TOWN OF

LITCHFIELD, NH

LAND USE LAWS

2009 ZONING ORDINANCE

RECODIFIED MARCH 1986
RECODIFIED MARCH 1994

AMENDED MARCH; 1987, 1989,
1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999,
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May, 2009 (Floodplain Conservation District –FEMA FIS & FIRM Update) Effective 9/25/09

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LITCHFIELD ZONING ORDINANCE

100.00 PURPOSE AND AUTHORITY (March 8, 1994)

This ordinance is adopted pursuant to and in accordance with the authority granted by NH RSA 674:16 through 674:21, inclusive.

The purpose of this ordinance is to promote the health, safety and general welfare of the inhabitants of the Town of Litchfield, New Hampshire by encouraging the most appropriate use of land throughout the Town and to:

a. lessen congestion in the streets;

b. secure safety from fires, panic and other dangers;

c. provide adequate light and air;

d. prevent the overcrowding of land;

e. to avoid undue concentration of population;

f. facilitate the adequate provision of transportation, solid waste facilities, water, sewer, schools, parks, child day care and housing opportunities for all of its citizens; and

g. assure the proper use of natural resources and other public requirements.

101.00 Adoption and Amendments. (March 8, 1994)

This Zoning Ordinance was originally adopted by ballot vote at Town meeting in March 1957 and re-codified by the voters of the Town of Litchfield, New Hampshire, in Official Town Meeting this 8th day of March 1994.

This ordinance may be amended by an official ballot vote of any legally constituted Town Meeting provided public notice has been given, public hearings conducted and adoption is made in accordance with NH RSA 675:2-5, as amended.

The Planning Board has the authority to assign such section numbers to the Zoning Ordinance and Building Code as it may deem appropriate provided that no substantive change to the Ordinance shall occur as a result of the renumbering.

200.00 *DEFINITIONS* *(March 8, 1994)*

For the purpose of this ordinance, certain words, terms or phrases shall have the meaning as stated in this section unless the context clearly indicates otherwise; and

a. words in the present tense include the future;

b. the singular includes the plural and the plural includes the singular; and

c. terms and words not defined in this ordinance shall have the meanings understood in common usage and as defined in standard American dictionaries.

200.01 *Abandonment*. Where any non-conforming use of a building or a structure is discontinued for more than one year, or where a non-conforming use of land is discontinued for a period of more than one year, or the replacement of the non-conforming use of the land or building or structure with a conforming use or building or structure, then the non-conforming use of a building, structure or use of land shall be deemed to be abandoned.

200.01.1 Abutter: Any person whose property adjoins or is directly across the street or stream from the land under consideration by the Board. If an abutting property is under condominium or other collective form of ownership, the officers of the collective or association as defined in RSA 356-B:3, XXIII, shall receive the formal notification. For purposes of receiving testimony only, and not for the purpose of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. (Adopted March, 2009)

200.02 *Adult Sexually Oriented Business*. A business where one of its primary or principal business purposes is for the display and sale of sexually explicit goods and services including, but not limited to sexually explicit books, videos, movies, computer software, or other visual or audio representations, including ones which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1; or instruments, devices, or paraphernalia which are designed or used in connection with "sexual conduct" as set forth in RSA 571-B:1, other than birth control devices. Examples of adult sexually oriented business uses include, but are not limited to places where a regular and substantial course of business operation involves the sale and display of sexually explicit goods and services such as: adult motels and theatres where sexually explicit films or videos are shown, places with mini-motion picture or coin operated displays, motels and theatres where sexually explicit films or videos are shown, Adult cabaret, nude modeling studios, adult bookstores, massage parlors, escort agencies, or sexual encounter centers. (March 1999; Amended March 2000.)

200.03 *Building, Accessory*. A detached building located on the same lot as the principal building, which is customarily used for purposes incidental and subordinate to those of the principal building.

200.04 *Building*. Any combination of materials, whether portable or fixed, having a roof or cover which forms a shelter for persons, animals or property.

200.05 *Duplex or Two-family Residence*. Two attached dwelling units contained in a single building.

200.06 *Code Enforcement Officer*. An appointed official whose primary responsibility is to enforce the Zoning Ordinance of the Town of Litchfield.

200.07 *Dwelling Unit*. A single unit providing complete independent living facilities for one or more persons with permanent provisions for living, sleeping, eating, cooking and sanitation.

