each sign is less than 2 square feet. Signs with 2 side shall only be counted as one sign and shall be measured using only one side provided each side is the same sign.

	Total Sign Square Footage	Number
RV	6 Square Feet	1
RA	6 Square Feet	1
C	40 Square Feet	2
I	40 Square Feet	2

4.6.1.6 Signs on structures other than buildings shall not extend more than 30 ft. above ground level.

4.6.1.7 An office sign shall be permitted for each tenant provided the sign does not exceed two (2) sq. ft. in area, per tenant.

4.6.1.8 Signs designating home occupations or property for sale or lease are limited to one, with a maximum of six (6) sq. ft.

4.6.1.9 In the Commercial & Industrial Districts on-building signage shall be permitted up to a maximum of 1.0 sq. ft. of signage for every one foot or building frontage parallel to the street upon which the property gains frontage or access, which shall be limited to measurement on one side for lots with access or frontage on more than one sides.

4.6.1.10 Illuminated signs will be allowed in the Commercial & Industrial Districts. In the Residential/Agricultural illuminated signs shall be allowed provided that the total illumination does not exceed 300 watts, incandescent or equivalent. All illumination shall be a constant indirect source of downward lighting which shall be by a constant indirect source of downward lighting which shall be shielded to illuminate only the sign. **(Separately Amended 3/12/2013)**

4.7 NOISE CONTROL

4.7.1 General Provisions

4.7.1.1 It shall be unlawful for the owner, occupant and/or any person causing or permitting sound or noise to project within the boundary of a use district which exceeds the limiting noise level set forth in Table 1 below.

4.7.1.2 Sound or noise projecting from one use district into another use district with a different noise level limit shall not exceed the noise limits at any point of the district into which the noise is projected

4.7.1.3 The issuance of a building permit shall carry an automatic increase in the noise limit to seventy-five (75) DBA for all activities directly involved with the permitted construction for the hours between 7:00 a.m. and 8:00 p.m. The noise limits for the hours of 8:00 p.m. and midnight shall remain as specified in Table 1 below.

4.7.2 Measurement of Noise

4.7.2.1 The measurement of sound or noise shall be made with a sound-level meter meeting the standards prescribed by the American National Standards Institute.

4.7.2.2 The slow meter response of the sound-level meter shall be used in order to best determine that the average amplitude has not exceeded the limiting noise level set forth in Table 1.

TABLE 1 – MAXIMUM PERMISSIBLE SOUND PESSURE LEVELS FOR USE DISTRICTS		
(Sound pressure level limits measured in DB(A)(s)		
	DAY TIME	NIGHT TIME
Commercial/Industrial Zones		
Industrial Uses	70	65
Commercial Uses (includes professional office structures)	65	55
Residential		
Residential Uses (includes multi-family structures)	60	50

4.7.2.3 Measurement of sound levels shall be made at the property line of the property on which such noise is generated or perceived, as appropriate, and shall be taken at least four (4) feet from ground level.

4.7.2.4 Compliance with the noise limits is to be maintained at all elevations at the boundary of the property.

4.7.2.5 Daytime hours shall be between 7:00 a.m. and 8:00 p.m. Night hours shall be between 8:00 p.m. and 7:00 a.m.

4.8 CONVERSION OF EXISTING RESIDENTIAL STRUCTURES

Any building **(Adopted 3/10/87)** located in the R or RA District and existing at the time of passage of this Ordinance may be converted to not more than two dwelling units.

4.8.1 Required parking and play space is provided.

4.8.2 There is minimum 625 square of floor area per unit.

4.8.3 Evidence is provided that increased disposal facilities can and will be provided.

4.9 OPEN SPACE REQUIREMENTS

No accessory structure shall be permitted closer to the property lines of any lot than the required yard depth permits.

4.10 LAND CONSERVATION ZONES

Areas in LC zones may not be the locus of primary buildings, or structures except for those uses permitted by special exception, and then only when no alternative locus is available. Land area in LC zones may be used to satisfy minimum lot area requirements for other zones, but shall not exceed 50% of such minimum lot area requirement.

4.11 SPECIAL FLOOD HAZARD AREA **(Amended 3/14/2007)**

4.11.1 All development within the Floodplain Development Overlay District (FO Zone) shall be in accordance with Article VI – Floodplain Development District.

4.12 ZONING EXEMPTIONS FOR CERTAIN UTILITY STRUCTURES **(Adopted 6/20/1988)**

674:30 Utility Structures. Local ordinances, codes and regulations enacted pursuant to this title shall apply to public utility structures, provided; however, that:

4.12.1 Notwithstanding the provisions of any such local ordinance, code, or regulation, a planning board, or its designee pursuant to paragraph II, upon application by a utility, may waive any requirement contained in an ordinance, code or regulation for any unoccupied structure which is less than 200 square feet in area, which is necessary for the furnishing of utility services for the public health, safety or general welfare, and for which the utility's siting options are limited by virtue of said structure being a physically integrated component of the utility's transmissions or distribution apparatus. Any such waiver shall terminate, without further action by the Planning Board, if said structure ceases to be used for provisions of utility services.

4.12.2 The Planning Board may adopt regulations, pursuant to RSA 675:6 to ensure that such utility structures do not adversely affect the character of the area or create a hazard to the public. Such regulations may designate the building inspector, municipal engineer, road agent, or other official as agent of the Planning Board to abutters and the public, according to the procedures provided for in RSA 676:4, I(d) 10 days prior to any decision to be issued under such regulations. A hearing shall be held, if requested by the applicant or the abutters at any time prior to issuance of the decision, or if the board determines that a hearing is necessary. Notice of such hearing shall be given as provided in RSA 675:7, and no decision shall be issued until after the hearing.

4.12.3 A public utility which uses or proposes to use a structure which does not fit the criteria described in paragraph I, or fits those criteria and has been denied a waiver, or has been granted a waiver with conditions unacceptable to the utility when the waiver was applied for pursuant to paragraph I, may petition the public utilities commission to be exempted from the operation of any local ordinance, code, or regulation enacted under this title. The public utilities commission, following a public hearing, may grant such as exemption if it decides that the present or proposed situation of the structure in question is reasonably necessary for the convenience or welfare of the public.

4.12.4 Except for small power production facilities, as defined in RSA 362-A:1a, X and cogeneration facilities, as defined by RSA 362-A:1a, I, owned and operated by a New Hampshire franchised utility, small power production facilities and cogeneration facilities shall not be considered to be public utilities under this section and may not petition the public utilities commission for an exemption from the operation of any regulation under this subdivision.

4.13 SPECIAL EXCEPTION

As enumerated in Schedule I, Special Exceptions shall be permitted only upon authorization by the Board of Adjustment. All such exceptions shall be found by the Board of Adjustment to comply with the following requirements and other applicable requirements if herein set forth.

4.13.1 That the use if a permitted special exception as set forth in Schedule I.

4.13.2 That the use is so designed, location and proposed to be operated that the public health, safety, welfare and convenience will be protected.

4.13.3 That the use will be compatible with adjoining development and the proposed character of the district where it is to be located.

4.13.4 That adequate landscaping and screening is provided.

4.13.5 That the applicant for a Special Exception has obtained Planning Board approval of the site plan.

4.13.6 That the use will not result in depreciation in value of surrounding properties.

4.13.7 The use is within the spirit and intent of the Ordinance.

4.13.8 Shopping Centers, provided that:

4.13.8.1 they are located on a lot having an area of at least 4 acres;

4.13.8.2 the percentage of building or buildings including accessory buildings shall not cover more than 30% of the lot area;

4.13.8.3 the front yard is a minimum of 75 feet deep;

4.13.8.4 the side yard shall be at least 25 feet in depth;

4.13.8.5 the rear yard shall be at least 25 feet in depth;

4.13.8.6 where either the side lot line or the rear lot line abuts any lot in a residence district there shall be maintained a landscaped buffer area of at least 150 feet;

4.13.8.7 a site plan has been referred to the Planning Board for review and has been found acceptable;

4.13.8.8 no glare shall spill on adjacent property.

4.13.9 Commercial Mining

No operation which excavates mines and/or removes any earth loam, sand, gravel, or stone for commercial mining shall be permitted without approval of a special exception by the Board of Adjustment and provided that:

4.13.9.1 Application for a permit under this section shall be submitted in writing to the Zoning Board of Adjustment.

4.13.9.2 Accompanying said application shall be a map at a scale of 1” = 50’ showing boundary lines of the property, contours at 5’ intervals, the proposed limits of excavation, the locations of any public roads or waterways passing through or adjacent to the property within a distance of 50 feet vehicular access roads, a log of borings to determine elevation of water table and a detailed statement of the proposed work and period of operation.

4.13.9.3 Upon approval of the above plan a permit shall be issued subject to a fee, and posting of bond, said plan shall become an integral part of permit.

4.13.9.4 The applicant shall file with the Zoning Board of Adjustment, cash or a performance bond on form acceptable to, and in such amount, as the Zoning Board of Adjustment deems sufficient to ensure the faithful performance of the work in accordance with the provision of this section, provided the amount not exceed $1,500 for each acre filled, mined, excavated or graded.

4.13.9.5 The filling, excavating, grading and removal authorized by permit shall conform to the following standards and conditions:

4.13.9.5.1 work areas shall be in accordance with limits as approved on plan.

4.13.9.5.2 there shall be a minimum of 150 feet between any excavation, filling or grading and an abutters property line.

4.13.9.5.3 the minimum elevation at the bottom of excavation shall be four feet above annual mean high water table.

4.13.9.5.4 at the termination of the operation the area shall be graded to slopes not to exceed one (1) foot of rise to two (2) feet of horizontal distance. Drainage ways shall be provided to prevent ponding. Seed and mulch will be spread upon arable soil. Erosion control devices to prevent siltation.

4.13.9.6 Time Limit

Each permit granted under this article shall be valid for a period of two (2) years or for such shorter period requested by applicant or fixed by the ZBA. Upon application made at least 30 days before the expiration of a permit the ZBA may extend the time for a period of not more than two (2) years provided, that there exists no violation of the terms of the current permit of this ordinance. Extensions will be granted provided, that excavation has not gone beyond the plans originally submitted or provided that a new plan is submitted in accord with the terms of this section. Failure to apply for a renewal of a permit shall constitute prima facie evidence of completion of operations.

4.13.9.7 Return of Bond

Upon completion of the filling, excavation, grading or removal in accordance with the terms of the permit and after any area of the lot required to be seeded has grown in a second season, the applicant may apply to the ZBA for return of the bond filed as provided in Paragraph d and if the ZBA are satisfied that the work has been completed as required by the permit, the bond shall be returned to the applicant, but otherwise the bond shall remain in full force and effect. Failure of the permit holder to renew the permit shall constitute completion of operations. The permit holder will then have 90 days to comply with all provisions of Paragraph e. Failure to comply in 90 days shall constitute forfeiture of the bond.

4.13.9.8 Town Operations

All fees are hereby waived if such operation is conducted solely by or on behalf of the Town of Newfields for the municipal purposes of the town. The filling, excavation, grading or removal; however, shall meet all of the standards and conditions of this article. All other excavating, filling or grading operations shall comply with 4.7 Paragraph e.

4.13.10 Junk Yard or Motor Vehicle Jun Yard **(Amended 3/14/2007)**

4.13.10.1 In addition to the consideration enumerated in paragraph 4.13. Junk Yards or Motor Vehicle Junk Yards may be allowed, provided that: they not be located within 200 feet of any accepted public street the Zoning Board of Adjustment may grant such application subject to such conditions as the Board shall determine are necessary for the protection of property values in the vicinity of the proposed use. Said conditions may include, but not be limited to, the provision of adequate and properly maintained screening.

4.13.10.2 The following are prohibited to be kept or maintained within the limits of the town, so near to any highway, street, park, public place, or abutting land owned or occupied by another person, so as to be offensive to the use, occupation and enjoyment of said adjoining or abutting premises by its owners or occupants; or so as to leach into a waterway or discharge upon abutting properties; or so as to be a menace to public health; or in such a manner that the contents or other offensively kept premises are visible from abutting premises:

4.13.10.2.1 junk yard without a permit

4.13.10.2.2 dump, refuse, waste, junk or ashes

4.13.10.2.3 hazardous materials

4.13.10.2.4 bulk storage or oil or gasoline, other than in standard or approved containers or containment facilities

4.13.11 Industrial

In addition to the consideration enumerated in paragraph 4.13, the following conditions are to be applied to the Board of Adjustment in considering an Industrial use by Special Exception.

4.13.11.1 There shall be no alteration of the natural vegetation or natural topography within 100 feet of the boundary of the district or 300 feet from Routes 108 or 85, except for the following:

4.13.11.1.1 Access Road – The Access Road shall take the most direct route through the buffer zone and shall not have its center line within 100 feet of abutting residential zones, except at point of junction with existing town or state highway, and be at least 200 feet from any residence.

4.13.11.1.2 Fence – A fence not to exceed 6 feet in height may be built in the buffer zone for security reasons. At the point of entrance a small gate house may be constructed.

4.13.11.1.3 Stand Pipe – A water stand pipe for fire protection may be built provided that there is no suitable location outside the buffer zone.

4.13.11.1.4 Signs – Signs in the buffer zone shall be limited to one sign at the entrance road identifying the industry. This sign shall be of the free standing type, not more than 12 square feet in area on each side. It may be lighted by indirect lighting only, and it may not be more than 15 feet in height, including the standard.

4.13.11.1.5 Right of Way for Utilities – Sewer, water and other utility lines shall come onto property via existing rights of way or the access road.

4.13.12 Adult Uses

4.13.12.1 Purpose and Intent

It is the purpose of this section to establish reasonable and uniform regulations pertaining to the operation of sexually oriented businesses within the Town of Newfields; and, it is the intent to promote the health, safety and general welfare of the citizens of Newfields; and it is the intent of this section that these provisions be utilized to prevent the problems of blight and deterioration which typically accompany and are brought about by the concentration of sexually oriented businesses; and, the provisions this section have neither the purpose nor the effect of imposing limitations or restrictions on the content of any communicative materials, including sexually oriented materials; and, it is not the intent nor the effect of this section to restrict or deny access by adults 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 section to condone or legitimize the distribution of obscene material.

4.13.12.2 Adult Uses Defined

The term adult use shall mean and include the following: any business where more than 15% of the gross revenues, 15% or more of the stock and trade, or 15% or more of the goods or paraphernalia displayed are of sexually oriented or sexually explicit nature. Such goods and paraphernalia include, but are not limited to sexually explicit books, videos, movies, devices, computer software, and martial aids. Examples of adult uses include, but are not limited to,

4.13.12.3 Where Allowed

Adult uses shall be allowed in the Commercial District as a Special Exception only; provided that the following locational standards are site appearance criteria are complied with:

4.13.12.3.1 No structure containing an adult use shall be allowed within 1,000 feet of the property line of a church, cemetery, school, day care center, or within 400 feet of a residential structure.

4.13.12.3.2 No sexually explicit material or advertising shall be visible from outside the building.

4.13.12.3.3 No private viewing rooms or booths shall be constructed unless one side is always open to a public central area.

4.13.12.3.4 No one under the age of 18 shall be permitted inside such a use and a procedure shall be developed to keep those under 18 from entering the building.

4.13.12.4 Restrictions on Other Retail Uses

For those retail uses permitted by right in the Commercial and Industrial districts which sell sexually explicit goods and paraphernalia but do not meet the 15% thresholds outlined in Section 4.13.12.2, such goods and paraphernalia shall be located either behind a counter, or in a separate room or enclosure where citizens under the age of 18 are not allowed to enter. Such sexually explicit goods and paraphernalia are not within view of minors or readily visible to children.

4.14 ACCESSORY DWELLING UNITS **(Adopted 3/14/2000) (Adopted 3/21/2017)**

4.14.1 Authority

4.14.1.1 This section is enacted in accordance with the provisions of NH RSA 674:71.

4.14.2 Purpose and Objectives

4.14.2.1 The purpose of the accessory dwelling unit provision is to provide increased flexibility with respect to housing alternatives for citizens in Newfields while maintaining health, safety, aesthetics and quality of the Town's neighborhoods. Furthermore, the purpose of this ordinance is to meet the requirements of NH RSA 674:71.

4.14.2.2 The objectives of this section are to:

4.14.2.2.1 Provide for the construction of accessory apartments in existing single-family dwelling units to be occupied by one or more persons, thereby lessening fluctuations in the demand for Town services and provide for diverse housing opportunities.

4.14.2.2.2 Add more units to the housing stock to meet the needs of smaller households, both old and young.

4.14.2.2.3 Protect stability and property values in residential, residential-agricultural, and commercial zoning districts by ensure that accessory dwelling units are installed under such additional conditions as to protect the health, safety and welfare of the public.

4.14.3 Definitions

4.14.3.1 Accessory Dwelling Unit: a residential living unit that is within a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

4.14.4 Special Exception

4.14.4.1 A Special Exception allowing the installation of one (1) accessory dwelling unit within a detached single-family dwelling unit shall be issued by the Zoning Board of Adjustment provided that the following conditions are met:

4.14.4.1.1 The proposed use must conform to the dimensional requirements of a single-family lot and meet all existing requirements.

4.14.4.1.2 Occupancy of the Accessory Dwelling Unit shall comply with the standards for maximum occupancy per bedroom consistent with policy adopted by the United States Department of Housing and Urban Development.

4.14.4.1.3 The accessory apartment shall be designed so that the appearance of the building remains that of a one-family dwelling. There shall be one egress to the primary living area from the accessory apartment. Any new entrances shall be located on the side or rear of the building.

4.14.4.1.4 The size of the accessory apartment shall not exceed 1/3 of the living area of the entire dwelling (both units) but shall not be required to be less than 750 square feet.

4.14.4.1.5 At least one of the units within the single family dwelling must be, and continue to be, owner-occupied. As part of any approved Special Exception, the ZBA may set reasonable conditions to insure compliance with this provision.

4.14.4.1.6 No more than two bedrooms are permitted in the accessory apartment.

4.14.4.1.7 Off-street paved or gravel parking shall be provided for at least four (4) vehicles.

4.14.4.1.8 The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing single-family dwelling.

4.14.4.1.9 Prior to granting a Special Exception by the ZBA, the owner shall provide, as part of the ZBA case file, the following:

4.14.4.1.9.1 Evidence to the Town health officer or other Town agent qualified to review septic-system related information, that specific facilities are adequate for both units according to the standards of the Town and the NH Water Supply and Pollution Control Division. If deemed necessary by said health officer or other agent, such evidence shall be in the form of a certification by a State of NH licensed septic system designer. Also, the owner shall provide evidence that there is adequate potable water to the standards of the State of New Hampshire. The health inspector or other qualified Town agent than shall indicate his approval to writing to the ZBA.

4.14.4.1.9.2 A floor plan or one-quarter (1/4") to the foot scale showing the proposed changes to the building.

4.14.4.1.9.3 A sketch plan (drawn to scale) of the lot, with existing and proposed structures and parking.

4.14.4.1.9.4 Evidence must be submitted to the building inspector that all building requirements can be met. The building inspector shall then indicate his approval in writing to the ZBA.

4.14.4.1.10 The accessory dwelling unit shall be subject to the standards and conditions for a Special Exception as set forth in this Ordinance.

4.15 PERSONAL WIRELESS SERVICES FACILITIES **(Adopted 3/2002)**

4.15.1 Authority

This ordinance is adopted by the Town of Newfields at the 2002 Town Meeting, in accordance with the authority as granted in New Hampshire Revised Statutes Annotated 674:16 and 674:21, procedurally under the guidance of 675:1, II and in accordance with RSA 12-K.

4.15.2 Purpose and Goals

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

4.15.2.1 To facilitate the review and approval of personal wireless services facilities by the Town's Planning Board in keeping with the Town's existing ordinances and established development patterns, including the size and spacing of structures and open spaces. This ordinance is intended to be applied in conjunction with other ordinances and regulations adopted by the Town, including historic district ordinances, site plan review regulations and other local ordinances designed to encourage appropriate land use, environmental protection and provision of adequate infrastructure development.

4.15.2.2 Preserve the authority of Newfields to regulate and to provide for reasonable opportunity for the siting of PSWF.

4.15.2.3 Reduce adverse impacts such facilities may create, including, but not limited to: impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values. To minimize the visual and environmental impacts of personal wireless services facilities by avoiding the deployment of PWSF's that service substantially the same service area.

4.15.2.4 Require, where technically feasible, co-location and minimal impact siting options through an assessment of technology, current locational options, future available locations, innovative siting techniques and siting possibilities beyond the political jurisdiction of the Town.

4.15.2.5 Permit the construction of new PWSF only where all other reasonable opportunities for co-location have been exhausted.

4.15.2.6 Require the configuration of PWSF in a way that minimizes the adverse visual impact of the facilities and antennas.

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

4.15.2.8 Provide constant maintenance and safety inspections for any and all facilities.

4.15.2.9 Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and code compliance. Provide a mechanism for the Town of Newfields to remove these abandoned towers to protect the citizens from imminent harm and danger.

4.15.2.10 Provide for the removal or upgrade of facilities that are technologically outdated.

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

4.15.3 Applicability

4.15.3.1 Public Property

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

4.15.3.2 Amateur Radio; and/or Receive-Only Antennas

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

4.15.3.3 Essential Services & Public Utilities

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

4.15.4 Definitions

4.15.4.1 "Above Ground Level (AGL)" A measurement of height from the natural grade of a site to the highest point of a structure.