200.08 *Frontage*. The continuous length of a lot bordering on the public right-of-way.

200.09 *Home Occupation*. A business that is incidental and subordinate to the use of the building or lot for residential purposes in compliance with the criteria established for home occupations in Section 504.00.

200.10 *Junk*. Any, used, worn out, or discarded article, vehicle, equipment, or material ready for collection or disposal or stored for salvage or conversion to some other use.

200.11 *Junk Yard*. An establishment or place of business, which is used for storing, buying or selling junk but not including approved solid waste disposal facilities or registered motor vehicle dealers.

200.12 *Lot or Parcel*. A single area of land defined by metes and bounds or boundary lines as shown in a recorded deed or on a recorded plan.

200.13 *Lot Line*. A line dividing one lot from another.

a. Front lot line. The lot line dividing the lot from a street right-of-way.

b. Rear lot line. The lot line opposite to the front lot line.

c. Side lot line. Any lot line not a front or rear lot line.

200.14 *Lot of Record*. Land designated as a separate and distinct parcel in a legally recorded deed filed in the Hillsborough County Registry of Deeds.

200.15 *Manufactured Housing*. Any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, NH RSA 674:31. Manufactured home does not include a pre-site built home.

200.16 *Nonconforming Building or Structure*. A building or structure which lawfully existed prior to the adoption, revision or amendment of this ordinance but which fails to conform to the current provisions of the ordinance.

200.17 *Nonconforming Lot*. A lot which lawfully existed prior to the adoption, revision or amendment of this ordinance but which fails to conform to the current provisions of the ordinance.

200.18 *Nonconforming Use*. A use which lawfully existed prior to the adoption, revision or amendment of this ordinance but which fails to conform to the current provisions of the ordinance.

200.19 *Principal Building*. The building in which the primary use of the lot on which the building is located is conducted.

200.20 *Principal Use*. The main or primary purpose for which a structure is used or intended to be used.

200.21 *Sign*. A device or structure, freestanding or attached to a building or structure, visible to the public from the exterior of a building which contains any combination of lights, letters, words, objects, graphics, figures, designs, symbols, pictures, logos or colors which are intended to

advertise, identify, direct or convey a message to the public or to attract attention to an object, person, institution, organization, business or service.

200.22 *Single Family Residence*. A single building having only one dwelling unit.

200.23 *Structure*. A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, fence, sign, flagpole and the like.

200.24 *Use, Accessory*. Any use which is customary, incidental and subordinate to the principal use of the structure or lot.

200.25 *Wetlands*. Areas delineated on basis of hydrophytic vegetation, hydric soils, and wetlands hydrology in accordance with the techniques outlined in the Corps of Engineers Wetlands Delineation Manual. Technical Report Y-87-1, Environmental Laboratory, Dept. of the Army, 1987, as amended. Wetlands also generally include, but are not limited to, those areas such as rivers, streams, ponds, swamps, marshes, vernal pools, fens, basin marshes and bogs that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation adapted for life in saturated soil conditions (e.g., wetland flora identified in Section1201.00). The hydric soil component of wetlands shall be determined by using Field Indicators for Identifying Hydric Soils in New England. Version 2, New England Interstate Water Pollution Control Commission, 1998, as amended. (March 1991. Amended March 2001.)

300.00 DISTRICTS

The following districts are established for the purpose of promoting the health, safety, and welfare of the population; to implement the goals of the Litchfield Master Plan; to minimize the impact on the natural environment; to provide a variety of housing opportunities; to protect the value of residential property; to broaden the Town's tax base; to provide increased employment opportunities; to minimize the impact on traffic flow; to encourage the development of balanced and harmonious land uses of varying intensities; and to protect the character of the Town:

a. Residential;

b. Highway Commercial;

c. Southwestern Commercial;

d. Northern Commercial;

e. Transitional;

f. Southern Commercial/Industrial Service (Amended March 2000); and

g. Northern Commercial/Industrial Service (Amended March 2000)

The boundaries of each district, permitted uses within the district and the regulations, standards, and conditions which such uses must meet are defined in the sections specific to each district. The general locations of each district are depicted on Map I.