4.15.4.2 "Alternative Tower Structure" Innovative siting techniques that shall mean man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

4.15.4.3 "Antenna" The surface from which wireless radio signals are sent and received by a personal wireless service facility.

4.15.4.4 "Average Tree Canopy Height" Means the average height found by inventorying the height above ground level of all trees over a specified height within a specified radius.

4.15.4.5 "Carrier" Means a person that provides personal wireless services.

4.15.4.6 “Co-location” The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

4.15.4.7 “Elevation” The measurement of height above sea level.

4.15.4.8 “Environmental Assessment (EA)” An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

4.15.4.9 “Equipment Shelter” Means an enclosed structure, cabinet, shed, vault, or box near the base of a mount within which are housed equipment for PWSF’s, such as batteries and electrical equipment.

4.15.4.10 “FAA” An acronym that shall mean the Federal Aviation Administration.

4.15.4.11 “FCC” An acronym that shall mean the Federal Communications Commission.

4.15.4.12 “Fall Zone” The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

4.15.4.13 “Functionally Equivalent Services” Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.

4.15.4.14 “Guyed Tower” A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

4.15.4.15 “Height” Shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

4.15.4.16 “Lattice Tower” A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

4.15.4.17 “Licensed Carrier” A company authorized by the FCC to construct and operate a commercial mobile radio services system.

4.15.4.18 “Monopole” The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

4.15.4.19 “Mount” Means the structure or surface upon which antennas are mounted and include roof-mounted, side-mounted, ground-mounted, and structure-mounted types.

4.15.4.20 “Omnidirectional (whip) Antenna” A thin rod that beams and receives a signal in all directions.

4.15.4.21 “Panel Antenna” A flat surface antenna usually developed in multiples.

4.15.4.22 “Personal Wireless Service Facility (PWSF)” or “facility” means any “PWSF” as defined in the Federal Telecommunications Act of 1996, 47 U.S.C., section 332(c)(7)(C)(ii), including facilities used or to be used by a licensed provider of personal wireless services.

4.15.4.23 “Personal Wireless Services” Means any wireless telecommunications services, and commercial mobile services including cellular telephone services, personal communications services, and mobile and radio paging services as defined in the Federal Telecommunications Act of 1996, 47 U.S.C., section 332(c)(7)(C)(i).

4.15.4.24 “Planning Board or Board” Shall means the Town of Newfields Planning Board and the regulator of this Ordinance.

4.15.4.25 “Pre-exiting Towers and Antennas” Shall mean any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Shall also mean any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Board.

4.15.4.26 “Radio Frequency Radiation” Means the emissions from personal wireless service facilities.

4.15.4.27 “Security Barrier” A locked, impenetrable wall or fence that completely seals an area from unauthorized entry or trespass.

4.15.4.28 “Separation” The distance between one carrier’s array of antennas and another carrier’s array.

4.15.4.29 “Stealth Application“ Means, for a PWSF, designed to look like a structure which may commonly be found in the area surrounding a proposed PSWF such as, but not limited to, flagpoles, light poles, traffic lights, or artificial tree poles. Also means, for a personal wireless service facility one that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure. (Stealth application is often referred to as Acomouflaged@technology.)

4.15.4.30 “Telecommunications Facilities” Shall mean any structure, antenna, tower, or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR) and personal communications service (PCS), and common carrier wireless exchange access services.

4.15.4.31 “Tower” Shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

4.15.5 Conditional Use Permits

Note: Under NH RSA 674:21 B Innovative Land Use Controls, the Planning Board is provided the authority to establish land use control ordinances issued by conditional use permit. A land-use application submitted under this type of ordinance is subject to review and approval by the Planning Board. Appeals of decisions under this ordinance are not under the jurisdiction of the local Zoning Board of Appeals, but rather to New Hampshire Superior Court.

A Conditional Use Permit approach is recommended rather than permitted personal wireless services facilities by right. If a personal wireless service facility is permitted by right in a zoning district the assumption is that the personal wireless service facility can go anywhere within that zoning district provided certain dimensional requirements are met. This ordinance does not recommend this approach because there may be sensitive resources in any zoning district that could be negatively affected by these facilities.

If a personal wireless service facility is permitted by Conditional Use Permit the personal wireless service facility can go anywhere in the town providing certain discretionary and dimensional requirements are met. The Conditional Use Permit process is intended to mitigate any negative impacts on these facilities.

4.15.5.1 All proposals considered for development under the Personal Wireless Facilities Ordinance shall obtain a Conditional Use Permit from the Planning Board. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approved use. Everything shown or otherwise indicated on a plan or submitted that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.

4.15.5.2 All applicable standards in this ordinance must be met and/or impacts mitigated to the satisfaction of the Planning Board prior to the granting of a Conditional Use Permit.

4.15.5.3 Decisions

- Possible decisions rendered by the Planning Board, include Approval, Approval with Conditions, or Denial. All decisions shall be rendered in writing, and a Denial shall be in writing and based upon substantial evidence contained in the written record.

4.15.6 Siting Standards

4.15.6.1 Use Regulations:

4.15.6.1.1 A personal wireless service facility shall require a conditional use permit in all cases and may be permitted as follows:

4.15.6.1.2 A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower, water tower, cupola or steeple. Such facilities may locate by Conditional Use Permit in all zoning districts within the Town.

4.15.6.1.3 A personal wireless service facility involving construction of one or more ground or building (roof or side) mounts shall require a Conditional Use Permit and may locate in all zoning districts within the Town.

4.15.6.1.4 A personal wireless service facility that exceeds the height restrictions of Section VII (d) may be permitted by Conditional Use Permit in a designated Wireless Service Overlay District.

4.15.6.1.5 Principal or Secondary Use: An applicant who successfully obtains permission to site under this ordinance as a second and permitted use may construct PWSF in addition to the existing permitted use. PWSF may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with local development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire

lot shall control, even though the antennas or towers may be located or leased parcels within such lots. PWSF that are constructed in accordance with the provisions of this ordinance, shall not be deemed to constitute the expansion of a nonconforming use or structure. Nor shall such facilities be deemed to be an "accessory use".

4.15.6.2 Location:

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

4.15.6.2.1 If feasible, personal wireless services facilities shall be located on existing structures, including but not limited to, buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more personal wireless service facilities. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.

4.15.6.2.2 The applicant proposing to build a new tower, shall submit an agreement with the Town that maximizes allowance of co-location upon the new structure. Such statement shall become a condition to any approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs (prevailing rates) to other telecommunications providers. Failure to provide such an agreement is evidence that the applicant's proposed facility will not integrate with the overall telecommunications facility planning of the Newfields and ground for a Denial.

4.15.6.2.3 The applicant shall submit the engineering information, detailing the size and coverage required for the facility location. The Planning Board may have this and any other information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with 676:4 I (g).

4.15.6.2.4 If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless services facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees.

4.15.6.2.5 The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application for a building permit and/or conditional use permit.

4.15.6.3 Co-location

4.15.6.3.1 Licensed carriers shall share personal wireless services facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless services facilities that are stand- alone facilities. All applicants for a Conditional Use Permit for a personal wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

4.15.6.3.1.1 A survey of all existing structures that may be feasible sites for co-locating personal wireless services facilities;

4.15.6.3.1.2 Contact with all the other licensed carriers for commercial mobile radio services operating in the County; and

4.15.6.3.1.3 Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

4.15.6.3.2 In the event that co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the Town. The Town may retain a technical expert in the field of RF engineering to verify co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the

applicant. The Town may deny a Conditional Use Permit to an applicant that has not demonstrated that co-location is not feasible.

4.15.6.3.3 If the applicant does intend to co-locate or to permit co-location, the Town shall request drawings and studies which show the ultimate appearance and cooperation of the personal wireless service facility at full build-out.

4.15.6.3.4 If the Planning Board approves co-location for a personal wireless service facility, the Conditional Use Permit shall indicate how many facilities of what type shall be performed on that site. Facilities specified in the Conditional Use Permit approval require no further zoning approval. However, the addition of any facilities not specified in the approved Conditional Use Permit shall require a new Conditional Use Permit.

4.15.6.4 Height Requirements

4.15.6.4.1 Height, General: Regardless of the type of mount, personal wireless services facilities shall be no higher than ten feet above the average height of buildings or tress without 300 feet of the proposed facility. In addition, the height of a personal wireless service facility shall not exceed by more than ten feet the height limits of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney or similar structure. Personal wireless services facilities may locate on a building that is legally non-conformation with respect to height, provided that the facilities do not project above the existing building height.

4.15.6.4.2 Height, Ground-Mounted Facilities: Ground-mounted personal wireless services facilities shall not project higher than ten feet above the average building height or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from average ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted personal wireless services facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may be existing on the subject property or planted on site.

4.15.6.4.3 Height, Side- and Roof-Mounted Facilities: Side- and roof-mounted personal wireless services facilities shall not project more than ten feet above the height of any existing building nor project more than ten feet above the height limit of the zoning district within which the facility is located. Personal wireless services facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.

4.15.6.4.4 Height, Existing Structures: New antennas located on any of the following structures existing on the effective date of this ordinance shall be exempt from the height restrictions of this ordinance provided that there is no increase in height of the existing structure as a result of the installation of a personal wireless service facility; water towers, guyed towers, lattice towers, fire towers and monopoles.

4.15.6.4.5 Height, Existing Structures, (Utility): New antennas located on any of the following existing structures shall be exempt from the height restrictions of this ordinance provided that there is no more than a twenty foot (20') increase in the height of the existing structure as a result of the installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar exiting utility structures. This exemption shall not apply in historic districts.

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

4.15.6.5 Setbacks

4.15.6.5.1 All personal wireless services facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located.

4.115.6.5.2 In order to ensure public safety, the minimum distance from the base of any ground-mounted personal wireless service facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the facility/mount, including any antennas or other appurtenances. This setback is considered a “fall zone”.

4.15.6.5.3 In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, personal wireless services facilities and their equipment shelters shall not increase any non-conformities.

4.15.6.5.4 Towers over 90 feet in height shall not be located within one-quarter mile of any existing tower that is over 90 feet in height.

4.15.6.5.5 In reviewing a Conditional Use permit application for a personal wireless service facility, the Planning Board may reduce the required fall zone and/or setback distance of the zoning district, if it finds that a substantially better design will result from such reduction. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use.

4.15.7 Design Standards

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

4.15.7.1 Camouflage by Existing Buildings or Structures:

4.15.7.1.1 When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind exiting architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the buildings silhouette.

4.15.7.1.2 Personal wireless services facilities which are side mounted shall blend with the existing building’s architecture and shall be painted or shielded with material which is consistent with the design features and materials of the building.

4.15.7.2 Camouflage by Vegetation

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

4.15.7.3 Color

4.15.7.3.1 Personal wireless services facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly attached thereto.

4.15.7.3.2 To the extent that any personal wireless services facilities extend above the height of the vegetation immediately surrounding it, they shall be painted in a color determined best to blend in with the natural surroundings and/or background.

4.15.7.4 Equipment Shelters

4.15.7.4.1 Equipment Sheds shall be located in underground vaults; or

4.15.7.4.2 Equipment shelters shall be designed consistent with architectural styles and materials per the towers site plan review regulations.

4.15.7.4.3 Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

4.15.7.5 Lighting and Signage

4.15.7.5.1 Personal wireless services facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed.

4.15.7.5.2 Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Town's sign regulations.

4.15.7.5.3 All ground mounted personal wireless services facilities shall be surrounded by a security fence.

4.15.7.6 Historic Buildings and Districts

4.15.7.6.1 Any personal wireless services facilities located on or within an historic structure, as designated by the town, shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.

4.15.7.6.2 Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.

4.15.7.6.3 Personal wireless services facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.

4.15.7.7 Scenic Landscapes and Vistas

4.15.7.7.1 Any personal wireless service facility that is located within 300 feet of a scenic vista, scenic landscape or scenic road, as designated by the town shall not exceed the height of vegetation at the proposed location. If the facility is located farther than 300 feet from the scenic vista, scenic landscape or scenic road, the height regulations described elsewhere in this ordinance will apply.

4.15.7.8 Environmental Standards

4.15.7.8.1 Personal wireless services facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.

4.15.7.8.2 No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.

4.15.7.8.3 Ground-mounted equipment for personal wireless services facilities shall not generate noise in excess of 50 db at the property line.

4.15.7.8.4 Roof-mounted or side-mounted equipment for personal wireless services facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.

4.15.7.8.5 Back-up power generation equipment may exceed the required decibel level if necessary to maintain power to the PWSF during temporary power outages.

4.15.7.9 Safety Standards

4.15.7.9.1 All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines).

4.15.7.9.2 Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.

4.15.7.9.3 To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in

applicable local building codes. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal of the tower or antenna as abandoned, in accordance with 'XII at the owner's expense through execution of the posted security.

4.15.7.10 Modifications

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

4.15.7.10.1 The applicant and/or co-applicant wants to alter the terms of the Conditional Use Permit by changing the personal wireless service facility in one or more of the following ways:

4.15.7.10.1.1 Change in the number of facilities permitted on the site;

4.15.7.10.1.2 Change in technology used for the personal wireless service facility.

4.15.7.10.2 The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

4.15.7.11 Reconstruction or Replacement of Existing Towers and Monopoles

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this Ordinance may be reconstructed, altered, extended or replaced on the same site by Condition Use Permit, provided that the Planning Board finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure, In making such a determination, the Planning Board shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

4.15.8 State Requirements (RSA12-K)

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

4.15.8.1 Be allowed to construct new ground-mounted PSWF, provided that these PSWF comply with municipal requirements for maximum height, or maximum exceptions, waivers, or variances allowed or granted by the Town.

4.15.8.2 Comply with all applicable state and municipal land use regulations.

4.15.8.3 Comply with all federal, state and municipal statutes, rules and regulations, including federal radio frequency radiation emission regulations and the National Environmental Policy Act of 1969, as amended.

4.15.8.4 Provide information at the time of application to construct an externally visible PWSF to the Town of Newfields and to the NH Office of State Planning, as follows:

4.15.8.4.1 A copy of their license from the Federal Communications Commission (FCC) proving that they are eligible to deploy their systems in this geographical area and that this deployment falls under the jurisdiction of the Federal Telecommunications Act of 1996; or a copy of their contract with a person with such a license, and a copy of that license.

4.15.8.4.2 Detailed maps showing all of the current externally visible tower and monopole PWSF locations in the state within a 20-mile radius of the proposed externally visible PWSF, both active and inactive.

4.15.8.4.3 Site descriptions for each of the above locations showing the antenna height and diameter, and showing all externally visible structures.

4.15.8.4.4 A description of why les visually intrusive alternatives for this facility were not proposed.

4.15.8.5 A wireless carrier seeking approval to deploy a wireless communications facility shall be required to pay reasonable fees, including regional notification costs, imposed by the municipality in accordance with RSA 676:4, I(g).

4.15.8.6 Regional Notification: Any municipality or state authority or agency which receives an application to construct a PWSF which may be visible from any other New Hampshire municipality within a 20-mile radius shall provide written notification of such application and pending action to such other municipality within the 20-mile radius.

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

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

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

4.15.9 Federal Requirements

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

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

4.15.10 Waivers

4.15.10.1 General

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

4.15.10.1.1 The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property and will promote the public interest.

4.15.10.1.2 The waiver will not, in any manner, vary the provisions of the Newfields Zoning Ordinance (other than the terms of this ordinance), Newfields Master Plan, or Official Maps.

4.15.10.1.3 Such waiver(s) will substantially secure the objectives, standards and requirements of the ordinance.

4.15.10.1.4 A particular and identifiable hardship exists or a specific circumstance warrants the granting of waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:

4.15.10.1.4.1 Topography and other site features

4.15.10.1.4.2 Availability of alternative site locations

4.15.10.1.4.3 Geographic location of property

4.15.10.1.4.4 Size/magnitude of project being evaluated and availability of co-location

4.15.10.2 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.

4.15.10.3 Procedures

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

4.15.11 Appeals under this section

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

4.15.12 Bonding and Security and Insurance

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

4.15.13 Removal of Abandoned Antennas and Towers

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

4.15.14 Fees

The Board of Selectmen shall assess or change any possible usage or franchise fees which are applicable.

4.15.15 Severability

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

4.16 SCENIC ROADS **(Adopted 6/22/2004)**

4.16.1 Authority

4.16.1.1 This ordinance is adopted by the Town of Newfields at Special Town Meeting, in accordance with the authority as granted in New Hampshire Revised Statutes Annotated 231:157 and 2331:158.

4.16.2 Effect of Designation as Scenic roads

4.16.2.1 As used in this subdivision, "tree" means any woody plant which has a circumference of 15 inches or more at a point 4 feet from the ground.

4.16.2.2 Upon a road being designated as a scenic road as provided in RSA 231:157, any repair, maintenance, reconstruction, or paving work done with respect thereto by the state or municipality, or any action taken by any utility or other person acting to erect, install or maintain poles, conduits, cables, wires, pipes or other structures pursuant to RSA 231:159-189 shall not involve the cutting, damage or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with prior written consent of the planning board, or any other official municipal body designated by the meeting to implement the provisions of this subdivision, after a public hearing duly advertised as to time, date, place and purpose, 2 times in a newspaper of general circulation in the area, the last publication to occur at least 7 days prior to such hearing, provided; however, that a road agent or his designee may, without such hearing, but only with the written permission of

the selectmen, remove trees or portions of trees which have been declared a public nuisance pursuant to RSA 231:145 and 231:146, when such trees or portions of such trees pose an imminent threat to safety or property and provided, further, that a public utility when involved in the emergency restoration of service, may without such hearing or permission of the selectmen, perform such work as is necessary for the prompt restoration of utility service which has been interrupted by facility damage and when requested, shall thereafter inform the selectmen of the nature of the emergency and the work performed, in such manner as the selectmen may require.

4.16.2.3 Designation of a road as scenic shall not affect the eligibility of the town to receive construction, maintenance or reconstruction aid pursuant to the provisions of RSA 235 for such road.

4.16.2.4 Designation of a road as a scenic road shall not affect the rights of any landowner with respect to work on his property, except to the extent that trees have been acquired by the municipality as shade or ornamental trees pursuant to RSA 231:139-156, and except that RSA 472:6 limits the removal of alteration of boundary markers including stone walls.

4.16.2.5 Any person who violates this section or any local provision adopted under this section shall be guilty of a violation and shall be liable for all damages resulting therefrom.

4.16.3 Designated Roads

4.16.3.1 HALL'S MILL ROAD form its point of origin at Route 87 for the full length of Hall's Mill Road to the Newmarket Town Line.

4.17 AGE-RESTRICTED ELDERLY HOUSING OVERLAY DISTRICT

Authority and Purpose: It is declared to be in the public interest and for the general welfare of the Town to permit the development of housing facilities specifically suited to address the special housing needs of the elderly. The provisions of this Section are adopted pursuant to the authority of RSA 674:16 and RSA 674:21, and shall overlay and supplement the other regulations of the Town of Newfields Zoning Ordinance for the purpose of establishing provisions under which elderly housing developments may be permitted by the Planning Board within the enumerated Zoning Districts of the Town of Newfields.

4.17.1 Definitions: As used in this Section, the following terms shall have the meanings indicated.

4.17.1.1 Elderly: 55 years of age or older.

4.17.1.2 Elderly Housing: Any of a variety of housing types or housing units intended exclusively for use and occupancy by persons aged 55 years and older (with qualified exceptions per Section 4.17.5.1).

4.17.1.3 Elderly Housing Development One (1) or more buildings situated on contiguous parcel(s) of land and containing elderly housing dwelling units.

4.17.1.4 Handicapped Accessible: Meeting the design requirements of the "Barrier-Free Design Code for the State of New Hampshire" and/or the Uniform Federal Accessibility Standards (UFAS), as amended.

4.17.2 Location: Elderly housing as defined herein may be permitted by the Planning Board in the locations and subject to the following requirements:

4.17.2.1 In the Industrial District.

4.17.2.2 The site shall be served by public water and sewer.

14.7.3 Minimum Lot Requirements. Parcel(s) for which Elderly Housing is proposed shall conform to the following minimum requirements, in addition to the other provisions of the Section.

14.7.3.1 Parcel(s) shall have an area of three (3) acres or more;

4.17.3.2 There shall be fifty (50) feet of frontage on an existing or proposed Class V, or better, road.

14.7.4 Density: The total number of units that may be permitted on the subject site shall be 10 units per acre.

4.17.5 Development Standards: All developments shall be reviewed by the planning board in accordance with the following standards.

4.17.5.1 Occupancy of each unit shall be restricted to persons fifty-five (55) years and older, with the following exceptions:

(a) A spouse under the age of fifty-five (55) married to a resident aged fifty-five (55) or older;

(b) An adult over the age of twenty-one (21), if their presence is required to provide medical care to a resident aged fifty-five (55) or older or to the resident's spouse;

(c) Employees of the elderly housing development (and family members living in the same unit) who are under fifty-five (55) years of age, provided the employees perform substantial duties related to the management or maintenance of the development's facilities.