400.00 GENERAL PROVISIONS

401.00 Split Zoned Property.

Where a parcel of land is located in two or more zoning districts, the requirements established in this ordinance for each district shall apply to each of the appropriate portions of the parcel. Accessory uses to a principal use permitted only in the least restrictive district on a given parcel may be located on a portion of the parcel located in the more restrictive district provided that the accessory use is also permitted in the more restrictive district.

402.00 Temporary Placement of Manufactured Housing.

Notwithstanding the provisions of Section 505.00, if a residence is rendered uninhabitable due to fire or other disaster then the occupants may make use of manufactured housing while the residence is being rebuilt. The period of such occupancy as set forth in RSA 674:32, II shall expire in 12 months from the placement of such structure or upon the issuance of a certificate of occupancy, whichever comes first. Permits for such uses shall be obtained from the Building Inspector/Code Enforcement Officer. The Building Inspector/Code Enforcement Officer shall provide the Planning Board with a copy of the temporary occupancy permit issued for temporary placement of a manufactured home and further notification upon the expiration of such temporary placement and occupancy. The permit may be renewed as deemed appropriate and necessary by the Building Inspector/Code Enforcement Officer. A manufactured home placed on a lot under the provisions of this section shall not attain the status of a vested non-conforming use. (Adopted March 1987)(*Amended March 2005*)

403.00 Performance Standards. (Adopted March 14, 1989)

The intent of this section is to prevent land or buildings from being occupied or used in any manner that would create any dangerous, injurious, noxious, hazardous or nuisance condition due to the release, emission or generation of objectionable levels of vibration, noise, smoke, dust, odor, heat or glare; the generation or emission of solid or liquid wastes; conditions conducive to the attraction or breeding of vermin; the generation, storage or use of substances, or the creation of circumstances, which may result in hazards due to fire, electrocution, radioactivity, explosion, chemical spill, leakage, or emission. No use shall be permitted by right or special exception, which adversely affects the quality of air, water supply, significant natural or man-made resources, the visual character of Litchfield or the quality of life of its residents. The Planning Board, at its discretion, may require an environmental assessment to determine compliance with any and or all of the following:

403.01 *Vibration.* No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments, at or at any point beyond the lot line of the site upon which such vibration is produced.

403.02 *Noise.* A*ll* noise, except that generated by normal human or vehicular activity, shall be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness. At property lines, noise levels shall not exceed 75 DBA.

403.03 *Air Quality.* Emissions into the air, of any kind, shall not be visible at ground level at any point outside the property lines of the site upon which such emissions are generated. No visible emissions shall be discharged into the air in excess of the darkness limitation listed below:

a. Smoke shall be regulated by the Ringlemann Chart method and limited to a maximum No. 2 Ringlemann for periods totaling four (4) minutes in any thirty (30) minute period and to a maximum No. 3 Ringlemann for periods totaling three (3) minutes in any fifteen (15) minutes when starting a new fire.

b. At property lines, dust, dirt, and fly ash shall not exceed 0.3 grains per cubic foot of flue gas at a stack temperature of 500 degrees F and shall not exceed fifty (50) percent excess air and in no manner be unclean, destructive, unhealthful or hazardous. Visibility shall not be impaired by the emission of a haze, which unduly impedes vision within apparent opaqueness equivalent to No. 2 of the Ringlemann Chart.

c. There shall be no emissions into the air which contain sulfur dioxide in quantities greater than 2000 parts per million as measured in the flue.

d. The construction, reconstruction, installation or substantial alteration of incinerators is prohibited unless detailed plans and specifications have been submitted to, and approved by the State of New Hampshire Air Pollution Control Agency.

e. No person shall cause or permit any material to be handled, transported, or stored in a manner, which allows or may allow particulate matter to become airborne.

403.04 *Odors.* Any activity or operation which results in the creation of odors of such intensity and character as to be detrimental to the health, safety or welfare of the public, or to interfere with the normal use and enjoyment of property, shall be removed, stopped, or modified so as to eliminate the odor.

403.05 *Glare and Heat.* No direct or sky-reflected glare from high temperature processes such as combustion, welding or otherwise shall be visible at any point beyond the lot line.

403.06 *Harmful Interference* Harmful Interference, as defined in Federal Communication Commission's rules as amended, is prohibited and if caused, shall be immediately eliminated.