4.17.5.2 Allowable building types may include but are not limited to single detached, duplex, townhouse, or garden style apartment units. Each dwelling unit shall have a minimum of 400 square feet of living space. Two-bedroom units shall have a minimum of 600 square feet of living space;

4.17.5.3 No building shall contain more than ten (10) dwelling units, except that the Planning Board may permit more than ten (10) units per building when, in the Board's sole discretion, such increase provides specific, substantial benefits consistent with the purpose and intent of this Ordinance;

4.175.4 Where there will be more than one (1) building on a lot, buildings shall have a minimum horizontal separation of twenty-five (25) feet. The Planning Board may require a greater separation where topography, or other unique characteristics of the site or the development will affect the use of emergency equipment between buildings;

4.17.5.5 No unit shall contain more than two (2) bedrooms;

4.17.5.6 A minimum of one (1) parking space shall be provided for each unit within the proposed development. Said parking shall be provided in close proximity to the units being served;

4.17.5.7 Additional parking for visitors and guests shall be provided as required by the Planning Board, but in no event at a ratio of less than one (1) space for every two (2) dwelling units.

4.17.6 Design Standards: Any development proposed under this Age-Restricted Elderly Housing Ordinance shall be required to conform to the requirements of the Town of Newfields Site Plan Regulations. The Board shall be authorized to adopt additional regulations in order to effectuate the intent of this ordinance as it deems necessary.

4.17.7 Additional Criteria for Approval:

4.17.7.1 The Application shall be required to demonstrate the provision of significant facilities and services specifically designed to meet the physical and social needs of older persons, OR if the provision or such facilities and services are not practicable, that the proposed elderly housing is necessary to provide important housing opportunities for older persons. Consideration of "significant services and facilities" shall include, but shall not be limited to:

(a) Programs designed to provide a social life for residents;

(b) Continuing education programs of interest to residents;

(c) Information and counseling services;

(d) Recreational programs;

(e) Homemaker services;

(f) Services designed to assist residents with the maintenance and upkeep of the building(s) and grounds;

(g) An accessible physical environment;

(h) Emergency and preventative health care programs;

(i) Congregate dining facilities;

(j) Transportation to facilitate access to social services;

(k) Referral services; and

(l) Services to encourage/assist residents to use the services and facilities available to them.

In demonstrating that significant services and facilities are provided, it is not required that all of the services listed above are being provided.

4.17.7.2 That the public interest will be served by the proposal to establish elderly housing on the site, and the establishment of elderly housing on the site will not cause a diminution in the property values of surrounding parcels.

4.17.7.3 That the topography and other characteristics of the site and the surrounding land uses are suitable for the type of development being proposed, and conflicts with the character of adjacent neighborhoods will be minimal or will be mitigated through design elements associated with the development.

4.17.7.4 The design and layout of the development shall emphasize the rural character of the Town, maximize the privacy of the dwelling units, preserve the natural character of land and consider such factors as orientation, energy usage, views, etc.

4.17.8 Other Provisions

4.17.8.1 Limitation on Number of Elderly Housing Units: The Planning Board shall not accept for consideration any proposal which, if approved, would increase the total number of all elderly housing units, existing and proposed, above the number representing ten-percent (10%) of the total number of dwelling units within the Town as determined by the Tax Assessor.

4.17.8.2 Interpretation: To the extent that the specific requirements of this Age-Restricted Elderly Housing Ordinance are inconsistent or at variance with any other requirements contained in the Zoning Ordinance, the requirements imposed herein shall govern and control an Elderly Housing proposal. To the extent that specific requirements imposed herein are inconsistent with or at variance with the requirements imposed herein are inconsistent with or at variance with the requirements of the State of New Hampshire or the requirements of the Federal Government with respect to the operation or construction of an elderly housing development, such State or Federal requirements shall supersede the requirements of this Ordinance.

4.17.8.3 Legal Documents Required: The Planning Board shall require such covenants or legal restrictions that it deems necessary to insure the intent of this ordinance. The Planning Board may, as appropriate, require review and approval of any such documents by legal counsel to insure that the form and substance of such documents is sufficient to achieve and preserve the requirements of this Ordinance. The provision and review of any documents required hereunder shall be at the Applicant's expense.

4.17.8.4 Assurances of Senior Residency: The Applicant shall provide deed restrictions, use limitations, covenants, or some other legally enforceable instrument, which shall permanently restrict occupancy of the housing facilities to persons who meet all applicable restrictions regarding age. The language of the restrictions and/or limitations must be specific and must correlate with current federal and state requirements for housing for older persons under the Federal Fair Housing Act. Said assurances shall include provisions for:

The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner(s) or manager(s) to provide housing for persons fifty-five (55) years of age or older, and

Annual verification of compliance with the age restrictions by reliable surveys and affidavits. Notice of the results of the annual verification process is to be provided to the Code Enforcement Administrator.

4.18 COMMERCIAL ARCHITECTURAL ORDINANCE

4.18.1 Statutory Authorization

4.18.1.1 RSA Title LXIV, Chapters 674:16, Grant of Power

4.18.1.2 674:21, Innovative Land Use Controls

4.18.2 Purposes and Applicability

4.18.2.1 General Purposes

a) To preserve and enhance the rural, small town character of Newfields through architectural design that replicates in scale and character the best examples of traditional neighborhood design from the historic towns and villages of New England and to create and clearly delineate public and private spaces to enhance the quality of life and esthetic quality of both the residents of the development and the town as a whole;

b) To promote traditional village building and site development patterns with an interconnected pattern of streets, alleys and lanes, which provides for the safe and efficient vehicular travel at a scale consistent with the small, rural village setting and which provides for the connection of those streets to existing and futures developments;

c) To protect environmental resources and to preserve scenic vistas, agricultural areas, and unique natural features of the landscape;

d) To provide for pedestrian and bicycle travel throughout the development through the creation of sidewalks, paths and bicycle paths;

e) To promote the use of neighborhood greens, pocket parks, landscaped streets, and access to greenspace to provide space for recreation and social activity, and to provide visual enjoyment;

f) To provide a mix of housing styles, types and sizes, to accommodate households of all ages, sizes and incomes;

g) To provide buildings for civic assembly and neighborhood activities that promote the development of social networks and community and provide a visual focal point for the village subdivision; and

h) To promote the management of growth and the implementation of innovative land use controls consistent with RSA 674 in order to protect environmental resources, control sprawl, reduce traffic congestion and enhance the sense of community of new developments and redeveloped areas.

4.18.2.2 Applicability

a. The standards in this section are applicable within the Commercial District(s), whose location and boundaries have been selected to be consistent with policies in the Master Plan.

b. The standards in this section are also applicable to any proposed change of use or expansion of use for commercial properties outside of the Commercial District(s).

4.18.3 Commercial Design Standards

4.18.3.1 Architectural Design Standards

General. The following architectural design standards shall apply to all structures.

a. Buildings

i) Scale and Style. Buildings shall generally relate in scale and design features to the surrounding buildings, showing respect for the local context, except; however, where existing development does not represent a consistent architectural style or does not incorporate a building design that reflects the rural character and architecture of New England towns, buildings should instead be designed to improve the overall streetscape, relying on the design standards set forth in this ordinance.

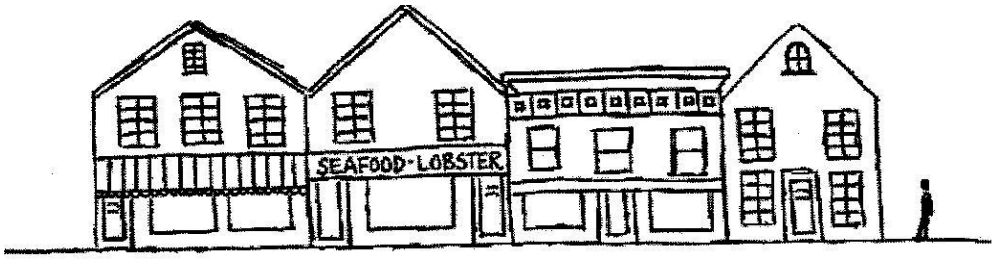


Figure 1: Scale and Style

ii) As a general rule, buildings shall reflect a continuity of treatment obtained by maintaining the building scale or by subtly graduation changes, by maintaining small front setbacks, by continuous use of front porches on residential buildings, by maintaining cornice lines in buildings of the same height, by

extending horizontal lines of fenestration and by echoing architectural styles, details, design themes, building materials and colors used in surrounding buildings where such buildings represent the rural character and architecture of New England towns.

iii) Corner Lots. Buildings on corner lots shall be considered significant structures, given that they have at least two front facades visibly exposed to the street. If deemed appropriate by the planning board in its design review, such buildings may be designed with additional height and architectural embellishments, such as corner towers, steeples or other features to emphasize their location and serve as a visual focal point for the area.

Figure 2: Corner Lots

iv) Wall and Planes. Buildings shall avoid long, monotonous uninterrupted walls or roof planes.

Offsets including projections, recesses, and changes in floor level shall be used in order to add architectural interest and variety, and to relieve the visual effect of a simple, long wall. Similarly, roof-line offsets shall be provided, in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof. Flat roofs shall be avoided in favor of pitched roofs.

v) Buildings with more than one façade facing a public street or internal open space shall be required to provide multiple front façade treatments.

vi) The architectural treatment of the front façade shall be continued, in its major features, around all visibly exposed sides of a building. All sides of a building shall be architecturally designed to be consistent with regard to style, materials, colors and details. Bland wall or service area treatment of side and or rear elevations visible from the public viewshed is discouraged.

vii) Base Course and Cornice. All visibly exposed sides of a building shall have an articulated base course and cornice. The base course shall align with either the kickplate or sill level of the first story. The cornice shall terminate or cap the top of a building wall, may project horizontally from the vertical building wall plane and may be ornamented with moldings, brackets and other details. The middle section of a building may be horizontally divided at the floor, lintel or sill levels with belt string course.

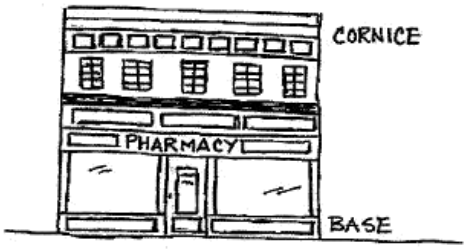


Figure 3 Cornice and Base

viii) Roofs. Gable roofs with a minimum pitch of 9/12 should be used to the greatest extent possible.

Where hipped roofs are used, it is recommended that the minimum pitch be 6/12. Both gable and hipped roofs should provide overhanging eaves on all sides that extend a minimum of one foot beyond the building wall. Flat roofs should be avoided on one-story buildings, but may be used on buildings with a minimum of two stories, provided that all visibly exposed walls shall have an articulated cornice which projects horizontally from the vertical building wall plane. Other roof types should be appropriate to the building's architecture. Mansard roofs are generally discouraged, particularly on buildings less than three stories in height, architecture embellishments that of visual interest to roofs, such as dormers, belvederes, masonry chimneys, cupolas, clock towers, and other similar elements are encouraged.

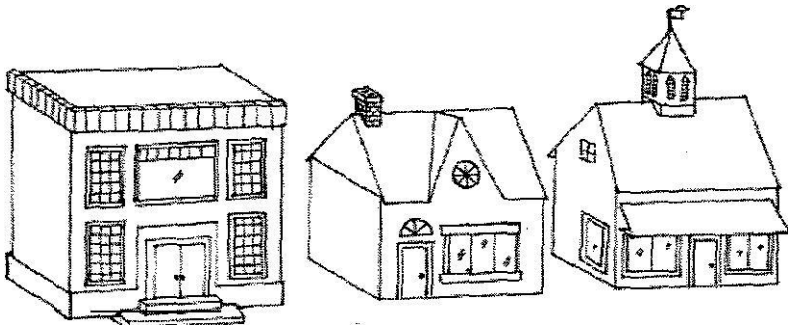


Figure 4: Roofs

ix) Windows/fenestration. Fenestration shall be architecturally compatible with the style, materials, colors and details of the building and appropriate to a rural New England setting. Windows shall be vertically proportioned wherever possible. To the extent possible, upper story windows shall be vertically aligned with the location of windows and doors on the ground level, including storefront or display windows. Blank, windowless walls are discouraged. Storefronts are an integral part of building and shall be integrally designed with the upper floors to be compatible with the overall façade character. Ground floor retail, service and restaurant uses should have large pane display windows, framed by the surrounding wall; and shall not exceed 75 percent of the total ground level façade area.

x) Entrances. All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, overhangs, railings, balustrades and others, where appropriate. Any such element utilized shall be consistent with the style, materials, colors and details of the building as a whole, as shall the doors. Awnings are permitted where they complement the building's architectural style.

xi) Light fixtures. Light fixtures attached to the exterior of a building shall be architecturally compatible with the style, materials, colors and details of the building and shall comply with local building codes. The type of light source used on the exterior of buildings, signs, parking areas, pedestrian walkways, and other areas of a site, and the light quality produced, shall be the same or compatible. Facades shall be lit from the exterior, and as a general rule, lights should be concealed through shielding or recessed behind architectural features. The use of low-pressure sodium, fluorescent or mercury vapor lighting either attached to buildings or to light the exterior of buildings shall be prohibited. Mounting brackets and associated hardware should be inconspicuous.

xii) Lighting. Street lights shall be decorative and shall blend with the architectural style of the community. Along all commercial or mixed-use streets, parking areas, sidewalks, walkways, courtyards, community greens and interior open spaces, decorative light posts shall be provided at regular intervals. Posts shall be spaced at no greater than 80 feet on center on both sides of a commercial or main street. Light posts should be at least ten feet high. In parking areas, post heights may extend to a maximum of sixteen feet. Wall-mounted light design shall be incorporated into the street lighting design.

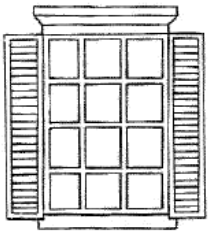


Figure 5: Windows

xiii) Air conditioners and other fixtures. All air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing, dumpsters, propane/fuel tanks, transformers, satellite dishes, and other telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping. In no case chain-link fencing be permitted for screening.

xiv) Fire escapes. Fire escapes shall not be permitted on a building's front façade. In building requiring a second means of egress pursuant to the local building codes, internal stairs or other routes of egress shall be used.

xv) Security. Solid metal security gates or sold roll-down metal windows shall not be permitted. Link or grill types security devices shall be permitted only if installed, from the inside, within the window or door frames. Security grilles shall be recessed and concealed during normal business hours.

b) Signs

i) General. All signs within a new development must conform to the following requirements. All signs within a development must be consistent with the overall design of the development and should be constructed of wood, granite, painted cast metal, bronze, brass or other material consistent with the materials used in the building's façade or fixtures. Plastic panel rear-lighted signs are not permitted. Billboards are not permitted. Signs, employing mercury vapor, low pressure and high pressure sodium, and metal halide lighting are not permitted.

ii) Design. Unique and interesting designs are encouraged in the lettering and graphics of each sign. Signs may be attached to the building and project outward from the wall so long as the sign does not project outward from the wall to which it is attached more than eighteen inches. Projecting signs must be no larger than four square feet. Projecting signs must be at least ten feet above the ground. Signs attached to the front façade shall not exceed the dimensions of the façade.

iii) Height. The maximum permitted height of signs is fifteen feet above the front sidewalk elevation and shall not extend above the base of the second floor windowsill, parapet, eave or building façade.

iv) Freestanding signs shall only be permitted where he business is not attached to any other buildings. All freestanding signs must be no larger than four feet in height and no greater than six feet in width. Freestanding signs constructed of natural materials such as granite or wood is encouraged.

v) Signs that list more than one business shall not be permitted except in instances where a building contains multiple businesses or offices that are not distinguishable from the street.

vi) Street address numbers shall be clearly marked in any new development and included in the design of the front façade or signage of individual buildings.

vii) Company logos that contain bright or garish colors or designs shall be muted to harmonize with the overall color scheme and design of the development.

c) Landscaping

i) All developments must contain a landscaping plan that lists the location, species and suitability of plant species to the site.

ii) Existing trees and other features of the land shall be protected in the development of the site to the greatest extent feasible.

iii) Where merited trees shall be planted to enhance public space, open spaces and streetscapes.

The Planning Board will meet with the developer's landscape architect to review the landscape plan and suggest any appropriate landscaping improvements to the site to enhance the development consistent with the landscape requirements mentioned elsewhere in this ordinance.

d) Parking

i) All parking for commercial areas must be on street or in the rear of buildings.

ii) Rear parking areas shall be landscaped with a line of low shrubs or suitable foliage every two rows of spaces.

ARTICLE V NON-CONFORMING LOTS AND USES

5.1 RECONSTRUCTION OF

In the event of the damage or destruction by fire, storm or Act of God, of any building not conforming to the regulations of this Ordinance, said building may be rebuilt or refurbished for its former non-conforming use provided such construction is started within two (2) years of its damage or destruction and is completed within three years; any new structure shall; however, conform to the dimensional requirements of this Ordinance and to the Building Code and Regulations of the Town of Newfields as amended. All fire or other ruins shall be removed or leveled within one year.

5.2 EXPANSION OF

A non-conforming use, building or structure may be repairs or improved, but the area in non-conforming use may not be extended or expanded.

5.3 CONTINUATION OF

The use of land, building or structure, lawful at the time of adoption or subsequent amendment of this Ordinance, may continue although such use does not conform to the provisions of this Ordinance.

5.4 LOTS OF RECORD

Any non-conforming lot may be built upon subject to satisfying the provisions of the building ordinance excepting when the lot owners on the date of the amendment 3/7/1972 have an interest in adjoining property which could be combined with said lot so as to create a conforming lot in which case such adjoining property shall be combined with said lot so as to create a conforming, or more conforming lot.

ARTICLE VI FLOODPLAIN DEVELOPMENT DISTRICT **(Adopted 3/1996) (Comprehensive Amendment 3/8/16)**

6.1 GENERAL

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Newfields Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in this Town of Newfields Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

Certain areas of the Town of Newfields, 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 Newfields, 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 the Floodplain Management 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 County of Rockingham, NH" dated May 17, 2005, or as amended, together with associated Flood Insurance Rate Maps (FIRM) dated May 17, 2005, as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference. In accordance with NH RSAA 674:57, Amendments to the Flood Insurance Rate Maps shall apply to the local Floodplain Ordinances upon their adoption by resolution of the Board of Selectmen. Map amendments are subject to appeal by owners and lessees of affected real property under 44 C.F.R. 67.5. **(Amended 3/10/16)**

6.2 DEFINITION OF TERMS

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

6.2.1 "Area of Special Flood Hazard" is the land in the floodplain within the Town of Newfields subject to a one-percent or greater possibility of flooding in any given year. The area is on the FIRM as zones A, AE.

6.2.2 "Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.

6.2.3 "Base Flood Elevation" is the water surface elevation having a one-percent possibility of being equaled or exceeded in any given year.

6.2.4 "Basement" means any area of a building having its floor subgrade on all sides.

6.2.5 "Building" – see "Structure".

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

6.2.7 "FEMA" means the Federal Emergency Management Agency.

6.2.8 "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters; (2) the unusual and rapid accumulation of runoff of surface waters from any source.

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

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

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

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

6.2.13 "Floodway" – see "Regulatory Floodway".

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

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

6.2.16 “Historic Structure” means any structure that is:

6.2.16.1 Listed individually in the National Register of Historic Place (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;

6.2.16.1 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;

6.2.16.3 Individually listed on a state inventory of historic places in communities with historic preservation programs that have been certified either:

6.2.16.4 By an approved state program as determined by the Secretary of the Interior, or

6.2.16.5 Directly by the Secretary of the Interior in states without approved programs.

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

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

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

6.2.20 “Mean Sea Level” means 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 the Town’s Flood Insurance Rate Map are referenced.

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

6.2.22 “Recreational Vehicles” means a vehicle which is (a) built on a single chassis; (b) four hundred (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 not primarily for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

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

6.2.24 “Special Flood Hazard Area” (See – Area of Special Flood Hazard)

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

6.2.26 “Start of Construction” includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvements was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of manufactured home on a foundation, such as clearing, grading and filling; nor does it include the installation for a basement, footings, piers or foundations or

the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

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

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

6.2.29 “Violation” means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required under this ordinance is presumed to be in violation until such time as that documentation is provided.

6.2.30 “Water Surface Elevation” means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

6.3 PERMITS

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

6.4 REVIEW

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

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

6.4.1.2 be constructed with materials resistant to flood damage,

6.4.1.3 be constructed by methods and practices that minimize flood damages,

6.4.1.4 be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

6.5 WATER AND WATER SYSTEMS

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

6.6 REQUIREMENTS

6.6.1 For all new or substantially improved structures located in Zones A, AE, the applicant shall furnish the following information to the Building Inspector:

6.6.1.1 the as-built elevation (in relation to mean sea level) of the lowest floor (including basement) and include whether or not such structures contain a basement.

6.6.1.2 of the structure has been floodproofed, the asbuilt elevation (in relation to mean sea level) to which the structure was floodproofed.

6.6.1.3 any certification of floodproofing.

6.6.2 The Building Inspector shall maintain for public inspection and shall furnish such information upon request.

6.7 OTHER PERMITS

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

6.8 SPECIAL SITUATIONS

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

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

6.8.3 The Building Inspector shall obtain, review and reasonably utilize any floodway data available from Federal, State or other sources as criteria for requiring that all development located 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 is flood levels within the community during the base flood discharge”.