403.07 *Sewage and Solid Waste Disposal.*

a. All operations serviced by a municipal sewer system shall be subject to the Litchfield Industrial/ Commercial Pretreatment Program to insure compliance with federal, state, and local regulations prior to disposal into a municipal sewer system.

b. Operations utilizing subsurface waste water disposal systems shall not use, produce, store, or dispose of any contaminant or substance of a type or in such quantities which may adversely impact surface or groundwater resources so as to render it unsuitable for human consumption, recreation and enjoyment, or wildlife habitats.

c. No waste material or refuse shall be disposed of or allowed to remain on-site except within an enclosed building or suitable refuse container. No solid wastes shall be dumped or allowed to remain in such a way so as to allow wastes to fly or be scattered due to wind or precipitation or to leak into ground or result in contaminated run-off.

404.00 Waste Disposal.

The storage, disposal, treatment and or recycling of waste products, (as defined in RSA 147A), which are produced outside of the Town of Litchfield limits is prohibited.

The storage, treatment, and or recycling of hazardous wastes produced as a result of manufacturing operations conducted within the Town limits shall be prohibited in all zones except in the Industrial Zone of the Town of Litchfield and shall be further prohibited on all lands in the Industrial Zone within the 500 year floodplain as designated in the "Flood Boundary and Floodway Maps of the Town of Litchfield, New Hampshire (Adopted by reference as part of the Zoning Ordinance, March, 1988).

In addition to the above-mentioned waste disposal requirements, see the separate Town of Litchfield Ordinance for the Control and Containment of Hazardous Materials adopted in March 17, 1989 and amended in March 12, 1993. A copy of this Town Ordinance is available in the Town Clerk's office upon request. *(Amended March, 2004.)*

405.00 Accessory Uses.

All aircraft takeoff and landing facilities on private land shall be subject to site plan review and approval by the Planning Board. This section does not apply to emergency medical purposes or hot air balloons.

406.00 Conditional Use Permit (CUP) (Adopted March 2004)

Conditional Use Permits are authorized under RSA 674:21, II, *Innovative Land Use Controls*, to provide standards for administering ordinances under this statute. The administration of innovative provisions of Litchfield's ordinance is hereby vested in the Planning Board. Issuance or granting of conditional use permits shall therefore be the responsibility of the Planning Board.

Conditional Use Permits shall only be granted when expressly permitted under individual sections of this ordinance, and only if all the conditions set forth in the specific section are met. The Planning Board may require the applicant to submit appropriate studies when necessary to evaluate an application under this section. The costs of necessary studies and/or documents and their review by consultants if necessary, shall be borne by the applicant

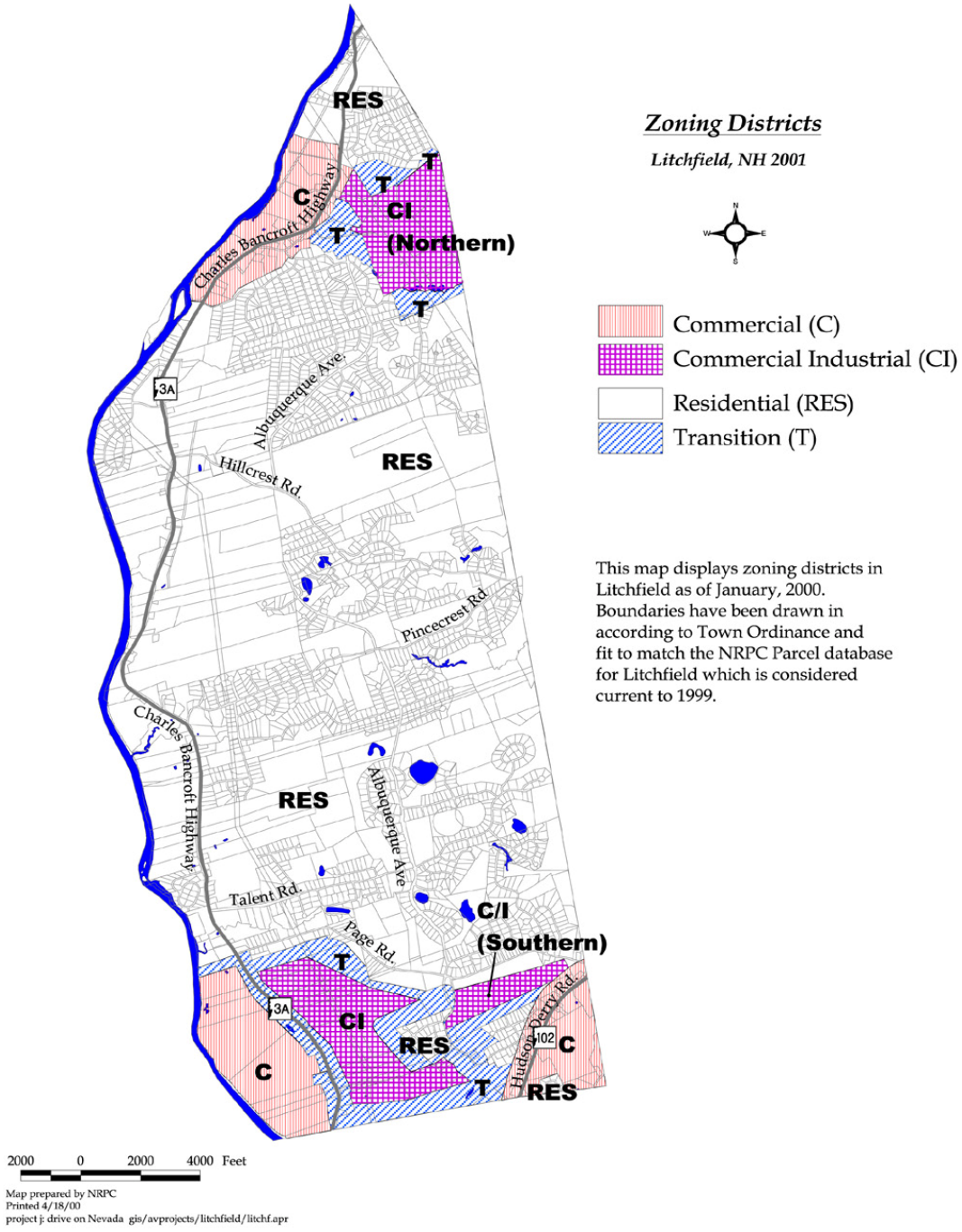
An application for a Conditional Use Permit is available upon request from the Planning Board or Town Clerk's office and shall be submitted at least 15 days prior to a scheduled hearing with all supporting documentation. This may be done simultaneously with subdivision or site plan approval.

407.00 Building Foundation or Slab Location and Elevations

(Adopted March 13, 2007) All dwellings, commercial, and industrial buildings approved after March 13, 2007 as part of a subdivision or site plan approval or amendment shall not be constructed within a designated floodplain (FIRM 100-year Flood Hazard Zone). In addition, the lowest floor elevation (Basement or slab) shall be a minimum of one (1) foot above the FIRM 100-year Flood Hazard Zone elevation, or six (6) inches above the estimated seasonal high water table (ESHWT), whichever is greater.

a. A Conditional Use Permit may be granted for relief from the ESHWT requirement if a hydrologic/hydrogeologic study/report concludes the proposed use will not be impacted by groundwater beneath the proposed structure. Any study/report shall have the professional seal and signature of a NH licensed professional qualified to conduct such studies.

MAP 1: Zoning Districts



500.00 RESIDENTIAL DISTRICT (March 12, 1991)

In the Residential District no land, building, structure or equipment may be used for any purpose which would be injurious, noxious or offensive by way of odor, fumes, smoke, dust, vibration, noise or other objectionable features or hazardous to the community on account of fire, explosion or other cause.

500.01 *District Boundaries*. The Residential District shall include all land in the Town of Litchfield, which is not located within the boundaries of the following districts:

a. Highway Commercial;

b. Southwestern Commercial;

c. Northern Commercial;

d. Transitional;

e. Southern Commercial/Industrial Service; and

f. Northern Commercial/Industrial Service.