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

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

6.9 CONSTRUCTION IN SPECIAL FLOOD HAZARD AREAS

6.9.1 In special flood hazard areas the Building Inspector shall determine the base flood elevation in the following order of precedence according to the date available:

6.9.1.1 In Zone AE, refer to base flood elevation data provided in the Community’s Flood Insurance Study and accompanying FIRM.

6.9.2 In Zone A, the Building Inspector shall obtain, review and reasonably utilize any base flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e., subdivision, site approvals).

6.9.2.1 In Zone A where the base flood elevation is not available, the base flood elevation shall be at least two feet above the highest adjacent grade.

6.9.3 The Building Inspector’s base flood elevation determination will be used as criteria for requiring in Zone A and AE that:

6.9.3.1 all new construction or substantial improvement of residential structures have the lowest flood (including basement) elevated to or above the base flood elevation;

6.9.3.2 that all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the base flood [level] elevation; or together with attendant utility and sanitary facilities, shall:

6.9.3.2.1 be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

6.9.3.2.2 have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyance; and

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

6.9.3.3 all manufactured homes to be placed and substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 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.

6.9.3.4 all recreational vehicles placed on sites within Zone A and AE shall either: (i) be on site for fewer than 180 consecutive days; (ii) be fully licensed and ready for highway use; or (iii) meet all standards of Section 6.3 of this ordinance and the elevation and anchoring requirements for "manufactured homes" in Section 6.9.2.3 of this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

6.9.3.5 for all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:)1) the enclosed area is unfinished; or flood resistant, usable solely for the parking of vehicles, building access or storage; and (2) the area is not a basement;

6.9.4 (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by or registered professional engineer or architect, or must meet or exceed the following minimum criteria: A minimum of two openings having a

6.9.5 total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exist of floodwater.

6.10 VARIANCES AND APPEALS

6.10.1 Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 767:5.

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

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

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

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

6.10.3 The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and (ii) such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions.

6.10.4 The community shall (i) maintain a record of all variance actions, including their justification for their issuance; and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE VII WETLANDS ORDINANCE **(Adopted 3/12/1991)**

7.1 PURPOSE AND INTENT

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

It is intended that this Article shall:

7.1.1 Prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and groundwater by sewage or toxic substances or sedimentation;

7.1.2 Prevent the destruction of, or significant changes to, natural wetlands which provide flood protection; provide filtration of water flowing into ponds and streams, augment stream flow during dry periods and are connected to the ground or surface water supply;

7.1.3 Protect unique and unusual natural areas;

7.1.4 Protect wildlife habitats, maintain ecological balances and enhance ecological values such as those cited in RSA 486-A1-b;

7.1.5 Protect potential water supplies and existing aquifers (water bearing stratum) and aquifer recharge areas;

7.1.6 Prevent unnecessary or excessive expense to the Town for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands;

7.1.7 Encourage those low intensity uses that can be harmoniously, appropriately and safely located in wetlands;

7.1.8 Preserve and enhance the aesthetic values associated with wetlands in the Town of Newfields;

7.1.9 Prevent damage to structures and properties cause by inappropriate development in wetlands.

7.2 WETLANDS DEFINED

Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration significant to support and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. They include, but are not limited to, swamps, bogs, marshes, ponds, lakes, as well as soils that are defined as Type A or Type B hydric soils.

7.3 DISTRICT BOUNDARIES

7.3.1 Establishment of a District: the limits of the Wetlands Conservation District are hereby determined to be the following:

7.3.1.1 all areas with Type A hydric soils with a preponderance of wetlands vegetation;

7.3.1.2 area of Type B hydric soils ¼ acre or more in size with a preponderance of wetlands vegetation; and

7.3.1.3 areas of Type B hydric soils of any size if contiguous to surface waters such as lakes, ponds and streams subjected to high water table for extended periods of time with a preponderance of wetlands soils.

7.3.2 Location of the District:

The District as herein called is shown on the soils map designated as the “Town of Newfields Soil Survey” prepared by the Soil Conservation Service. This map is considered as a guide only. Any questions as to the precise location of a wetland boundary is any particular case must be determined by on-site inspection of soil types and vegetation. This data will be prepared by a certified oil scientist using the standards of high intensity Soils Maps for New Hampshire and the evaluative criteria for wetlands delineation as determined in the publication entitled “Federal Manual for Identifying and Delineating Jurisdictional Wetlands”, January 1989.

7.3.3 Boundary Appeals

In the event that the Building Inspector or Planning Board questions the validity of the boundaries of a wetland area on a specific parcel of land, or upon the written petition of the owner or any abutter of the said property of the Planning Board,

the Planning Board may call upon the services of a certified soil scientist to examine said area and report the findings to the Planning Board for their determination of the boundary.

Any necessary soil testing procedures shall be conducted at the expense of the landowner or developer.

7.4 RELATION TO OTHER DISTRICTS

Where the Wetlands Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

7.5 PERMITTED USES

7.5.1 Type B Hydric Soils. (Poorly drained) Permitted uses in the Type B hydric soils are as follows:

7.5.1.1 Any use otherwise permitted by the zoning ordinance and state and federal law that does not involve the erection of a structure or that does not alter the surface configuration of the land by the addition of fill or by dredging. The Board of Adjustment may grant a special exception for construction of those uses that constitute common treatment associated with a permitted use, e.g., drainage within a farm field, other farm uses, etc., provided these meet with the following provisions:

7.5.1.2 That the use for which the exception is sought cannot feasible be carried out on a portion or portions of the lot which are outside the Wetlands Conservation District.

7.5.1.3 That due to the provisions of the Wetlands Conservation District, no reasonable and economically viable use of the land can be made without the exception.

7.5.1.4 That the design and construction of the proposed use will, to the extent practicable, be consistent with the purpose and intent of this Article.

7.5.1.5 That the proposed use will not create a hazard to individual or public health, safety and welfare due to the loss of wetlands the contamination of groundwater or other reason.

7.5.1.6 Agriculture, including grazing, hay production, truck gardening, and silage production provided that such use is shown not to cause significant increases in surface or groundwater contamination by pesticides or other toxic or hazardous substances and that such use will not cause or contribute to soil erosion.

7.5.1.7 Forestry and tree farming to include the construction of access roads for said purposes.

7.5.1.8 Wildlife habitat development and management.

7.5.1.9 Recreational uses consistent with the purpose and intent of this Article as defined in Section A.

7.5.1.10 Conservation areas and nature trails.

7.5.1.11 Water impoundment and the construction of well water supplies.

7.5.1.12 Drainage ways to include streams, creeks or other paths of normal runoff water and common agricultural land drainage.

7.5.2 Type A Hydric Soils. Permitted uses in areas containing Type A Hydric Soils (e.g., marshes, bogs, open water and major streams) are as follows:

7.5.2.1 Uses specified under Section 7.5 shall be permitted except that no alteration of the surface configuration of the land by filling or dredging and no use which results in the erection of a structure, except as provided for in Section 7.9 shall be permitted.

7.5.2.2 The construction of fences, footbridges, catwalks and wharves only, provided: (1) said structures are constructed on posts or pilings so as to permit unobstructed flow of water; (2) the natural contour of the wetland is preserved; and (3) the Conservation Commission has reviewed and not objected to the proposed construction.

7.5.3 Lot Size Determination

7.5.3.1 Areas designated as having Type B Hydric Soils may be used to fulfill twenty-five percent of the minimum lot size as determined by the Town of Newfields zoning ordinance.

7.5.3.2 No part of areas designated as having very poorly drained soils (Type A Hydric Soils) or bodies of water, may be used to satisfy minimum lot size.

7.6 BUFFER PROVISIONS **(Adopted 3/14/2006)**

7.6.1 No subsurface wastewater disposal system shall be constructed within 100 feet of the edge of any Type A Hydric Soils or 50 feet from any Type B Hydric Soil.

7.6.2 All construction, forestry and agriculture activities within 100 feet of any wetland shall be undertaken with special care to avoid erosion and siltation into the wetlands. The Planning Board, pursuant to its subdivision and site plan review authority, may require an erosion control plan approved by the Rockingham County Conservation District or other designee for any project undertaken up-grade of a wetland. No building activity (building does not include septic systems, but does include all other site improvement) shall be permitted within 100 feet of any Type A and 50 feet from any Type B Hydric Soil except as provided in subsection 7.6.5 of this Section.

No alteration of terrain shall be permitted within 50 feet of any Type A and 25 feet from any Type B Hydric Soil.

7.6.3 For land proposed to be subdivided, the boundaries of the wetlands shall be marked with flagging or stakes by a NH Certified Soil Scientist or Certified Wetland Scientist at such time the State of New Hampshire acts to certify such professionals. A High Intensity Soil Survey by a NH Certified Soil Scientist is required.

7.6.3.1 For land proposed to be developed, buffer zones as defined within this subsection shall be permanently delineated with authorized Town of Newfields markers at intervals not to exceed 75'. Additional markers may be required at a lesser interval for irregular boundaries.

7.6.4 Where required, permits from the New Hampshire Water Supply & Pollution Control Commission, under RSA 485-A:17 and the Wetlands Board under RSA 483-A shall be obtained.

7.6.5 Where an existing building or structure within the buffer zone is destroyed or in need of extensive repair, it may be rebuilt provided that such re-building is completed within two years of the event causing destruction, the new or rebuilt building or structure shall not exceed further into the wetland or buffer area than the original footprint or foundation.

7.7 FILLED LANDS AND PRE-EXITING USES

7.7.1 Lands, which may have been wetlands but were filled under properly issued State and Town permits granted prior to the adoption of this Ordinance shall be judged according to the soils and flora existing at the site at the time application for building permit or subdivision is made.

7.7.2 Structures and uses existing at the time of the adoption of this Ordinance may be continued provided that such use shall not be expanded to further encroach upon the wetlands or designated buffer areas.

7.8 EXEMPTION FOR RESIDENTIAL STRUCTURES

7.8.1 Notwithstanding other provisions of this Article, the construction of additions and extensions to one and two-family dwellings shall be permitted within the Wetlands Conservation District provided that: 1) the dwelling lawfully existed prior to the effective date of this Article; 2) that the proposed construction conforms with all other applicable ordinances and regulations of the Town of Newfields.

7.9 CONDITIONAL USES

7.9.1 A Conditional Use Permit may be granted by the Planning Board (RSA 674:21 11) for the construction, in areas designated as wetlands, of roads and other access ways, and for pipelines, power lines, and other transmission lines provided that all of the following conditions are found to exist:

7.9.2 The proposed construction is essential to the productive use of land not within the Wetlands Conservation District.

7.9.3 Design and construction and maintenance methods will be such as to minimize detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and condition.

7.9.4 No alternative route which does not cross a wetland or has less detrimental impact on the wetland is feasible.

7.9.5 Economic advantage alone is not reason for the proposed construction.

7.9.6 Prior to the granting of a Conditional Use Permit under this Section, the applicant shall agree to submit a performance security to ensure that all construction is carried out in accordance with an approved design. The security shall be submitted in a form and amount, with surety and conditions satisfactory to 1) the Planning Board for site plan and subdivision application and 2) the Board of Selectmen in all other cases. The security shall be submitted and approved prior to issuance of any permit authorizing construction.

7.9.7 Planning Board may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this Section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.

7.10 SPECIAL EXCEPTIONS

7.10.1 Water impoundments for the enhancement of a wetland area with a permit from NH Resources Board. Where required, permits shall be obtained from the New Hampshire Water Supply & Pollution Control Commission under RSA 485-A:17, the Wetlands Board under RSA 483-A, and the United States Army Corps of Engineers.

7.10.2 Special Exceptions for Non-Conforming Lots. Special Exceptions to this Ordinance to permit the erection of a structure within the Wetlands Conservation District on vacant lots shall be permitted only upon authorization by the Board of Adjustment.

7.11 OTHER PROVISIONS

7.11.1 Any wetlands altered in violation of this Ordinance shall be restored at the expense of the violators as provided by RSA 486-A:5.

7.11.2 Prior to requesting a building permit for a structure other than a wastewater disposal system, the location of the proposed structure shall be marked with stakes, paint or similarly. The town's agent shall review the location to determine that the proposed structure complies with wetland and waterbody setbacks, and then report the findings of compliance or non-compliance to the building inspector. **(Adopted 3/11/97)**

ARTICLE VIII AQUIFER PROTECTION

8.1 AUTHORITY AND PURPOSE

Pursuant to RSA 674:16.2.1, The Town of Newfields adopts an additional Zoning District, under Article 3 "Establishment of Districts", to be known as "AP-Aquifer Protection District" and the accompanying regulations as set forth herein in order to protect, preserve and maintain potential groundwater supplies and related groundwater recharge areas within a known aquifer identified by the Town. The objectives of the aquifer protection district are:

8.1.1 to protect the public health and general welfare of the citizens of Newfields;

8.1.2 to prevent development and land use practices that would contaminate or reduce the recharge of the identified aquifer;

8.1.3 to promote future growth and development of the Town, in accordance with the Master Plan, by insuring the future availability of public and private water supplies;

8.1.4 to encourage uses that can appropriately and safely be located in the aquifer recharge areas.

8.2 DEFINITIONS

8.2.1 Animal Feedlot: A commercial agricultural establishment consisting of confined feeding areas and related structures used for the raising of livestock. An animal feedlot shall be considered one on which more than five (5) animals are raised simultaneously.

8.2.2 Aquifer: For the purposes of this Ordinance, aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for municipal or private water supplies.

8.2.3 Dwelling Unit: A building or that portion of a building consisting of one or more rooms designed for living and sleeping purposes, including kitchen and sanitary facilities and intended for occupancy by not more than one family or household.

8.2.4 Groundwater: All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.

8.2.5 Groundwater Recharge: The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.

8.2.6 Leachable Wastes: Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.

8.2.7 Mining of Land: The removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone.

8.2.8 Non-Conforming Use: Any lawful use of buildings, structures, premises, land or parts thereof existing as of the effective date of this Ordinance, or amendment thereto, and not in conformance with the provisions of this Ordinance, shall be considered to be a non-conforming use.

8.2.9 Non-Municipal Well: Any well not owned and operated by the Town of Newfields or its agent.

8.2.10 Recharge Area: The land surface area from which groundwater recharge occurs.

8.2.11 Sludge: Residual materials produced by these sewage treatment process.

8.2.12 Solid Wastes: Any discarded or abandoned material including refuse, putrescible material, sewerage, or sludge, as defined by NH Solid Waste Rules He-P 1901.03. Solid waste includes solid, liquid, semi-solid or contain gaseous waste material resulting from residential, industrial, commercial, mining, and agricultural operations and from community activities.

8.2.13 Structure: Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground. For the purpose of this Ordinance, buildings are structures.

8.2.14 Toxic or Hazardous Materials: Any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic or hazardous materials include, without limitation, volatile organic chemicals, acids and alkalies, and include products such as pesticides, herbicides, solvents and thinners, and such other substances as defined in New Hampshire Water Supply &

Pollution Control Rules, Section Ws 410-04(i), in N.H. Solid Waste Rules He-P 1901.03(v), and in the Code of Federal Regulations 40 CFR 261. Wastes generated by the following commercial activities are presumed to be toxic or hazardous unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Planning Board:

- Airplane, boat and motor vehicle service and repair;
- Chemical and bacteriological laboratory operation;
- Drycleaning;
- Electronic circuit manufacturing;
- Metal plating, finishing and polishing;
- Motor and machinery service and assembly;
- Painting, wood preserving and furniture stripping;
- Pesticide and herbicide application;
- Photographic processing;
- Printing.

8.3 DISTRICT BOUNDARIES

8.3.1 Location: The Aquifer Protection Districts are those areas identified on the “groundwater potential” map as falling within any delineated areas of groundwater potential. These areas include the shaded area of “Better” or “Best”; “Potential Gravel Sites”; “Drill Locations”, as well as those immediate areas around existing wells identified as “6-inch Bedrock Well” and “Gravel Pack Wells”. The Map, as developed by the Newfields Water Extension Committee and the Planning Board, is marked with property lines as reasonably existed in December 1986.

8.3.2 Recharge Area: For purposes of this Ordinance, the recharge area is considered to be co-terminus with the potential well location areas and drill locations. The recharge area for all existing wells as determined by NH WS&PCC is the area within a radius of 400’ extending from the well point. The precise point of any well to be determined by a qualified hydrogeologist and the Newfields Water Extension Committee.

8.3.3 Appeals: Where the bounds of the identified aquifer or recharge area, as delineated, are in doubt or in dispute, any landowner aggrieved by such delineation may appeal the boundary location to a joint session of the Planning Board and the Water Extension Committee. Upon receipt of such appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall ask the Water Extension Committee to engage, at the landowner’s expense, a qualified hydrogeologist to prepare a report determining the proper location and extent of the aquifer and recharge area relative to the property in question. Test borings may be required. The opinion of the Water Extension Committee as to the appropriateness of the site specific as a potential of water resource for the Town will be part of the determination. The aquifer delineation shall be modified by such determination subject to review and approval of both the Water Extension Committee and the Planning Board.

8.4 USE REGULATIONS

8.4.1 Minimum Lot Size: The minimum lot size within the Aquifer Protection District for each dwelling unit, if a residential use, or each principal building if a non-residential use, shall be 9 (3) acres, or 130,680 square feet.

For any lot within the Aquifer Protection District which is also within the District served by municipal sewer, the minimum lot size shall be subject to review by the Zoning Board of Adjustment for special exception from the three (3) acre minimum so long as the criteria in Paragraph 8.4.1 of this Ordinance are satisfied. Any reduction in minimum lot size shall be no less than a minimum lot size of two (2) acres, or 87,120 square feet.

8.4.2 Maximum Lot Coverage: Within the Aquifer Protection District, no more than ten percent (10%) of a single lot, including the portion of any new street abutting the lot, may be rendered impervious to groundwater infiltrations. C/I subject to site plan review requirements.

8.4.3 Prohibited Uses: The following use are prohibited in the Aquifer Protection Zone except where permitted to continue as a non-conforming use:

8.4.3.1 Disposal of solid waste other than brush or stumps.

8.4.3.2 Storage and disposal of hazardous waste, including waste injection wells.

8.4.3.3 Disposal of liquid or leachable wastes except that from one or two-family residential subsurface disposal systems or as otherwise permitted as a conditional use.

8.4.3.4 Subsurface storage of petroleum and other refined petroleum products.

8.4.3.5 Industrial uses which discharge process waters on site.

8.4.3.6 Use or storage of road salt or other de-icing chemicals.

8.4.3.7 Dumping of snow containing de-icing chemical brought from outside the district.

8.4.3.8 Animal feedlots.

8.4.3.9 Automotive service and repair shops, junk and salvage yards.

8.4.4 Permitted Uses: The following activities may be permitted provided they are conducted in accordance with the purposes and intent of this Ordinance.

8.4.4.1 Single and two-family residential development.

8.4.4.2 Activities designed for conservation of soil, water, plants and wildlife.

8.4.4.3 Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted.

8.4.4.4 Normal operation and maintenance of existing waterbodies and dams, splash boards and other water control, supply and conservation devices.

8.4.4.5 Foot, bicycle and/or horse paths and bridges.

8.4.4.6 Maintenance, repair of any existing structure, provided there is no increase in impermeable surface above the limit established in Section 8.3.4.2 of this Article.

8.4.4.7 Farming, gardening, nursery, forestry, harvesting and grazing, provided that fertilizers, herbicides, pesticides, manure and other leachables are used approximately at levels that will not cause groundwater contamination and are stored under shelter.

8.4.5 Special Exceptions

The Zoning Board of Adjustment may grant a special exception for uses consistent with those uses otherwise permitted by special exception only after written findings of fact are made that all of the following are met:

8.4.5.1 the proposed use will not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants;

8.4.5.2 the proposed use will not cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer;

8.4.5.3 the proposed use will discharge no wastewater on-site other than that typically discharged by domestic wastewater disposal systems and will not involve on-site storage or disposal of toxic or hazardous wastes as herein defined;

8.4.5.4 the proposed use complies with all other applicable sections of this Article.

The Zoning Board of Adjustment may require that the applicant provide data or reports prepared by a professional engineer or qualified groundwater consultant to assess any potential damage to the aquifer that may result from the proposed use.

The Zoning Board of Adjustment shall engage such professional assistance as it requires to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria.

8.4.6 Septic System Design and Installation: In addition to meeting all local and state septic system siting requirements, all now on- lot wastewater disposal systems installed in the District shall be designed by a Sanitary Engineer licensed in New Hampshire. These systems shall be installed under the supervision of said engineer.

The Planning Board or its agent shall inspect the installation of each new system prior to covering and shall certify that the system has been installed as designed.

8.4.7 Design and Operations Guidelines: Except for single and two- family dwellings, the following design and operation guidelines shall be observed within the Aquifer Protection District:

8.4.7.1 Safeguards: Provisions shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as: spill control provisions in the vicinity of chemical or fuel deliver points; secured storage areas for toxic or hazardous materials and indoor storage provisions for corrodible or dissolvable

materials. For operations which allow the evaporation of toxic or hazardous materials into the interiors of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.

8.4.7.2 Location: Where the premises are partially outside of the Aquifer Protection Overlay Zone, potential pollution sources such as on-site waste disposal systems shall be located outside the Zone to the extent feasible.