501.00 Permitted Uses.

The construction, development and use of land in the residential district shall be subject to all other applicable provisions of this Ordinance. Uses not listed in Section 501.00 are prohibited. (March 12, 1991)

a. Single family residences;

b. Duplex or two-family residences;

c. Farming and related agricultural uses;

d. Utility structures of less than two hundred (200) square feet in area designed to provide utility services to residential customers; all such structures shall receive site plan approval from the Planning Board. (Adopted March 1987)

e. Home occupations in compliance with the requirements of Section 504.00 of these regulations and subject to Planning Board review under the Site Plan Review Regulations, particularly section 151, Submission Requirements for Home Occupations. (Amended March 1992.)

f. Sand and gravel excavations, subject to the applicable ordinances governing the removal of sand, gravel and raw materials, the requirements of RSA 155-E, and such excavation regulations as may be enacted or adopted pursuant thereto.

g. Manufactured housing in approved manufactured housing parks and Residential manufactured Housing Districts subject to the provisions of Section 505.00 and 506.00.

h. Independent Living / Open Space Housing Development for Older Persons (March 2001)

i. Fences in accordance with Section 502.04.

502.00 Lot Requirements.

502.01 *Area*. Minimum contiguous dry lot size is one (1) acre (43,560 square feet) for single family residences and one and one-half (1.5) acres (65,340 square feet) for duplexes and two-family residences. (March 2001)

a. ***Building Envelope/Buildable Area.*** For lots created (Subdivision/Lot-line Adjustment) after March 13, 2007, the minimum contiguous area that is unencumbered by floodplain (FEMA FIRM 100-year Flood Hazard Zone), any setbacks, any right-of-way (R.O.W.), and/or any restrictive easements shall be 0.4 acres (17,424 ft^2) for single-family residences and 0.8 acres (34,848 ft^2) for duplexes and two-family residences. NOTE: *The intent is to allow sufficient area for locating the principal dwelling unit and have ample area for yards and gardens, and additions and/or accessory structures (E.g. Garage, shed, pool, patio, porch, etc.) (Adopted March 13, 2007)*

502.02 *Frontage*. Minimum frontage is one hundred-fifty (150) feet for single family residences and two hundred (200) feet for duplexes and two-family residences.

502.03 *Setbacks*. All structures must be set back a minimum of fifty (50) feet from the front lot line and public rights-of-way, and twenty (20) feet from side and rear lot lines. For Albuquerque Avenue, all buildings or structures shall be setback a minimum of seventy-five (75) feet from the edge of right-of-way. *(Amended March 2005)*

Any structure or portion thereof for which a valid building permit was obtained and which was legally occupied before January 1, 1988 shall be considered to be in compliance with the minimum setback requirements of this section. Any additions or other construction which takes place after January 1, 1988 must comply with all the requirements of this section. (March 12, 1991)

502.04 Fences. All fences must be six feet (6') or less in height and the finished side of the fence must face the abutting property. (Adopted March 13, 1979, Amended September 14, 1982, Amended March 13, 1990.)

503.00 Special Exceptions. *(March 1987)*

The following uses may be permitted by special exception where the applicant(s) can demonstrate to the satisfaction of the Zoning Board of Adjustment that:

a. such use will not be detrimental to the health or safety of residents;

b. such use will not create undue traffic congestion;

c. all necessary state and federal permits will be obtained;

d. such use will not be incompatible with surrounding neighborhood; and subject to site plan review and approval from the Litchfield Planning Board.

1) Outdoor golf courses;
2) Cross-country ski areas;

3) Accessory uses to golf courses and cross-country ski areas, such as outdoor tennis courts, pro shops, dining facilities, maintenance and storage areas, and showers.

504.00 ***Home Occupations.*** *(March 10, 1981; Amended March 1992.)*

504.01 *General Requirement.* Any home occupation, which is evident to the general public, must apply for and receive a permit from the Planning Board to operate. Evidence of the home occupation includes but is not limited to the following: increased traffic, external signs, vehicle or equipment parking and storage.

a. The home occupation shall be incidental and secondary to the use of the dwelling unit as a residence.

b. Home occupations shall be carried on by the resident, resident members of the owner's family, a resident tenant, or resident members of the tenant's family.

c. Two non-family employees are permitted on the premises.

d. No additions or changes shall be made to the residence that will make it impractical to revert the building to purely residential use.

e. Home occupations shall have a maximum area of 500 square feet.

f. All home occupation signs must comply with the requirements of Section 1503.02 Residential/Home Occupation Signs.

g. Exterior storage of materials and equipment is prohibited.

h. Sufficient off-street parking shall be provided for any non-resident employees, customers and suppliers who may normally be expected to need parking spaces at one time. Driveways may be used for client parking. Where additional parking is desired, a maximum of 2 parking spaces is permitted. Parking spaces shall be a minimum of 9 by 18 feet. On-street parking shall be prohibited.

i. Noise, vibration, dust, smoke, electrical disturbances, odors, heat, glare, visual disharmony or other offensive emissions shall not be produced.

j. Traffic generated by the home occupation shall not create safety hazards or be substantially greater in volume than would normally be expected in the neighborhood.

k. Home occupations shall be conducted in accordance with all Town regulations, state laws and licensing requirements.

l. When a business outgrows the standards established for a home occupation, it must relocate into a commercial or industrial district.