8.4.7.3 Drainage: All runoff from impervious surfaces shall be recharged on the site, and diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are not feasible and shall be preceded by oil, grease and sediment traps to facilitate removal of contaminants.

8.4.7.4 Inspection: All special exceptions granted under Section 8.3.4.5 of this Article shall be subject to twice annual inspections by the Building Inspector or other agent designated by the Selectmen. The purpose of these inspections is to ensure continued compliance with the conditions under which approvals were granted. A fee for inspection shall be charged to the owner according to a fee schedule determined by the Selectmen.

8.5 NON-CONFORMING USES

Any non-conforming use may continue and may be maintained, repaired and improved, unless that such use is determined to be an imminent hazard to public health, and safety. No non-conforming use may be expanded, changed to another non-conforming use or renewed after it has been discontinued for a period of 12 months or more.

8.6 ADMINISTRATION

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

8.6.2 Enforcement: The Board of Selectmen shall be responsible for the enforcement of the provisions and conditions of the Aquifer Protection District.

ARTICLE IX SHORELAND PROTECTION **(Approved by Town Meeting 3/10/1987)**

9.1 PURPOSE

In the interest of environmental quality, public health, resource conservation and the general welfare of the public, and in recognition of the special cultural and ecological significance of the Great Bay estuarine system, the Shoreland Protection District is established:

9.1.1 to promote the preservation and maintenance of surface water quality in Newfields;

9.1.2 to conserve and protect aquatic and terrestrial habitat associated with intertidal and riparian areas;

9.1.3 to preserve and enhance those aesthetic values associated with natural shoreline;

9.1.4 to encourage those uses that can be appropriately located adjacent to shorelines.

9.2 AUTHORITY

NH Revised Statutes Annotated 674:17 and 674:20-21.

9.3 DEFINITIONS

9.3.1 Shoreland: The land areas included within the Shoreland Protection District.

9.3.2 Shoreline: The water's edge at mean high tide.

9.3.3 Tide Marsh: As defined in the Administrative Rules of the New Hampshire Wetlands Board, as amended, pursuant to NH RSA 493A.

9.3.4 Mean High Water: As determined according to the published tables and standards of the National Ocean Survey, adjusted to the locality from such tables.

9.3.5 Ordinary High Water Mark: The "ordinary high was mark" is defined as the line on the shore, running parallel to the main stem of the river, established by the fluctuations of water. It is indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

9.3.6 District Boundaries: The Newfields Shoreland Protection District is defined to include all of the following:

9.3.6.1 The areas of land within 150 feet horizontal distance of the shoreline of the Squamscott River and Great Bay Estuary.

9.3.6.2 The areas of land within 150 feet horizontal distance of the upland extent of any tidal marsh adjacent to the Squamscott River and Great Bay Estuary.

9.3.6.3 The areas of land within 100 feet horizontal distance of the ordinary high water mark of all brooks and streams within the Town which appear on U.S.G.S.S 7.5' (scale 1:24000) quadrangle maps for the Town of Newfields are revised. These brooks and streams include, but are not limited to: Piscassic River, Piscassic Ice Pond, Parting Brook.

9.4 PERMITTED USES

9.4.1 Any use otherwise permitted by the Zoning Ordinance and by State and Federal laws that does not involve the erection of a structure, and does not alter the surface configuration of the land by the addition of fill, or by dredging, except as a common treatment associated with a permitted use, and provided that a buffer strip of natural vegetation 75 feet in width along the Squamscott River, Great Bay Estuary and associated tidal marshes and 50 feet in width elsewhere, be maintained between the area of use and the shoreline or upland extent of the tidal marsh.

9.4.2 Agriculture, including grazing, hay production, truck gardening, and silage production, provided that such use is shown not to cause significant increases in surface or groundwater contamination by pesticides or other toxic or hazardous substances and that such use will not cause or contribute to soil erosion and stream sedimentation.

ARTICLE X BUILDING ORDINANCE: ADMINISTRATION AND ENFORCEMENT

10.1 AUTHORITY

To promote the health, safety, convenience and general welfare of the community by regulating the construction of buildings thereon in the Town of Newfields, New Hampshire, in annual Town Meeting convened: March 14, 1959, with amendments through March 1987.

10.2 RESTRICTIONS

All buildings shall be subject to the following regulations, restrictions and conditions:

10.2.1 No buildings or structures shall be erected, and no structure shall be altered, maintenance excluded, without a building permit from the building inspector, to whom adequate plans and specifications of the proposed building or alterations shall be submitted. All applications for building permits shall be accompanied by a drawing of plot, in duplicate, showing the plot plan, the location of the building on the lot and such other information as may be necessary to provide for the enforcement of these regulations. A careful record of the original copy of such application and plot shall be kept at the building at all times during construction. A building permit will not be necessary for any person or persons making structural alterations to existing buildings or for any new structure providing said alterations or new structure does not exceed $500.00 in cost. **(Adopted 3/1977)**

The fee for permits shall be at a rate of $5.00 per thousand or any portion thereof, rounded to the next highest thousand. Fee to be payable with the application for permit**.** Fee is based on total costs or value of the project, including material and labor costs (actual or imputed) as reasonably determined by the Building Inspector.

10.2.1.1 Sanitary facilities shall be required to be provided by the general contractor at all new construction sites. **(Adopted 3/11/97)**

10.2.2 The Town Building Inspector shall base his approval or rejection on the provisions of this ordinance. The requirements are as follows:

10.2.2.1 Every dwelling shall have a minimum floor area of 625 square feet, exclusive of porch or breezeway.

10.2.2.2 Sewerage

10.2.2.2.1 All dwellings and buildings in public and private use shall be equipped with flush toilets, septic tank, and adequate disposal facilities.

10.2.2.2.2 All septic systems must meet both the standards below and the minimum standards adequate disposal facilities.

10.2.2.2.2.1 All plans for wastewater disposal systems shall be reviewed and approved by the town's agent prior to state review. All wastewater disposal systems shall be located over at least one test pit which has been witnessed by the town's agent, and on natural grades of 20% or less. All wastewater disposal system plans for lots created after January 23, 1997 shall show a contiguous 4,000 square foot area which meets all wastewater disposal system soil and setback requirements. This reserved area shall not be used in any way which would prevent the future installation of a wastewater disposal system. The suitability of the soils in this area shall be established by at least two test pits approximately at either end of the reserve area. The town's agent shall witness the test pits if the variability of the soils is great. Percolation tests will be done at the discretion of the agent. A fee will be charged, returnable to the inspector, and shall constitute payment in full for his service.

10.2.2.2.2.2 The following requirements beyond state minimum standards are provided to assure adequate treatment as well as an adequate receiving layer is provided for septic system effluent. For soils to be suitable for wastewater disposal systems, there must be at least 2 feet of natural soil to the seasonal high table as determined by soil color. For soils to be suitable for wastewater disposal systems, there must be a depth of at least 5 feet of natural soils over bedrock.

10.2.2.2.2.3 At the start of construction of a wastewater disposal system, the town's agent shall inspect the preparation of the basal area. The basal area is the portion of soil which is to be constructed until the basal area is confirmed to be properly prepared. Proper preparation of the basal area consists of removing

vegetation stumps, topsoil, organic material, and stones greater than one foot in diameter, then scarifying the soil where it is smeared or compacted.

10.2.2.2.2.4 No building of any kind shall be placed on soil which has a seasonal high water table at or within 18 inches of the natural ground surface. The footings of any building shall be designed and constructed so that the bottom of the footing is not lower than the seasonal high water table identified in the soil found on the site. The Assistant Building Inspector for lot site review or the Building Inspector will approve such systems.

10.2.2.2.2.5 Any soil with a percolation rate of over sixty (60) minutes per inch shall not be used for the disposal of septic tank effluent. Fill may not be added to meet this requirement.

10.2.2.2.3 All electrical installations shall be in accordance with the requirements of the latest edition of the BOCA (Building Officials Conference of America), the same being the standard of the National Board of Fire Underwriters for electric wiring and apparatus, with the service entrance a minimum of 100 amps.

10.2.2.2.4 Public buildings, new or old, may be inspected by the Fire Chief, or by an officer of the Fire Department designated by the Chief, if in the opinion of said Chief a fire hazard exists in said building.

10.2.2.2.5 No building or structure of any kind, including trailers and mobile homes, may be joined with or added to another building or structure unless both structures and the connecting structure have a full frost proof foundation and the building construction above it is commensurate to the joined buildings, with the exception that a breezeway joining a garage and house doesn't require a foundation. **(Adopted 3/11/1969)** A porch attached to a house will require frost free support. **(Amended 3/7/1972)**

10.2.2.2.6 All second story apartments must have two fire exits.

10.2.2.2.7 All new construction and conversion of existing dwellings or buildings proposed for multi-owned dwellings shall be installed with a sprinkler system in accordance with the National Fire Protection Association (NFIPA). **(Adopted 3/10/1987)**

10.2.2.2.8 All new house construction will be equipped with permanently wired smoke detector system in accordance with the NFIPA. **(Adopted 3/10/1987)**

10.2.3 All other matters shall be governed by standards set forth in the State Building Code as found in NH RSA 155-A., et. seq. This code may be amended in accordance with the procedures outlined in NH RSA 674:51. **(Amended January 1984; March 1992; 3/10/15)**

10.2.4 Floodplain Overlay District **(Amended 3/14/2007)**

10.2.4.1 If a proposed building site is in a flood-prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and mobile homes) shall:

10.2.4.1.1 be designed (or modified) and adequately anchored to prevent flotation collapse or lateral movement of the structure;

10.2.4.1.2 be constructed with materials and utility equipment resistant to flood damage; and

10.2.4.1.3 be constructed by methods and practices that minimize flood damage.

10.2.4.2 Each building permit application for construction or substantial improvement shall contain the following information:

Each (in relation to mean sea level) of the lowest habitable floor (including basement) of new or substantially improved structures and whether or not such structures contain a basement if the structure has been flood proofed.

10.2.4.3 If any party proposes to alter or relocate a water course, the building inspector shall notify the New Hampshire Water Resource Board and the Administration of the F.I.A.

10.2.4.4 No permit shall be given for a project which reduces the flood carrying capacity of a water course.

10.2.4.5 No building permit shall be issued until assurances are made that all required approval from state and/or federal agencies have been received, including Section 404 of the Federal Water Pollution

Control Act Amendments of 1972, 33 U.S.C. 1334, if necessary. (NOTE: 404 relates to water discharge permits.)

10.3 EXCEPTIONS

10.3.1 The restrictions contained in Section 10.2, paragraphs 10.2.1 and 10.2.2 inclusive shall not apply in the case of the small dairy rooms, root cellars, poultry houses, farm and storage sheds and other similar structures to be so located on the owner's property as not to menace the property of others. However, such buildings shall not become the permanent dwelling of any family unit.

10.3.2 Camps/Cottages

10.3.2.1 The restrictions contained in Section 10.2, paragraph 10.2.2., shall not apply in the case of camps or cottages.

10.3.2.2 Camps or cottages may be constructed or logs.

10.3.2.3 Camps or cottages shall be located on the owner's property so as not to menace the property of another and shall not become the permanent dwelling of any family unit.

10.3.2.4 The minimum frontage shall be 200 ft. **(Adopted 3/7/1973)**

10.3.2.5 The minimum lot size shall be 2 acres or 87,120 square feet. **(Adopted 3/7/1973)**

10.4 TOWN BUILDING INSPECTOR

10.4.1 For the purposes of this Ordinance the Board of Selectmen shall annually appoint a town Building Inspector who shall perform the duties pertaining to his office as designated in the provisions of this Ordinance.

10.4.2 The Building Inspector shall make known his decision within 10 days from the date he received the application and he shall make inspections of all buildings in a process of construction and report in writing any or all violations to the Selectmen.

10.4.3 The Town Building Inspector shall be salaried, such compensation to be established annually by the Selectmen. In addition, the Building Inspector shall retain one half of the building application fees. Assistant Building Inspector for the specific lot site reviews shall also be compensated from the building permit fees.

10.5 ADMINISTRATION

10.5.1 Application and Permits

10.5.1.1 It shall be the duty of the Board of Selectmen to enforce the provisions of this Ordinance and the Board is hereby given that power and authority.

10.5.1.2 The Board of Selectmen shall require the application for a building permit include a plot plan and contain all necessary information to enable the Building Inspector to ascertain whether the proposed building or structure and its intended use comply with the provisions of this Ordinance.

10.5.1.3 No building permit shall be issued until the Building Inspector has certified that the proposed building or structure and its intended use comply with the provisions of this Ordinance.

10.5.1.4 It shall be unlawful for any person to commence work for erection or alteration, not including maintenance, of any building or structure until a permit has been duly granted by the Building Inspector and posted on premises for such erection or alteration. **(Amended 3/11/1969)**

10.5.1.5 No building permit shall be valid unless construction is commenced <u>within three months</u> from the date of the permit; permit subject to renewal at no cost. **(Adopted 3/14/1961)**

10.5.1.6 The outside work on all buildings, whether new construction, alteration, shall be completed <u>within two years and three months</u> from the date of the permit, but the Building Inspector may, at his discretion, extend such period for an additional time of <u>not more than six months at a time</u>. **(Adopted 3/14/1961)**

10.5.1.7 Permit for Occupancy. No building, subject to this Ordinance, shall be occupied until the Certificate of Occupancy has been issued by the Building Inspector. The Certificate of Occupancy shall certify that all work has been satisfactorily completed and the certificate shall be posted in a conspicuous place <u>excepting in the case of a single family dwelling</u>. **(Adopted 3/7/1972)**

10.6 GENERAL PROVISIONS

10.6.1 Plot plans, approved by the Planning Board, shall be filed with the Building Inspector before work is commenced upon any development. **(Adopted 3/7/1973) (Amended 3/10/15)**

10.6.2 Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or of any part thereof.

10.6.3 In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements for the promotion of the health, safety, morals and general welfare of the Town of Newfields and its citizens.

10.6.4 Whomever violates any provisions of this Ordinance shall be punished by a fine not exceeding one hundred dollars ($100.00) a day for each day of violation.

10.6.5 Appeals from the decision of the Building Inspector or Selectmen shall be made to the Board of Adjustment. **(Adopted 3/7/9172)**

ARTICLE XI CONSERVATION SUBDIVISION ORDINANCE **(Adopted 3/9/2004)**

Pursuant to RSA 674:21,I (F), the Planning Board is hereby authorized to grant a Conditional Use Permit to allow for a Conservation Subdivision development in accordance with the restrictions and requirements of this section,.

11.1 PURPOSE

11.1.1 The intent of this ordinance is to provide a flexible method of residential development that is consistent with principles of sound planning and wise land use that are not specifically permitted in the current zoning ordinance. All developments seeking a conditional use permit shall be administered by the Planning Board to ensure that Conservation Subdivision opportunities do not adversely impact neighboring properties, or the citizens and Town of Newfields. The Planning Board shall consider the following purposes and balance them accordingly during review of individual applications:

11.1.1.1 Maintain and Preserve rural character of the Town of Newfields by allowing an alternative residential development option which preserves large areas of open space, provides for visual buffers from existing roads and residential development and permits farming opportunities on parcels of open space.

11.1.1.2 Preserve large, contiguous parcels of open space throughout the town and particularly as found in the: Newfields Master Plan, land determined to be of significant importance for protection and preservation.

11.1.1.3 Provide for a diversity of housing types, opportunities and architectural styles.

11.1.1.4 Encourage road design, that will contribute to and enhance a rural atmosphere and maintain minimal safety design.

11.1.1.5 Provide for connected corridors of open land throughout town for preservation and habitat, environmental resources and public enjoyment.

11.1.1.6 As part of an alternative for residential development, to require the placement of homes in a manner that includes proximity in physical location while minimizing confusion over issues of property ownership.

11.2 CONDITIONAL USE PERMITS

11.2.1 All Conservation Subdivisions shall obtain a conditional use permit from the Planning Board. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approval. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.

11.3 APPLICATION PROCEDURE

11.3.1 Applications for conditional use permits for a Conservation Subdivision shall be made in accordance with the procedures set forth in the relevant sections of the Subdivision Regulations of the Newfields Planning Board.

11.4 APPROVAL OF APPLICATIONS

11.41 Prior to issuance of a building permit, the application shall acquire a conditional use permit as well as any other necessary Planning Board approval. A conditional use permit may be issued if the Conservation Subdivision complies with all of the requirements of this section. The planning board may condition its approval on reasonable conditions necessary to accomplish the objectives of this section or of the Newfields Master Plan, Zoning Ordinance or any other federal, state, town resolution, regulation or law, including but not limited to a reasonable reduction in allowed density, a reasonable increase in required frontage, setbacks or any other requirement if necessary to accomplish such objectives. The conditional permit is meant to provide flexibility, minimize adverse impacts, and allow the Board to participate jointly with the applicant to prepare a development that is consistent with this ordinance, regulations and the Master Plan for the Town of Newfields.

11.5 GENERAL

11.5.1 The Conservation Subdivision development provisions of this ordinance provide applicants with an alternative development approach intended to promote flexibility and innovation in land planning. Within this context, the ordinance that are established are intended to be a minimum consideration of allowable impacts. Each tract of land possesses different, unique development characteristics and limitations and the Conservation Subdivision development use allowed on any particular tract will be a function of innovative land planning and subdivision

design interacting with the special characteristics and limitations of the site. A Conservation Subdivision may consist of the following:

11.5.1.1 A subdivision of land into reduced sized individual lots.

11.5.1.2 Cluster Subdivision: One parcel with individual detached dwellings located in a cluster arrangement.

11.5.1.3 Cluster Subdivision with Lot Lines: A cluster arrangement where at the discretion of the Planning Board, specific boundaries may be extended beyond the foundation of the dwelling unit to encompass septic systems, accessory structures and future additions related to the structure.

11.5.1.4 A combination of individual dwelling lots and cluster arrangement(s).

11.5.2 The following definitions specifically apply to this Section of the Zoning Ordinance:

11.5.2.1 Common Area: Any parcel or area of land and/or area of water set aside as a result of a conservation subdivision plan. The common area is designed for the benefit and enjoyment of the residents of a conservation subdivision development. These areas may contain accessory structures and improvement necessary and appropriate for the educational, recreational, cultural, social or other non-commercial/non-residential/non-industrial uses, plus any utility services utilized by the owners of the common area.

11.5.2.2 Conservation Land: Land given to a public body dedicated to conservation of forests, park land, etc., or to a private conservation trust, with the intent of preserving in its original ecological condition, safeguarding water supplies, or diminishing flood danger.

11.5.2.3 Mandatory Home Association: A private non-profit corporation, association or other non-profit legal entity established by the developer for the benefit and enjoyment of the residents of the development: Membership in said association shall be mandatory for property owners and made a required covenant in any deed issued or passed. It shall provide voting and use rights in the common area when applicable and may charge dues to cover expenses, which may include tax liabilities of the common area, recreational or utility facilities. Article of Association or Incorporation must be acceptable to the Planning Board and by the Town Counsel and any other municipal, county, state agency, body, commission or department required by law to approve of the same.

11.5.2.4 Open Space Easement: Land whose development rights have been legally restricted, either by deed or by public purchase of those rights. The easement may be so worded as to permit or restrict public access, to allow or disallow recreational development and similar provisions. Easements are tied to the title of the land, regardless of its subsequent ownership.

11.5.2.5 Public Open Land: Land purchased by or given to the Town of Newfields for parks, playgrounds, or an undeveloped open space, generally with the intention of making it accessible for public use.

11.6 LOT SIZE AND FRONTAGE

11.6.1 The Conservation Subdivision Ordinance shall be mandatory of all subdivisions, except for minor subdivisions as defined under the Town Subdivision Regulations. The minimum frontage for the development shall be of sufficient length to provide safe access for a right-of-way plus intersection curve radius (as defined in the Newfields Subdivision Regulations) plus perimeter buffer where applicable. Conservation Subdivisions require at least 20 acres of land with the exceptions allowed in section 11.6.1.1 of the ordinance. At least one access shall be within the minimum frontage. The minimum frontage and access shall be within the Town of Newfields. Frontage lands on roads existing at the time of application shall be preserved as buffers to the maximum extent possible in addition to all required setbacks. **(Amended 3/14/06) (Amended 3/12/2013)**

11.6.1.1 As part of issuing a Conditional Use Permit, the Planning Board may approve a Conservation Subdivision for a lot size of less than 20 acres but equal to or more than 10 acres where the conservation and other environmental values of the parcel to be protected present significant values for conservation. The Planning Board may consider any one or all, but not be limited to, the following criteria:

11.6.1.1.1 The land is located within or has located on it a significant natural resources defined or designated in the Town Master Plan or state or regional plan or scientific study.

11.6.1.1.2 The land for conservation abuts existing conservation land in a significant manner so that the conservation objectives are enhanced.

11.6.1.1.3 The land for conservation provides an extensive or enhancement of an existing passive recreation opportunity.

11.6.1.1.4 The land for conservation provide access to a water body or provides protection for water frontage along a water body.

11.6.1.1.5 The management and protection of the smaller conservation rea will not be unduly burdensome for the Town.

11.6.1.1.6 The board may review and consider all other restrictions and objectives in this Article.

11.7 BASELINE DENSITY

11.7.1 Development density shall be determined by the following:

Zoning Formula
Total Parcel Area - Unbuildable Land Area Remaining X .9 (subtract 10% for roadways) Net Area Net area divided by lot size for zoning district = Baseline Density
Example: 100 acres total -26 acres unbuildable land 74 acres (buildable) X .9 (street factor) 66.6 acres net 66.6 divided by 2 acres = 33.3 (rounded down to 33 units)

11.7.2 For the purposes of this formula "unbuildable land" shall consist of the following types of land:

11.7.2.1 Wetlands as defined elsewhere in this ordinance or if not so defined, as found in state law.

11.7.2.2 Slopes exceeding a grade of 25% or soils subject to slumping.

11.7.2.3 Floodways and floodway fringe within the 100-year floodplain as shown on official FEMA maps.

11.7.3 Development Density – In order to insure that the density calculation of the formula is a rational representation of the developability of the parcel, the final development density shall be determined by the Planning Board through review and approval of a yield plan. The yield plan shall be approved by the Planning Board in accordance with the following: **(Amended 3/10/09)**

11.7.3.1 The review of the yield plan shall be administered by the Planning Board in accordance with this section.

11.7.3.2 The yield plan shall incorporate soils information sufficient to determine estimated lot sizes by soil type, roads and rights-of-way that provide for a layout that corresponds with existing state and federal laws, town ordinances, and subdivision regulations, including but not limited to minimization of wetland crossings, road length requirements, right-of-way widths and sage sigh distance for entrances.

11.7.3.3 The yield plan is meant to be conceptual in nature but must be realistic and not show potential house sites or streets in areas that should not ordinarily be legally permitted in a conventional layout.

11.7.3.4 In addition to the above, the yield plan shall include, basic topography, wetlands, floodplains, steep slopes (greater than 25%), soils subject to slumping, and contiguous non-wet areas, and other areas of land where it is not feasible to accommodate building sites and individual septic systems.

11.7.3.5 In order to show that the yield plan is reasonably achievable, up to 20% of the lots, randomly distributed throughout the yield plan, shall indicate one test pit which complies with all local, state and federal requirements, including but not limited to, depth to estimated seasonal high water table, setbacks to lot lines and structures and wetland setbacks. These lots shall be selected by the applicant; however, the Planning Board, at its discretion, may seek additional lots for testing if doubts arise.

11.7.3.6 The yield plan shall comply with conventional subdivision standards and shall not require a variance or waiver from the existing ordinances or regulations in order to achieve the layout supporting the proposed density.

11.7.4 The net buildable are shall be contiguous and accessible fully within the subject property, undivided by abutting properties or unbuildable land. Non-contiguous lands may be combined only under the following conditions: **(Adopted 3/14/06)**

11.7.4.1 Non-contiguous area are each independently accessible from an acceptable public street.

11.7.4.2 All necessary permits are obtained to establish access between non-contiguous areas prior to Planning Board consideration of the baseline density.

11.7.4.3 Access to non-contiguous areas do not exceed street design standards as established under the Town of Newfields Subdivision Regulations.

11.8 DENSITY BONUS

11.8.1 If required criteria are met, the Newfields Planning Board may award the development an additional density bonus (see subsection 11.14). The total density bonus eligible to a particular development authorized under this section shall not exceed 10% of the baseline density. The density bonus shall be applied to the number of dwelling units achievable under the baseline density. In the case where the density bonus results in a fraction of a dwelling unit, no bonus is granted (e.g., a density bonus formula resulting in 2.8 dwelling units provides two additional dwelling units only). In no event shall the total density bonus awarded exceed the soil based carrying capacity for the entire parcel. **(Amended 3/14/16)**

11.9 DEVELOPMENT YIELD

11.9.1 The total yield for a Conservation Subdivision shall be determined by baseline density plus all density bonuses. In no event shall the total density exceed the soil based carrying capacity for the entire parcel.

11.10 STANDARDS FOR APPROVAL

11.10.1 All standards below must be met or impacts to the satisfaction of the Planning Board prior to the granting of a Conditional Use Permit.

11.10.1.1 The permit is in compliance with this ordinance.

11.10.1.2 There will be no greater diminution of neighboring property values than would be created under any other use or development permitted in the underlying zone.

11.10.1.3 That there are no existing violations of the Newfields zoning ordinance on the subject property.

11.10.1.4 That the character of the area shall not be adversely affected. This determination, to be made by the Planning Board, shall be made by considering the following aspects of the surrounding area.

11.10.1.4.1 Consistency of architecture, except for single-family detached development, determined through analysis of the following:

11.10.1.4.1.1 Roof pitches;

11.10.1.4.1.2 Siding types;

11.10.1.4.1.3 Architectural styles of residential structures;

11.10.1.4.1.4 Proportional aspects of facades building locations on lots.

11.10.1.4.2 Transportation, determined through analysis of the following:

11.10.1.4.2.1 Access for safety vehicles onto the site, within the site, and to individual houses;

11.10.1.4.2.2 Capacity of nearby and affected intersections and transportation corridors;

11.10.1.4.2.3 Costs for municipality to maintain roadways;

11.10.1.4.2.4 Layout, width and construction of roadways on the site.

11.10.1.4.3 Protection of natural resources, determined through analysis of the following:

11.10.1.4.3.1 Protection of environmentally sensitive areas, including but not limited to, wetlands, shoreland buffers, wildlife corridors, significant groundwater resources, etc.;

11.10.1.4.3.2 Maintenance of viewsheds and other visually appealing aspects of the site;

11.10.1.4.4 Protection of cultural resources, determined through analysis of the following:

11.10.1.4.4.1 Establishment of new and protecting existing trailways for travel;

11.10.1.4.4.2 Protection of historic buildings or significant historical landscapes;

11.10.1.4.4.3 Establishment, protection and promotion for agricultural uses of the site.

11.10.1.5 That granting the permit will not result in undue municipal expense.

11.10.1.6 That the proposed development will be constructed in a manner compatible with the spirit and intent of the Newfields Master Plan and Zoning Ordinance.

11.10.1.7 That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted. Mitigation of these impacts by the developer can be properly considered in granting of a conditional use permit.

11.11 OTHER REGULTIONS APPLICABLE

11.11.1 The Planning Board shall adopt sections of the Subdivision Regulations not preempted by this ordinance which shall apply to the Conservation Subdivision, including the right to waive such regulations. Where not specifically preempted by the provisions of this ordinance the requirement that is more restrictive shall apply. The Planning Board shall determine if preemption is intended by the provisions of this ordinance and/or what requirement that is to apply, is more restrictive.

11.12 MINIMUM OPEN SPACE REQUIREMENTS

11.12.1 The parcel must contain a minimum of 50% of the total land in the parcel dedicated as open space.

11.12.2 Such land shall be preserved in perpetuity through deed restriction or conservation easement, and designated on the approved and recorded plat. Such restriction shall be approved by the Planning Board and Town Counsel.

11.12.3 The open space and/or common area within a cluster development shall be owned by and bound by one or more of the following:

11.12.3.1 Mandatory Homeowners Association, which may use it for common recreational facilities or may designate it as open space or may grant a public body an open space easement.

11.12.3.2 A public body which shall use it as conservation land or public open land.

11.12.3.3 Such designation must be made prior to approval of the subdivision application by the Planning Board; such lands shall be held in such type of legal entity as the Planning Board deems appropriate.

11.12.4 **(Adopted 3/14/2006)** Open space shall include a minimum of one hundred (100) square feet per dwelling unit for dedicated recreation facilities. One half shall be provided in such a manner to afford active recreational opportunities for children, to include such facilities as swings, sandboxes, slides, play areas, etc. the remainder of the dedicated recreation facilities shall be provided in such a manner as to afford active or passive recreational opportunities for adults, such as siting areas, outdoor cooking facilities, recreation trails, or playing fields. The Planning Board shall be authorized to consider the expansion or development of public

facilities in the vicinity of the project to meet these requirements and shall be authorized to adopt additional regulations to administer such proposals. **(Amended 3/10/09)**

11.13 OPEN SPACE CRITERIA

11.13.1 The minimum required open space shall contain a minimum of 50% upland soils not to include the following:

11.13.1.1 Slopes exceeding a grade of 25% or soils subject to slumping;
11.13.1.2 Land under permanent easement prohibiting future development (including easements for drainage, access and utilities).

11.13.1.3 Floodways and floodway fringe within the 100-year floodplain as shown on official FEMA maps.

11.13.2 No portion of public utility easements of any kind may be considered part of the minimum required open space.

11.13.3 Open Space Layout. Open space land shall be designated as undivided parcels to facilitate easement monitoring, enforcement, maintenance and to provide appropriate management by a single entity according to approved land management standards.

11.13.4 As part of the application, an open space plan shall be submitted showing clear delineation of parcels of open space land that are not to be developed. The open space plan shall be recorded at the Registry of Deeds and shall indicate that development is restricted from the open space in perpetuity.

11.13.5 The minimum required open space shall be placed in undivided preserves that equal or exceed 3 acres. All parcels between 3 and ten acres shall have a length to width ratio equal to or less than 4:1; except such areas specifically designated and constructed as village greens, ballfields, upland buffers to wetlands, waterbodies or water courses, or trail links. Areas less in size of dimensional requirements may be considered common land left open, but shall not be included in the minimum required open space calculation.

11.13.6 Open space shall be directly accessible to the largest practicable number of lots within the development.

11.13.7 Safe and convenient pedestrian access to open space shall be provided from all lots not adjoining the open space.

11.14 DENSITY BONUS

11.14.1 The total density bonus eligible to a particular development authorized under this section shall not exceed 10% of the baseline density.

11.14.1.1 Where the proposed Conservation Subdivision plan shows 75% or more of the total parcel as open space protected as such in perpetuity, the development may be awarded a density bonus of 5%.

11.14.1.2 Public Access Bonus – Where the public is granted access to the open space, or portions of the open space, the development may be awarded a density bonus of 5%. The nature of public access required to trigger this bonus is pedestrian traffic. The instrument granting access, acceptable to the Planning Board, may reasonably restrict the use of motorized vehicles.

11.14.1.3 Agricultural Lands and Use Bonus – Where the development protects agriculturally valuable lands and provides permission for their use such in perpetuity, the development may be awarded a density bonus of 5%. The Planning Board shall, on a case-by-case basis, determine the bonus percentage by considering the size of the project and the number of acres of farmland reserved. The open space portion preserved for agricultural use must amount to a minimum of 50% of the minimum required open space. The instrument granting use, acceptable to the Planning Board, may reasonably restrict the type of intensity of farming to occur to prevent nuisances.

11.14.1.3.1 Example: 100-acre parcel requires 50% or 50 acres to be dedicated as open space. 50% or 25 acres of this open space must be available for agricultural use.

11.14.1.4 Viewshed Protection Bonus – where the development protects lands or corridors of land that contribute to the visual landscape of the town, including items such as open fields, containing stonewalls, mature stands of trees, visible water bodies and their natural buffers may be awarded as a density bonus of 5%

11.14.1.5 Density Bonus for Frontage Lots – Where a development is proposed such that a potential lot with the required lot size and legal frontage, under conventional subdivision design standards, on a roadway existing at the time of application within the Town of Newfields, for the underlying zone has been preserved in a natural condition, the development may receive an additional bonus of one lot. **(Amended 3/10/09)**

11.15 GENERAL REQUIREMENTS

11.15.1 Zoning Districts – Any residential subdivision, except for minor subdivisions as defined under the Town Subdivision Regulations, shall be required to adhere to the Conservation Subdivision Ordinance. **(Amended 3/14/2006)**

11.15.2 Uses – Only residential uses shall be permitted in the Conservation Subdivisions.

11.15.2.1 Single-family detached homes are permitted.

11.15.2.2 Duplex housing units are permitted.

11.15.2.3 Manufactured housing as defined in RSA 674:32 shall not be allowed in Conservation Subdivision developments per this section.

11.15.3 Frontage – The following frontage requirements shall apply. **(Amended 3/14/2006)**

11.15.3.1 Each single-family lot or unit shall have a minimum of 40' of frontage on interior roadways.

11.15.3.2 Duplex lots, for units sharing a common wall shall have a minimum of 65' of frontage on interior roadways.

11.15.3.3 Frontage requirements shall not apply to cluster subdivisions; however, individual units are subject to structure setbacks as defined in this ordinance.

11.15.4 Lot Size – The minimum proposed single family lot shall be ½ acre and the maximum may be greater than 2 acres. The minimum proposed duplex lot shall be 1 acre and the maximum may be greater than 2 acres. All lots shall be delineated by metes and bounds description under fee-simple ownership.

11.15.5 Setbacks – The following setbacks shall apply to all residential structures within the development.

11.15.5.1 Setbacks from exterior property lines of the entire parcel shall be 50' for single-family detached units, with an additional 15' per unit for duplex structures.

11.15.5.2 30' setbacks from the edge of pavement for roadways within, and part of the development.

11.15.5.3 40' structural separation for all single family unit structures within the development.

11.15.5.4 50' structural setback for duplex units from all other structures.

11.15.5.5 10' structural setback from all lot lines.

11.15.5.6 150' buffer, to remain in a natural vegetated state, from all existing roadway rights of way with the exception of the access roads to the proposed Conservation Subdivision development. (The extent of clearing undertaken for these access roads shall be minimal and shall be accomplished to the satisfaction of the Planning Board.)

11.15.6 Utilities – All utilities serving the development shall be underground. Community water and sewer systems may be used to the extent that denser unit clustering and smaller lot-sizing is achieved.

11.15.7 Parking – Of-street parking shall be provided for two (2) cars per unit plus a minimum of a one-car garage for each unit.

11.15.8 Perimeter Buffer – A seventy-five foot (75') natural buffer shall be provided along the perimeter of the subject land. If said perimeter is predominantly open land, it shall be suitably landscaped at the discretion of the Planning Board. No construction, excepting primary access roads shall be permitted in the buffer. Primary access roads shall be allowed to cross the perimeter buffer for entry to the site, but shall not be allowed to run within the buffer parallel to the perimeter property line. Septic systems, parking areas, and service roads shall be excluded from the landscaped buffer. No portion of the buffer area shall encroach onto any lot defined for construction of a dwelling. If the Planning Board should find that unique topography and other site conditions warrant a certain degree of flexibility in the extent of the required buffer zone, a waiver of the affected portion of said buffer may be taken under consideration. **(Amended 3/14/2006)**

11.16 LEGAL REVIEW

11.16.1 The legal review of the proposed development shall be conducted under the conditions delineated below:

11.16.1.1 Any condominium agreements, deed restrictions, organizational provisions for a Homeowner's Association or any legal entities providing for ownership of individual dwelling units and a sharing of certain utilities, open space, common areas, and auxiliary facilities and structures, must be approved in writing by the Planning Board and Town Counsel and any other municipal, county or state agency, body commission, or department required by law to assure the same.

11.16.1.2 The developer will submit a suitable legal instrument which to the satisfaction of the Board and/or Town Counsel will assure that such open space and/or common land will continue to be used for conservation, park or recreation and shall not be disposed of by sale or otherwise except to any organization established for the purpose of owning and maintaining such open space.

11.16.1.3 Such developer shall also provide for adequate maintenance of such area set aside for conservation, park or recreation. Such developer shall provide for the insertion in all deeds, in a form approved by the Planning Board and/or Town Counsel any and all safeguards and conditions suitable to carry out the purposes of these regulations.

1116.1.4 Such legal instruments shall also provide that the Town of Newfields, its agents, servants and employees, may, without liability, enter upon such land held for conservation, park or recreation and remove, or cause to be removed, any object, or condition which may be deemed to be a nuisance or in the nature of a nuisance.

11.17 EXPIRATION

11.17.1 Any Conditional Use Permit shall expire if active and substantial development or building has not begun on the site by the owner or the owner's successor in interest in accordance with the approved plat within 24 months after the date of approval. As part of its approval of a plat or plan, the Planning Board may, with due regard to the scope and details or a particular project, specify the threshold level of work which shall constitute "active and substantial development or building" for purposes of fulfilling this paragraph. In such cases, a new application for a Conditional Use Permit must be completed.

11.18 ENTITLEMENT

11.18.1 Strict adherence to these provisions shall not be construed as establishing a legal right to a conditional use permit for a Conservation Subdivision development. Those who wish to pursue their development rights to a certain use or development of land should consider developing their land with the permitted, conventional subdivision appearance, or through the variance procedures as provided for by New Hampshire law.

ARTICLE XII IMPACT FEE ORDINANCE **(Adopted 3/8/2005)**

12.1 AUTHORITY AND APPLICABILITY

12.1.1 This Ordinance is authorized by New Hampshire RSA 674:21, as an innovative land use control. The administration of this Ordinance shall be the responsibility of the Planning Board. This Ordinance, as adopted by the Town Meeting, as well as regulations and studies adopted by the Planning Board consistent with and in furtherance of this Ordinance, shall govern the assessment of impact fees imposed upon new development in order to meet the needs occasioned by that development for the construction or improvement of public capital facilities owned or operated by the Town of Newfields or the Newfields School District (including SAU 16).

12.1.2 The public capital facilities for which impact fees may be assessed in Newfields, include, and is limited to, water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water; drainage and flood control facilities; public road systems; and rights-of-way; municipal office facilities; pubic school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality of a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreation facilities not including public open space.

12.1.3 Prior to assessing an impact fee for one or more of the public capital facilities enumerated above, the Planning Board shall have adopted such studies or methodologies and related fee schedules that provide for a process or method of calculating the proportionate share of public capital improvement costs that are created by new development. Said adopted methodologies may only be revised after a public hearing by the Planning Board. Such calculations shall reasonably relate to the capital costs associated with the increased demand placed on capital facility capacity by new development.

12.1.4 The following regulations shall govern the assessment of impact fee for public capital facilities in order to accommodate increased demand on the capacity of these facilities due to new development.

12.2 FINDINGS

The Town of Newfields hereby finds that:

12.2.1 The Town of Newfields is responsible for and committed to the provisions of public capital facilities and services at standards determined by the Town to be necessary to support development in a manner which protects and promotes the public health, safety and welfare;

12.2.2 Public capital facilities have been and will be provided by the Town utilizing funds allocated through the Capital Improvements Program, which has been adopted and regularly updated by the Planning Board per the authorization of Town Meeting on March 8, 2005;

12.2.3 An impact fee ordinance for public capital facilities is consistent with the goals and objectives of the Master Plan and the Capital Improvements Program of the Town of Newfields;

12.2.4 New development in Newfields will create the need for the construction, equipping or expansion of public capital facilities in order to provide adequate public capital facilities for its residents;

12.2.5 Impact fees may be used to assess an equitable share of the growth-related cost of the capacity of public capital facilities resulting from the new development in proportion to the facility demands created by that development;

12.2.6 In the absence of impact fees, anticipated residential and non-residential growth and associated capital improvement costs will likely necessitate an excessive expenditure of public funds in order to maintain adequate public capital facility standards and to promote and protect the public health, safety and welfare.

12.2.7 Impact fees assessed pursuant to this Ordinance will not exceed the costs of:

12.2.7.1 Providing additional or expanded public capital facilities necessitated by new development in Newfields; and/or

12.2.7.2 Compensating the Town of Newfields or the Newfields School District (including SAU 16) for public capital facility capacity that is provided in anticipation of new development in Newfields.

12.3 DEFINITIONS

12.3.1 Fee Payer. The applicant for the issuance of a building permit that would create new development as defined in this Ordinance.

12.3.2 Gross Floor Area. The sum of these areas of all floors of main and accessory buildings on the lot as measured to the outside surfaces of the exterior walls. The gross floor area shall include basements, lobbies, and stair openings, elevator shafts and storage. The gross floor area shall exclude open wells (atriums), mechanical rooms, crawl spaces and attics without floors, attics used only for mechanical services, porches, balconies and open-sided roof-over areas.

12.3.3 New Development. An activity, which results in one of the following:

12.3.3.1 The creation of a new residence or residential units (as defined by the Newfields Zoning Ordinance); or

12.3.3.2 The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of residential units; or

12.3.3.3 Construction of a new-residential building on, or a net increase in the gross floor area of any non-residential building; or

12.3.3.4 The conversion of an existing use to another use if such change creates a net increase in the demand on public capital facilities that are the subject of impact fee assessment methodologies adopted b the Planning Board; or

12.3.3.5 A new or modified service connection to the public water system or the public wastewater disposal system of the Town of Newfields that would result in a net increase in demand on the capacity of these facilities.

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

12.4 COMPUTATION OF IMPACT FEES

12.4.1 The amount of each impact fee shall be assessed in accordance with written procedures or methodologies adopted and amended by the Planning Board for the purpose of public capital facility impact fee assessment in Newfields as in compliance with the requirements of RSA 674:21 (as amended by SB 414, 5004 Session). These methodologies shall set forth the assumptions and formulas comprising the basis for impact fee assessment, and shall include documentation of the procedures and calculations used to establish impact fee schedules. The amount of any impact fee shall be computed based on the municipal public capital improvement cost of providing adequate public capital facility capacity to serve new development.

Such documentation shall be available for public inspection in the Newfields Town Hall.

12.4.2 In the case of new development created by the conversion or modification of an existing use, the impact fee assessed shall be computed based upon the net increase in the impact fee assessment for the new use as compared to the highest impact fee that was or would have been, assessed for the previous use in existence on or after the effective date of this Ordinance.