504.02 *Procedure.* Requests for home occupations shall be presented to the Board in accordance with Sections 140, Submission Procedure, and 151, Submission Requirements for Home Occupations, of the Site Plan Review Regulations.

504.03 *Existing Nonconforming Home Occupations.* To be considered a nonconforming use, a home occupation must have existed prior to March 10, 1981. The owner/operator of a nonconforming home occupation must register with the Planning Board by March 31, 1993. In order to register

as a nonconforming home occupation, the applicant must prove to the Planning Board that the home occupation was in existence prior to March 10, 1981.

504.04 *Existing Illegal Home Occupations.* Home occupations commencing operations after March 10, 1981 that have not received a permit from the Planning Board shall apply to the Planning Board for a home occupation permit by March 31, 1993. Applications shall be accompanied by the filing fee, plans and other documentation as requested by the Board and must comply with the requirements of this section. If an owner/operator fails to comply with the requirements of this section, the home occupation shall cease operation. The owner/operator of a home occupation, which continues to operate illegally, shall be subject to penalty under RSA 676:17 for each day the home occupation continues to operate after March 10, 1992.

504.05 *Home Occupation Registrations.* Home occupations shall register with the Planning Board annually upon receipt of the registration forms from the Board.

504.06 *Violations.* Upon seeing or receiving a complaint and confirming a violation, the code enforcement officer shall issue a cease and desist order or a notice of violation.

505.00 Manufactured Housing Parks.

No manufactured home shall be occupied or maintained as a living unit except in an approved manufactured housing park in an approved Residential Manufactured Housing District.

Any person, firm, corporation, municipality or public agency desiring to operate and maintain any site, lot, field, or tract of land for the location of two or more manufactured homes, shall apply to the Planning Board for the establishment of a Manufactured Housing Park and/or the expansion of an existing Manufactured Housing Park within the Town of Litchfield under the procedure contained in the Subdivision Regulations. The application shall also conform to the following requirements:

a. The final operating permit will be issued when in the opinion of the Building Inspector and Board of Selectmen; Town regulations have been complied with.

b. In all manufactured housing parks, roadways shall be well drained, hard-surfaced, and maintained in good condition. Each manufactured home site shall connect to an access roadway, which in turn connects with a street or highway.

c. Each individual manufactured home site within a park shall conform to the building, zoning and health code regulations. Individual lot size shall not be less than 10,000 square feet and shall be at least 75 feet wide. Structures must be set back at least 30 feet from front lot lines of lots on privately maintained roads and 20 feet from rear and side lot lines. (Amended March 13, 1990.)

d. Each manufactured housing park shall conform to the regulations promulgated by the NH Water Supply and Pollution Control Commission with respect to water, sewerage, garbage and other health measures.

e. Manufactured housing parks shall provide areas for the parking of motor vehicles. Such areas shall accommodate at least the number of vehicles equal to the number of manufactured home spaces provided in said manufactured housing park.

f. The operator of each manufactured housing park shall maintain a permanent register showing the following for each manufactured home in the park:

1) Date of entry
2) Name - Owner of manufactured home
3) Street, Town and State of Legal Residence
4) Name of State and Vehicle License Number
5) Make, Year and Model Serial Number of manufactured home

g. Manufactured housing parks shall be allowed to have central facility buildings constructed on the site when said construction conforms to the Building Code.

506.00 Residential Manufactured Housing Districts.

506.01 *Purpose*. For the purpose of allowing residents and owners of mobile homes the opportunity to enjoy the rights and privileges of the ownership and maintenance of private property within the Town of Litchfield, and pursuant to the provisions of RSA 674:31-32 of the New Hampshire State Statutes, the Planning Board of the Town of Litchfield may approve the establishment of Residential Manufactured Housing (RMH) Districts, upon application to the Board for such designation subject to the requirements specified herein.