12.5 ASSESSMENT OF IMPACT FEE

12.5.1 All impact fees imposed pursuant to this section shall be assessed at the time of Planning Board approval of a subdivision plat or site plan. When no Planning Board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development.

12.5.2 Any person who seeks a permit for new development, including permits for new or modified service connections to the public water system or public wastewater disposal system that would increase the demand on the capacity of those systems, is hereby required to pay the public capital facility impact fees authorized under this Ordinance in the manner set forth herein, except where all or part of the fees are waived in accordance with the criteria for waivers established in this Ordinance.

12.6 WAIVERS

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

12.6.2 A person may request a full or partial waiver of public school capital facility impact fees for those residences or residential units that are lawfully restricted to occupancy by senior citizens age 62 or older or to households with at least one person age 55 and over, as applicable, in a development that is maintained in compliance with the provisions of RSA 354-A:15, Housing For Older Persons.

The Planning Board may waive school impact fee assessments on age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy that are perpetual in nature.

12.6.3 The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver or impact fees under this provision that would involve a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the Board of Selectmen for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. Full or partial waivers may not be based on the value of exactions for on-site or off-site improvements required by the Planning Board as a result of subdivision or site plan review and which would be required of the developer regardless of the impact fee assessments authorized by this Ordinance.

12.6.4 The Planning Board may waive an impact fee assessment for a particular capital facility where it finds that the subject property has previously been assessed for its proportionate share of pubic capital facility impacts or has contributed payments or constructed capital facility improvements equivalent in value to the dollar amount of the fees waived.

12.6.5 The Planning Board may waive an impact fee assessment where it finds that, due to conditions specific to a development agreement, or other written conditions or lawful restrictions applicable to the subject property, the development will not increase the demand on the capacity of the public capital facility or system for which the impact fee is being assessed. Illegal provisions in a lease agreement restricting children from occupying units shall not qualify for this provision.

12.6.6 A Fee Payer may request a full or partial waiver of the amount of the impact fee for a particular development based on the results of an independent study of the demand on public capital facility capacity and related costs attributes to that development. In support of such request, the Fee Payer shall prepare and submit to the Planning Board an independent fee calculation or other relevant study and supporting documentation of the public capital facility impact of the proposed development. The independent calculation or study shall set forth the specific reasons for departing from methodologies and schedules adopted by the Town. The Planning Board shall review such study and render its decision. All costs incurred by the Town for the review of such study, including consultant and counsel fees, shall be paid by the fee payer.

12.6.7 A person may request a full or partial waiver of impact fees for construction within a plat or site plan approved by the Planning Board prior to the effective date of this Section. Prior to granting such a waiver, the Board must find that the proposed construction is entitled to the exemption as provided by RSA 674:39, pursuant to that statute (as amended by SB 414, Session 2004). This waiver shall not be applicable to phases of a phased development project where active and substantial development, building and construction has not yet occurred in the phase in which construction is proposed.

12.7 PAYMENT OF IMPACT FEE

12.7.1 Impact fees shall be collected at the time of certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use. Nothing in this subparagraph shall prevent the Planning Board and the assessed party from establishing an alternate, mutually acceptable schedule of payment of impact fees in effect at the time of subdivision plat or site plan approval by the Board. If an alternate schedule of payment is established, the Board may require developers to post bonds, issue letter of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of the assessed impact fees.

12.7.2 No building permit shall be issued for new development as defined in this Ordinance until the Code Enforcement Officer has assessed the impact fee. The Code Enforcement Officer shall not issue a certificate of occupancy for the development on which the fee is assessed until the impact fee has been paid in full or has been waived by the Planning Board. In the interim between assessment and collection, the Planning Board may authorize another mutually acceptable schedule of payment, or require the deposit of an irrevocable letter of credit or other acceptable performance and payment guarantee with the Town of Newfields.

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

12.8 APPEALS

12.8.1 A party aggrieved by a decision made by the Code Enforcement Officer pursuant to the assessment or collection of impact fees authorized by this Section may appeal such decision to the Zoning Board of Adjustment as provided by RSA 676:5, as amended.

12.8.2 The decision of the Zoning Board of Adjustment may be appealed to the Superior Court as provided by RSA 677:2-14.

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

12.9 ADMINISTRATION OF FUNDS COLLECTED

12.9.1 All funds collected under this Ordinance shall be properly identified and promptly transferred for deposit into separate impact fee accounts for each type of public capital facility for which impact fees are assessed. Each impact fee account shall be non-lapsing special revenue fund account and under no circumstances shall such revenues deposited therein accrue to the General Fund. The Town Treasurer shall have custody of all accounts and shall pay out the same upon approved vouchers through the accounts payable system.

12.9.2 The Town shall record all fees paid, by date of payment and the name of the person making payment. The Town shall maintain an updated record of the current ownership, tax map and lot reference number of properties for which fees have been paid under this Ordinance for each permit so affected for a period of at least nine (9) years from the date of receipt of the impact fee payment associated with the issuance of each permit.

12.9.3 Impact fees collected may be spent from time to time by order of the Board of Selectmen and shall be used solely for the reimbursement of the Town or the Newfields School District (including SAU 16), in the case of school impact fees, for the cost of the public capital improvements for which they were collected, or to recoup the cost of public capital improvements made by the Town or the School Board District in anticipation of the needs for which the impact fee was collected.

12.9.4 In the event that bonds or similar debt instruments have been or will be issued by the Town of Newfields or the Newfields School District for the funding of capacity-related improvements, impact fees from the appropriate related public capital facility impact fee account may be applied to pay debt service on such bonds or similar debt instruments.

12.9.5 At the end of each quarter, the Town shall prepare a report to the Town Treasurer, giving particular account of all impact fee transactions during that quarter. At the end of each fiscal year, the Town shall prepare a report to the Selectmen, Planning Board, Town Treasurer, and the Administration, giving a particular account of all impact fee transactions during the year.

12.10 USE OF FUNDS

12.10.1 Funds withdrawn from the public capital facility impact fee accounts shall be used solely for the purpose of acquiring, constructing or expanding, equipping, or improve public capital facilities, to increase their capacity, or to recoup the cost of such capacity improvements.

12.10.2 Effective upon passage of this Ordinance the updates of the Newfields Capital Improvement Program shall contain a procedure for assigning funds, including any accrued interest, from all of the public capital facilities impact fee accounts for specific public capital facility improvement projects related expenditures or debt service.

12.11 REFUND OF FEES PAID

12.11.1 The current owner of record of property for which an impact fee has been paid shall be entitled to a full or partial refund, whichever is applicable, plus accrued interest under the following circumstances:

12.11.1.1 When either the full or partial portion of the impact fee, whichever is applicable, has not been encumbered or legally bound to be spent for the purpose for which is was collected within a period of six (6) years from the date of the full and final payment of the fee; or

12.11.1.2 When the Town, or in the case of school impact fees, the Newfields School District has failed, within the period of six (6) years from the date of the full and final payment of such fee, to appropriate their proportionate share of related public capital improvement costs.

12.12 ADDITIONAL ASSESSMENTS

12.12.1 Payment of the impact fee under this Ordinance does not restrict the Town or the Planning Board from requiring other payments or improvements from the Fee Payer, as required by the subdivision or site plan review regulations, or as otherwise authorized by law.

12.2.2 The failure to adopt an impact fee for a particular capital facility shall not preclude a municipality from requiring developers to pay an exaction for the cost of off-site improvement needs determined by the planning board to be necessary for the occupancy of any portion of a development. For the purposes of this subparagraph, “off-site improvements” means those improvements that are necessitated by a development

but which are located outside of the boundaries of the property that is subject to a subdivision plat or site plan approval by the planning board. Such off-site improvements shall be limited to any necessary highway, drainage and sewer and water upgrades pertinent to that development. The amount of any such exaction shall be a proportional share of municipal improvement costs not previously assessed against other developments, which is necessitated by the development, and which is reasonably related to the benefits accruing to the development from the improvements financed by the exaction.

12.2.3 Aa an alternative to paying an exaction, the developer may elect to construct the necessary improvements, subject to bonding and timing conditions as may be reasonably required by the planning board. Any exaction imposed pursuant to this section shall be assessed at the time of planning board approval of the development necessitating an off-site improvement.

12.13 SCATTERED OR PREMATURE DEVELOPMENT

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

12.14 IMPACT FEES AND GROWTH MANAGEMENT ORDINANCE

12.14.1 The adoption of a growth management limitation or moratorium or indicator of growth impact by the Town of Newfields shall not affect any development with respect to which an impact fee has been paid or assessed as part of the approval for that development.

12.15 REVIEW AND CHANGE IN METHOD OF ASSESSMENT

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

ARTICLE XIII GROWTH MANAGEMENT ORDINANCE **(Adopted 3/8/2005)**

13.1 SUNSET

13.1.1 This Ordinance shall expire at the Annual Town Meeting in 2009 unless re-adopted at that meeting. The Planning Board shall make recommendations as to the necessity and desirability of re-adopting this ordinance prior to said Annual Town Meeting.

This article expired by operation of the above provision and is no longer in effect. For a copy of the full text of this section, the Town of Newfields maintains a previous version of this section for reference.

ARTICLE XIV ACCESS MANAGEMENT ORDINANCE **(Adopted 3/14/2006)**

14.1 AUTHORITY

14.1.1 These regulations are adopted pursuant to the authority granted in New Hampshire Revised Statutes Annotated (RSA) 674:35, and procedurally under the guidance of 675:6.

14.2 PURPOSE

14.2.1 These Access Management Regulations are adopted for the purposes of promoting traffic safety and efficiency, maintaining proper traffic capacity and traffic flow, reducing vehicular collision frequency, minimizing the future expenditure of public revenues, and improving the design and location of access connections to county and township roads while at the same time providing necessary and reasonable ingress and egress to properties along those roads.

14.2.2 The Newfields Planning Board finds and determines that these regulations establish the minimum standards necessary to properly manage access to arterial and town roads in the Town of Newfields and to carry out the purpose and intent of RSA 674:35.

14.3 IMPLEMENTATION AND ADMINISTRATION

14.3.1 The effective date of these regulations is March 14, 2006. The Newfields Planning Board is responsible for implementing and administering these regulations.

14.14 APPLICABILITY

14.4.1 These regulations shall apply to all access connections constructed on or after the effective date of these regulations designed or intended for motor vehicle, bicycle, equestrian or pedestrian use to arterial or town roads. They shall also apply to all existing access connections for the purposes described in this Article whenever the land use or the access classifications of such existing access connections change or whenever the existing access is upgraded by reconstruction, relocation, modification or expansion.

14.4.2 These regulations do not apply to the original approval of extant platted subdivisions governed by the Town of Newfields Subdivision Regulations.

14.4.3 Scenic Road: Streets and roads formally designated by the Town of Newfields as a Scenic Road are subject to all applicable provisions these regulations in addition to the requirements the Scenic Road statute.

14.15 DEFINITIONS

14.5.1 Access Classification: A classification system that defines driveways according to their purpose and use:

14.5.1.1 Minimum Volume (MV) driveway

14.5.1.1.1 Field drive –provides access to agriculture lands and principally used by farm equipment

14.5.1.1.2 Utility drive -provides access to public utility facilities

14.5.1.2 Very Low Volume (VLV) driveway

14.5.1.2.1 Farm drive -provides access to farm buildings, including single home

14.5.1.2.2 Single family residence drive

14.5.1.2.3 Single family common access drive serving four or fewer residences

14.5.1.2.4 Multi-family residence drive serving four or fewer residential units

14.5.1.2.5 Customary home occupations

14.5.1.2.6 Walking, jogging, biking or equestrian trails

14.5.1.3 Low Volume (LV) driveway

14.5.1.3.1 Less than one hundred (100) trip ends in the peak hour

14.5.1.4 Medium Volume (MV) driveway

14.5.1.4.1 One hundred (100) or more but less than two hundred (200) trip ends in the peak hour

14.5.1.5 High Volume (HV) driveway

14.5.1.5.1 Two hundred (200) or more trip ends in the peak hour

14.5.2 Access Connections: Any connection to a road or street which permits access to or from the road or street by vehicles, equipment, cars, trucks, uses, motorcycles, bicycles, pedestrians or horses or other animals, for the purposes of crossing the road or street or accessing the road or street. An access connection may be a road street, driveway or trail.

14.5.3 Driveway: An access connection other than from another public road or street.

14.5.4 Road Classification: A system for roadway hierarchy used to determine the appropriate degree of access management regulation in order to promote public safety and congestion prevention. For the purpose of these regulations, all roads on the State and Town road systems shall be placed in one of the following functional classifications: Principal Arterial, Minor Arterial, Collector, Subcollector, Local (Access) Streets. The classifications of state and town roads within the Town of Newfields are identified in the Town of Newfields Subdivision Regulations and Site Plan Review Regulations, which is subject to annual review and reclassification by the Planning Board.

14.5.5 Stopping Sight Distance (SSD): The distance required by a driver of a vehicle, traveling at a given speed, to bring the vehicle to a stop after an object on the roadway becomes visible.

14.5.6 Subdivision Regulations: The Town of Newfields Subdivision Regulations as enacted and amended by the Newfields Planning Board.

14.5.7 Technical Design Standards: The most recent publication of technical design standards as authorized by the Town of Newfields Subdivision Regulations and Site Plan Review Regulations.

14.5.8 Definitions by Reference: Article II Definitions of the Newfields Zoning Ordinance, Article II of the Newfields Subdivision Regulations and Section 10.5 of the Newfields Site Plan Review Regulations are incorporated by reference into these regulations to the extent not inconsistent with the above definitions.

14.6 PRELIMINARY ACCESS APPROVAL

14.6.1 In conjunction with any subdivision or site plan approval, the Planning Board shall issue a preliminary access approval. The preliminary access approval will indicate those locations along the lot for which access is acceptable and in conformance with these regulations.

14.6.2 Prior to the issuance of a building permit for any parcel of land which is not subject to a subdivision or site plan approval, the Road Agent shall, upon written request, issue a preliminary access approval. The preliminary access approval will indicate those locations along the lot for which access is acceptable and in conformance with these regulations. The preliminary access approval shall be issued within seven (7) working days following submission of all the information required by these regulations.

14.6.3 For preliminary access approval or for access permit issuance when no preliminary access approval was required, the Road Agent may require any or all of the following information be shown by a registered engineer or surveyor on either a survey plat or other accurate drawings:

14.6.3.1 Distances from the side property lines to the nearest adjacent driveways and their use.

14.6.3.2 Location of any driveways across from the property and their use.

14.6.3.3 Location of any driveways on the property and their use.

14.6.3.4 Available sight distance (SSD) and required sight distance (SDD).

14.6.3.5 Required driveway spacing.

14.6.3.6 Location of proposed driveways, if know.
14.6.3.7 Other information as required by the Road Agent.

14.7 ACCESS PERMITS

14.7.1 Prior to the construction of a driveway, the Road Agent shall issue an access permit. The permit will be for access at a location for which a preliminary access approval was previously granted or at a location that is otherwise in conformance with these regulations. In those situations where no preliminary access approval was issued, the Road Agent may require submission of the Preliminary Access Approval information.

14.7.2 Permits issued may include interim or temporary permits and shall prescribe the permitted uses and any limitations or conditions of the permit as well as the access classification. New permits are required whenever the land use or the access classifications of existing driveways change or whenever existing driveways are upgraded, including widening.

14.7.3 For Minimum Volume and Very Low Volume driveways, access permits shall be issued with the building permit or within seven (7) working days following submission of all information required by these regulations.

14.7.4 For all other driveway classifications, access permits shall be issued within thirty (30) working days following submission of all information required by these regulations.

14.7.5 Any access permit which is not approved and issued or is not disapproved within the above time frames shall be deemed approved and shall be issued in accordance with the information submitted.

14.7.6 An access permit fee as established by the Board of Selectmen to cover the cost of administering these regulations shall accompany the access permit application.

14.7.7 Access Permits shall expire if the driveway is not constructed within one (1) year of the date of access permit issuance.

14.7.8 Where required, a New Hampshire Department of Transportation (NHDOT) Driveway Permit must be approved in addition to a local access permit. Issuance of an NHDOT Driveway Permit does not supersede the requirements specified herein and does not presuppose entitlement of a local access permit.

14.8 VARIANCES AND APPEALS

14.8.1 Variances may be granted by the Zoning Board of Adjustment for all classes of driveways. Variances are appropriate if not contrary to the public interest where, owing to special conditions, a literal enforcement of the regulations will result in unnecessary hardship and such that the spirit of the regulations will be observed and substantial justice done.

14.8.2 In the granting of variances in accordance with the standards on paragraph A, the Board of Appeals may consider the following:

14.8.2.1 Whether not granting the variance would deny all reasonable access.

14.8.2.2 Whether granting the variance would endanger the public safety.

14.8.2.3 Whether the hardship was self-created.

14.8.2.4 Whether granting the variance would hinder traffic safety or the proper operation of the public road.

14.8.2.5 Whether granting the variance would be consistent with the purpose of these regulations.

14.8.2.6 Whether all feasible access options except granting a variance have been considered.

14.8.3 The applicants for variances may provide evidence of unique or special conditions that make the strict application of these regulations impractical or impossible. Such evidence may include:

14.8.3.1 Indirect or restricted access cannot be obtained.

14.8.3.2 No engineering or construction solutions can be applied to mitigate the condition.

14.8.3.3 No alternative access is available.

14.8.4 All applications for appeals or variances shall be filed in accordance with the town of Newfields Zoning Ordinance. Appeals shall be filed within thirty (30) days of the Planning Board/Road Agent's decision.

14.9 ENFORCEMENT

14.9.1 If any driveway is installed contrary to these regulations, the Code Enforcement Officer shall notify the property owner in writing. The notification shall identify the problem with the driveway and establish a 15 day period for the property owner to correct the problem. If the problem is not corrected within 15 days, the town may block the access at the point that it enters a public road right-of-way.

14.9.2 In addition, whoever violates any provision of these regulations shall be fined upon conviction not more than five hundred dollars for each offence. Each day of violation is a separate offense.

14.10 STANDARDS

14.10.1 The arrangement, character, extent width, grade and location of all access connections shall conform to these regulations and shall be considered in their relation to existing and planned roads, streets and driveways, topographical conditions, and public convenience and safety and the proposed uses of the land to be served by such access connections.

14.10.1.1 The requirements of these regulations vary depending on the road classification as defined herein.

14.10.1.2 The provisions of any existing or future Access Management Plan prepared for a specific road or portion of a road shall apply. The applicable requirements of the Subdivision Regulations and the Technical Design Standards shall also apply.

14.10.2 General

14.10.2.1 All driveways or driveway upgrades shall meet or exceed the requirements of these regulations. The location of all access connections shall permit adequate horizontal and vertical sight distance as specified in the Technical Design Standards based on the stopping sight distance for the legal speed limit at the location of the driveway.

14.10.2.2 Common access driveways and/or cross access or through access easements may be required and are permitted to satisfy the requirements of these regulations. Proposed common access driveways and/or cross access or through access easements shall be in accordance with the Common Access Drive Regulations in the Technical Design Standards.

14.10.2.3 Existing driveways that do not conform with these regulations shall be considered nonconforming driveways and shall be brought into conformance with these regulations under the following conditions:

14.10.2.3.1 When new access permits are requested;

14.10.2.3.2 When driveway upgrades are proposed;

14.10.2.3.3 When significant increases in trip generation are planned for the driveway;

14.10.2.3.4 If the use served by the nonconforming driveway discontinues for a consecutive period of 2 years; or

14.10.2.3.5 When there is a change of use of the property access.

14.10.2.4 To the greatest extent possible developments shall incorporate unified access and circulation systems. Where a proposed development abuts to and connects, through internal circulation, to an existing subdivision or development which has access to a Collector or Local Road, the proposed development shall, when necessary, upgrade the intersection at the Collector or Local Road and the existing subdivision's or development's access to the Collector and Local Road.

14.10.2.5 When a new driveway or driveway upgrade is permitted, the property owner(s) shall eliminate all pre-existing nonconforming driveways upon completion of the new driveway or driveway upgrade as required by the Planning Board. No new driveways or driveway upgrades shall be permitted for parcels or contiguously -owned parcels where access rights have been previously extinguished or acquired by a government body.

14.10.2.6 The Planning Board shall require a Traffic Impact Study for any Medium Volume or High Volume driveway and may require a Traffic Impact Study for a Low Volume driveway. The Traffic Impact Study shall be prepared in accordance with the requirements of the Technical Design Standards and the Planning Board.

14.10.3 Number, Spacing and Width of Access Points

14.10.3.1 Number of access points:

14.10.3.1.1 Minimum Volume Driveways

14.10.3.1.1.1 New driveways or driveway upgrades shall be located no closer than 495 feet from an existing or proposed

driveway serving the same parcel or serving contiguously owned parcels.

14.10.3.1.2 Very Low Volume Driveways

14.10.3.1.2.1 Along Principal Arterial: No new driveways or driveway upgrades shall be permitted along a Principal Arterial from parcels or contiguously -owned parcels where access is available or can be made available from a lower classification road or street or from a common access driveway. No more than one driveway shall be permitted per parcel or per contiguously owned parcels.

14.10.3.1.2.2 Along Minor Arterial Roads: No new driveways or driveway upgrades shall be permitted along a Minor Collector Road from parcels or contiguously -owned parcels where access is available or can be made available from a lower classification road or street. No more than one driveway shall be permitted per parcel or per contiguously owned parcels.

14.10.3.1.2.3 Along Collectors or Subcollectors: No more than one driveway or driveway upgrade shall be permitted per parcel or per contiguously owned parcels.

14.10.3.1.2.4 Along Local Streets: No more than one driveway or driveway upgrade shall be permitted per parcel or per contiguously owned parcels.

14.10.3.1.3 Low, Medium and High Volume Driveways

14.10.3.1.3.1 No more than one driveway shall be permitted per parcel or per contiguously owned parcels.

14.10.3.2 Driveway Access Spacing:

14.10.3.2.1 Driveway access spacing shall be measured from the edge of the proposed driveway pavement to the nearest edge of the roadway of the adjacent or opposite driveway or street.

14.10.3.2.2 Minimum Volume Driveways

14.10.3.2.2.1 New driveways or driveway upgrades shall be located no closer than 25 feet from an existing or proposed driveway and no closer than 80 feet from an existing or proposed road or street.

14.10.3.2.3 Very Low Volume Driveways

14.10.3.2.3.1 Along Principal Arterial: Where new or driveway upgrades along a Principal Arterial are permitted, they shall be located no closer than 495 feet from an existing or proposed driveway or from an existing or proposed road or street.

14.10.3.2.3.2 Along Minor Arterial Roads: Where new driveways or driveway upgrades along a Minor Collector Road are permitted, they shall be located no closer than 360 feet from an existing or proposed driveway or from an existing or proposed road or street.

14.10.3.2.3.3 Along Collectors or Subcollectors: New driveways or driveway upgrades shall be located no closer than 40 feet from an existing or proposed driveway and no closer than 120 feet from an existing or proposed road or street.

14.10.3.2.3.4 Along Local Streets: New driveways or driveway upgrades shall be located no closer than 25 feet from

an existing or proposed driveway and no closer than 80 feet from an existing or proposed road or street.

14.10.3.2.4 Low, Median and High Volume Driveways

14.10.3.2.4.1 No more than one driveway shall be permitted per parcel or per contiguously-owned parcels.

14.10.3.2.4.2 If the centerline of an opposite drive is less then fifteen feet (15') from the centerline of the proposed drive, the drives form an intersection and the minimum spacing requirements shall apply for the closest drive.

14.10.3.2.4.3 Opposite-right driveways shall be located no closer than the minimum requirements of Table 1A. Additional opposite right spacing over and above that set forth in Table 1A may be required if the Planning Board determines that there is insufficient left turn queue storage or weave maneuver area between the opposite right driveway and proposed driveway. This determination shall be made under peak traffic conditions. Desirable spacing will be required except where minimum spacing may be allowed in order developments with insufficient frontage.

Table 1A
Opposite Right (Downstream) Driveway Spacing

Roadway Classification	Minimum Spacing (Feet)	Desirable Spacing (Feet)
Major Arterial	300	400
Minor Arterial	225	350
Collector & Subcollector	175	300
Local Street	125	250

14.10.3.2.4.4 A minimum of one hundred twenty-five (125') shall be required between opposite-left driveways for all roadway classifications.

10.14.3.2.4.5 Same-side adjacent driveways shall be located no closer than the minimum requirements of Table 1B. Desirable spacing will be required except where minimum spacing may be allowed in older developments with insufficient frontage.

Table 1B
Same-side Adjacent Driveway Spacing

Roadway Classification	Minimum Spacing (Feet)	Desirable Spacing (Feet)
Major Arterial	275	350
Minor Arterial	230	300
Collector	185	235
Local Street	150	190

14.10.3.3 Signalized Access Driveway Spacing:

14.10.3.3.1 Along Principal Arterials: For new driveways or driveway upgrades that will warrant traffic signals, the spacing from the nearest existing or proposed signalized intersection shall be no closer than 2640 feet from the nearest existing or proposed unsignalized intersection shall be no closer than 1320 feet.

14.10.3.3.2 Along Minor Arterials: For new driveways or driveway upgrades that will warrant traffic signals, the spacing from the nearest existing or proposed

signalized intersection shall be no closer than 1760 feet from the nearest existing or proposed unsignalized intersection shall be no closer than 880 feet.

14.10.3.3.3 Along Local Roads: For new driveways or driveway upgrades that will warrant traffic signals, the spacing from the nearest existing or proposed signalized intersection shall be no closer than 1320 feet from the nearest existing or proposed unsignalized intersection shall be no closer than 660 feet.

14.10.3.4 Driveway Approach Width

14.10.3.4.1 Commercial/Industrial: The maximum width of a driveway approach for a two-way driveway shall not exceed thirty-six feet (36') including two-foot (2') shoulders. The minimum width of a driveway approach for twoway driveway shall not be less than twenty-four feet (24') including two-foot (2') shoulders.

14.10.3.4.2 Residential: The maximum width of a driveway approach shall not exceed fifteen feet (15'), The minimum width of a driveway approach shall not be less than ten feet (10'). The combined width of two driveways for residential circular drives shall not exceed twenty-eight feet (28').

14.10.4 Turning Radii

14.10.4.1 Turning Radii. The principal users of the roadway shall be considered when determining the inside turning radii. The inside turning radii shall vary between a minimum of fifteen feet (15') and a maximum of thirty feet (30') and meet the minimum and maximum requirements of Table 2A.

Table 2A
Inside Turning Radii

Land Use	Minimum Inside Turning Radii (Feet)	Maximum Inside Turning Radii (Feet)
Residential Only	15	20
Commercial/Industrial Only	20	30
Mixed Uses	15	30

14.10.5 Corner Clearance

14.10.5.1 No driveway approach may be located closer to the corner than indicated in Table 3A. The measurement shall be taken from the intersection of property lines at the corner to the nearest edge of the proposed driveway pavement. When these requirements cannot be met due to lack of frontage, the nearest edge of the proposed driveway pavement shall be located as far as possible from the intersection of property lines at the corner.

Table 3A
Distance of Driveway
Approach from Corner

Speed (mph)	Distance from Corner (feet)
30	325
35	425
40	525
45	630
50	750
55	875

14.10.6 Throat Length

14.10.6.1 Driveway Throat Length. Driveway throat length shall be measured from the edge of the property line to the furthest end of the driveway. A minimum driveway throat length of twenty-five feet (25') for collector streets, forty feet (40') for minor arterials, and fifty-five feet (55') for principal arterials shall be required. The purpose of the driveway throat length is to allow for traffic entering the site to be stored on site in order to avoid a queue of traffic on the roadway causing delays and a potentially hazardous situation.

14.10.7 Shared Access

14.10.7.1 Shared Access. Shared driveways are encouraged and may be required between adjacent lots that front on arterial and collector streets. In such cases, a joint access easement between the property owners may be required. The location and dimensions of said easement shall be determined by the Planning Board.

14.10.7.2 Shared Parking Provision. Parking provision for any combination of uses on the same site shall consider the opportunity for combined visits (i.e., one parking space in front of a gas station in a combined gas station/convenience store development). Shared parking arrangements with adjoining non-residential developments or other uses on site are encouraged. Off-site shared paring shall be protected with a shared parking easement agreement which shall be reviewed and approved by the Planning Board and recorded with approved site plan.

14.10.7.3 Parking shall be located within six hundred feet (600') of the principal use and connected to the principal use by a five foot (5') wide pedestrian path.

14.10.7.4 Parking shall not be permitted in any required setback or between the principal structure and a public street, including corner lots. Parking shall be located to the side or rear of the principal structure. The Planning Board may waive this requirement in situations where lot configuration or use renders such parking lot location impractical; however, effort shall be made to locate parking to the side or rear of buildings.

14.10.8 Alignment of Access Points

14.10.8.1 Intersection Alignment. If a proposed driveway cannot meet the requirements of Section 1, above, then the proposed driveway shall be aligned directly opposite an existing or proposed opposite driveway and the configuration shall be treated as a four-way intersection.

14.10.8.2 Angle of Driveway Approach. The angle of driveway approach shall be approximately ninety (90) degrees for two-way driveways and between sixty (60) degrees and ninety (90) degrees for one-way driveways.

14.10.9 Sight Distance

14.10.9.1 All season safe sight distance is defined as a line which encounters no visual obstruction between two (2) points, each at a height of three feet nine inches (3'-9') above the pavement, and then ten feet (10') back from the road pavement as to represent the critical line of sight between the operator of a vehicle using the access and the operator of a vehicle approaching from either direction.

14.10.9.2 Safe sight distance shall be compatible with the maximum speed limit posted on the roadway as indicated in Table 6A.

Table 6A
All-Season Safe Sight Distance

	All Season Safe Sight Distance (feet)					
Speed (mph)	Downgrades			Upgrades		
	3%	6%	9%+	3%	6%	9%+
25	158	165	173	147	143	140
30	205	215	227	200	184	179
35	257	271	287	237	229	222
40	315	333	354	289	278	269
45	378	400	427	344	331	320
50	446	474	507	405	388	375
55	520	553	593	469	450	433

14.10.9.3 To prevent hardships to owners of small parcels of land or special land uses, exceptions to the all season safe sight distance requirements should be allowed for individual homes, agricultural land, public works land, highway department land and temporary accesses for vehicles such as construction vehicles, gravel trucks and log trucks. The road shall then be properly signed for "Blind Drive" or "Trucks Entering".

14.10.10 Bicycle And Pedestrian Provision

14.10.10.1 General Provisions. The site plan shall provide for a system of pedestrian and/or bicycle paths appropriate to the type and scale of development. This system shall connect the major building entrances/exits, parking areas, and nay existing sidewalks within or adjacent to the project. The pedestrian and/or bicycle network may be located either in the street right-of-way or outside of the right-of-way in open space or recreational areas. The systems shall also be designed to link the project with residential, recreational, commercial facilities, schools, bus stops and existing bicycle or pedestrian facilities in the neighborhood. When deemed appropriate, connections with amenities such as parks or open space on or adjacent to the site may be required.

14.10.10.2 Pedestrian Paths. A minimum five foot (5') wide pedestrian path shall be provided throughout the site, connecting adjacent streets, sidewalks and parking area(s) to the entrances of all principal structures. Pedestrian paths shall be marked by accent strips of brick, concrete block or textured paving materials to define pedestrian walkways and crosswalks. Pedestrian paths may be incorporated with accessible routes as required by the Americans with Disabilities Act, as amended.

Guidelines for sidewalk construction features are as follows (guidelines may be modified to meet site specific situations with Planning Board approval):

14.10.10.2.1 Accessibility. Sidewalk corridors shall be easily accessible to all users, whatever their level of ability and comply with all Americans with Disability Act (ADA) standards.

14.10.10.2.2 Adequate Travel Width. The sidewalk shall be a minimum of five feet (5') wide.

14.10.10.2.3 Continuity. The walking route along a sidewalk corridor shall be obvious, shall connect destinations and shall not require pedestrians to travel out of their way unnecessarily.

14.10.10.2.4 Landscaping. Plantings and street trees in the sidewalk corridor shall create a desirable environment and shall contribute to the psychological and visual comfort of sidewalk users.

14.10.10.2.5 Social Space. Sidewalk corridors shall provide places for people to interact. There shall be places for standing and sitting.

14.10.10.2.6 Quality of Place. Sidewalk corridors shall contribute to the character of neighborhoods and business districts and strengthen their identity. Rural pathways/trails or mixed use trails shall be considered as alternatives where appropriate.

14.10.10.3 Bicycle Facilities. Separate bicycle facilities may be required by the Planning Board if deemed appropriate. Bicycle facilities may be provided in the form of a separate off-street path or on street marked bicycle lanes. Bicycle facilities may be combined with pedestrian facilities. Bicycle facilities shall be designed in accordance with AASHTO, Guide for the Development of Bicycle Facilities, 1999, as amended.

14.10.11 Transit Provisions

14.10.11.1 Mass Transit Facilities. Mass transit facilities shall be incorporated within all major site plans that could generate high volumes of transit use. Transit routes, access points, bus pull-out facilities and shelter locations shall be addressed along major roadways within and on the perimeter of such projects. Transit facilities shall be provided in a manner to make transit an attractive mode of travel for both employees and patrons. Shelters shall be located next to significant clusters of buildings, and shall be provided protection from prevailing winds and inclement weather. A five foot (5') wide pedestrian path shall connect the bus shelter to the principal structure(s) in the development.

14.10.11.2 Bus Pull-Out Facilities. Bus pull-out facilities shall be incorporated into all mass transit projects located along a collector or arterial roadway. A clear separation shall be provided between the pull-out facilities and vehicular traffic and parking lots or parking structures. Pull-out facilities shall not obstruct traffic flow when busses discharge passengers.

14.10.12 Roundabouts

14.10.12.1 Roundabouts. Roundabouts as defined in FHWA, Roundabouts: An Informational Guide, June 2000, as amended, may be used as an alternative to traditional three or four-way intersections where traffic conditions allow.

14.11 ADOPTION

14.11.1 These regulations are adopted by Town Warrant March 14, 2006.

ARTICLE XV RENEWABLE ENERGY SYSTEMS AND DISTRIBUTED ENERGY RESOURCES **(Adopted March 10, 2009)**

15.1 AUTHORITY AND PURPOSE

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

15.2 DEFINITIONS

15.2.1 Distributed energy resources. Electric generation equipment, including clean and renewable generation, energy storage, location on or inter-connected to the local electric distribution system for purposes including but not limited to reducing the line losses, supporting voltage regulation, or peak load shaving, as part of a strategy for minimizing transmission and distribution costs as provided in RSA 374-F:3, III. Distributed generation resources shall include fossil-fuel fueled cogeneration systems 100 kw and less that produce combined heat and power with a minimum energy efficiency of 60 percent, measured as usable thermal and electrical output in BTUs divided by fuel input in BTUs, shall be installed as an integrated combined heat and power application and shall meet the following emission standards (in lbs/MW-H): NOx-0.07; CO-0.10; VOCs-0.02. A credit to meet the standard may be applied at the rate of one MW-H for each 3.4 million BTUs of heat recovered.

15.2.2 Large renewable energy system. A renewable energy system and all accessory structures, activities, and associated control or conversion electronics, which has a rated capacity of over 100 kilowatts used primarily for off-site sale and consumption.

15.2.3 Large distributed energy resources. A distributed energy resource that exceeds 100 kw is less than 5 MW.

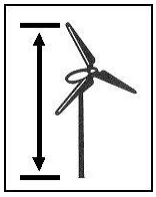
15.2.4 Meteorological tower (met tower). Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or 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 needs to assess the potential to install, construct or erect a small wind energy system.

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

15.2.6 Owner. The individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance.

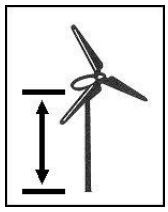
15.2.7 Renewable energy system. A facility, including transmission lines and all associated use, that produces electricity and/or heat from a Class I or Class II source as defined in NH RSA 362-F (including but not limited to and for purposes of illustration: solar, biomass, hydro, tidal, wind, etc.)

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



15.2.9 Small wind energy system. A type of renewable energy system that uses wind to 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.

15.2.10 Small renewable energy systems. A renewable energy system and all accessory structures, activities and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.



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

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

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

15.2.14 Wind energy system. The blades and associated mechanical and electrical conversion components mounted on top of a tower and/or on the ground and any other facility whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

15.3 PROCEDURE FOR REVIEW

15.3.1 Small renewable energy systems and small distributed energy resources (5 kw or less): Any renewable energy system or distributed energy resource, other than a small wind energy system, with a rated capacity of below 5 kw may be constructed in any district in town without further town review other than a required building permit.

15.3.2 Small renewable energy systems and distributed generation resources that have a capacity of over 5 kw up to 100 kw may be constructed in any district in town by conditional use permit by the Planning Board.

15.3.3 Small wind energy systems and large renewable energy systems (over 100 kw) shall require a conditional use permit approval by the Planning Board.

15.3.3.1 Permitted Zoning Districts: Small wind energy systems and large renewable energy systems, and where applicable met towers, shall be permitted by conditional use permit in the following zones and under the application requirements specified under Section 15.1.1:

i. Industrial District
ii. Commercial District
iii. Residential-Agricultural District

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

15.3.5 Conditional Use Permit: No small wind energy system or large renewable energy system shall be erected, constructed or installed without first receiving a conditional use permit from the Planning Board. The conditional use permit shall clearly set forth all conditions of approval and shall list all plans, drawings and other submittals that are part of the approved use. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval.

15.3.6 Conditional Use Permit applications. Small wind energy systems may provide information in sketch form and manufacturers data for purposes of this section. All other large renewable energy systems shall be submitted to the Planning Board and shall contain the information specified below in detail with engineering data and site specific information.

15.3.6.1 Property lines and physical dimensions of the applicant's property (a survey is not required).

15.3.6.2 Location, dimensions, and types of existing major structures on the property.

15.3.6.3 Location of the proposed renewable energy system, mounts, foundations, guy anchors and associated equipment.

15.3.6.4 Tower foundation blueprints or drawings.

15.3.6.5 Design specifications and manufacturers data on the equipment to be installed including generation equipment, inverts, etc.

15.3.6.6 Setback requirements as outlined in this ordinance.

15.3.6.7 The right-of-way of any public road that is contiguous with the property.

15.3.6.8 Any overhead utility lines present or to be installed on the site.

15.3.6.9 Renewable energy system specifications, including manufacturer, model and nameplate generation capacity and for wind systems: rotor diameter, tower height and tower type.

15.3.6.10 Sound level information provided by the wind generator manufacturer or a qualified engineer.

15.3.6.11 Evidence of compliance or non-applicability with all State and Federal permits and approvals including NH DES, Federal Energy Regulatory Commission (FERC), the Federal Aviation Administration and any other agency with authority over the installation.

15.4 EXCEPTION

Municipal projects, which shall be denied as any project where the Town of Newfields is the host for the system under a lease agreement or power purchase agreement or where the Town is the majority owner of the new renewable energy system, shall be considered a governmental use in accordance with RSA 674:54 and subject to the provisions therein with respect to limited hearings and comments filed by the Planning Board.

15.5 ABUTTER AND REGIONAL NOTIFICATION

In accordance with RSA 674:66, the Town shall notify all abutters and the local governing body by certified mail upon application submittal to construct a small wind energy system.

15.6 STANDARDS

15.6.1 The Planning Board shall evaluate the application for compliance with the following standards:

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

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

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

15.6.1.2 Small Wind Energy System Tower: The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 100 feet.

15.6.1.3 Sound Level: Small wind energy systems shall not exceed 60 decibels, as measured at the property line, except during short-term events such as severe wind storms and utility outages.

15.6.1.4 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 and appropriate warning signs.

15.6.1.5 Code Compliance: The small wind energy system shall comply with all applicable sections of the applicable codes for the Town of Newfields.

15.6.1.6 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.

15.6.1.7 Visual Impacts: It is inherent that wind energy systems and some large renewable energy systems may post visual impacts due to the tower height needed to access wind resources and equipment placement or installations. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.

i) The applicant shall demonstrate through project site planning and proposed mitigation that the large renewable energy system and wind energy systems visual impacts will be minimized for surrounding neighbors and the community. This may

include, but not be limited to information regarding site selection, wind generator design or appearance, buffering and screening of ground mounted electrical and control equipment.

ii) The color of the wind energy systems shall either be the stock color from the manufacturer or painted with a non-reflective, unobstrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.

iii) A wind energy system shall not be internally 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 wind energy system.

15.6.1.8 Access: Wind energy systems shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum of 8 feet above the ground. All ground-mounted electrical and control equipment for any renewable energy system shall be labeled and secured to prevent unauthorized access.

15.6.1.9 System Modifications: Any substantial system modifications outside of these provided in the conditional use permit shall require gaining additional approval from the Planning Board. Such substantial system modifications shall include:

1) Any increase in system size.
2) Any increase in height.
3) Any other modification to system component the Planning Board should find applicable.

15.7 ADDITIONAL REQUIREMENTS AND REGULATIONS

The Planning Board may require additional data for the permitting and placement of large distributed energy resources and wind energy systems above 100 kw.

15.7.1 Large distributed energy resources and wind energy systems that exceed a capacity of 100 kw shall be considered commercial uses and shall have their location, height and impacts regulated by the Planning Board through site plan review regulations.

15.7.2 Prior to the consideration of any permit for a large distributed energy resource or wind energy system over 100 kw, the planning board shall be authorized to adopt additional site plan review regulations in accordance with RSA 3674:43-44 to regulate the placement design and mitigation of impacts for wind energy systems.

15.8 ABONDONMENT

15.8.1 At such time that a wind energy system is scheduled to be abandoned or discontinued, the applicant or owner will notify the building inspector of the proposed date of abandonment or discontinuation of operations.

15.8.2 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 discontinuance of use. This period may be extended at the request of the owner and the discretion of the building inspector. “Physically remove” shall include, but not be limited to:

15.8.2.1 Removal of the wind generator and tower and related above-grade structures.
15.8.2.2 Restoration of the location of the 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.

15.8.3 Failure to address issues of abandonment shall be controlled by NH RSA 674:65.

15.9 VIOLATIONS AND PENALTIES

Any person who fails to comply with any provision of this zoning ordinance shall be subject to enforcement and penalties in accordance with New Hampshire State Law.