506.02 *District Requirements*. The Planning Board of the Town of Litchfield may approve the location and designation of an RMH District in all districts, except the Southern Commercial/Industrial Service District and the Northern Commercial/Industrial Service District, and shall allow the placement of manufactured homes on individual lots within the RMH District intended for occupancy as permanent, single-family dwellings. Any area approved as an RMH District, in addition to meeting the requirements and standards established in all other sections of this ordinance, shall also satisfy the following conditions: (Amended March 2000.)

a. Each proposed RMH District must be a minimum of fifteen (15) contiguous acres in size.

b. Each proposed RMH District shall not be located in the 100-year floodplain as designated in the "Flood Insurance Study for the Town of Litchfield, NH" together with the associated Flood Insurance Rate Maps, ant the Flood Boundary and Floodway Maps of the Town dated July 16, 1979, adopted by reference as a part of the Zoning Ordinance. See Section 1100.00 Floodplain Conservation District.

c. Each proposed RMH District must contain a permanently undeveloped open space buffer of not less than fifty (50) feet wide which is planted and landscaped to provide a visual barrier between the RMH District and all adjacent property. Other types of barriers may be approved by the Planning Board upon request.

d. Each proposed RMH District shall be in compliance with the Subdivision Regulations of the Town of Litchfield now in existence or as may be amended from time to time.

506.03 *Application*. Any application for the establishment and designation of an RMH District shall be an attachment to, and a part of, the application for subdivision approval required by the Town of Litchfield Subdivision Regulations. Any attachments requesting RMH District designation shall contain:

a. certification of compliance with the conditions specified in Section 506.02 above;

b. the name and address of the owner and applicant; and

c. certification by the owner (if different from the applicant) of the request for RMH District designation, and agreement with the conditions specified herein.

600.00 HIGHWAY COMMERCIAL DISTRICT (ROUTE 102) *(Adopted March 14, 1989)*

600.01 *District Boundaries*. The boundaries of the Highway Commercial District are established based on the December 1989 tax map and lot numbers, map number precedes lot number.

a. West side of Route 102: Along Route 102 to a depth of 600 feet from the right-of-way.

b. East Side of Route 102: All the land on the east side of Route 102 to the Litchfield/Hudson Town Line exempting that portion of land known as the Donalier Estates Subdivision.

600.02 *Site Plan Review*. In each case where construction of a building for non-residential use, or alteration and rehabilitation of an existing non-residential structure, the building inspector shall refer the applicant for a building permit to the Planning Board for site plan review in accordance with the Site Plan Review Regulations in effect at the time of application. The Planning Board, after holding one or more public hearings upon each application for site plan review, shall approve, approve with modifications, or disapprove said site plan. When modifying or disapproving a site plan after review, the Board shall enter its reason for the modification or disapproval into its records.

600.03 *Performance Standards* All land use activities shall be conducted and operated to minimize negative environmental impacts to neighboring properties from emissions of smoke, noise and odors, vibrations, discharges and stormwater runoff, and shall conform to all State and Federal regulations and the following performance standards contained in Section 403.00.

601.00 Permitted Uses.

The following uses are permitted in the commercial district. Uses not listed in Section 601.00 or 603.00 are prohibited. (March 12, 1991)

a. Banks and branch offices of financial institutions.

b. Establishments offering goods for sale including dry goods, foods, hardware, clothing and apparel, motorized vehicles, and other general retail commodities, but not including automotive service or gasoline sales.

c. Restaurants not including automobile oriented fast-food restaurants with take-out and/or drive-through service.

d. Civic Centers.

e. Professional offices.

f. Health care facilities and services.

g. Personal services and offices.

h. Hotels/motels.

i. Indoor theaters.

j. Churches and associated parsonages.

k. Public, private or non-profit recreational facilities, fraternal orders, or membership clubs.

l. Schools, nurseries and day care centers.

m. Funeral homes.

n. Residential units constructed prior to March 14, 1989 and home occupations within these units subject to the provisions of Section 504. (March 12, 1991)

o. Research and testing laboratories.

p. Mixed use - Commercial/Residential as follows: A maximum of one residential unit may be developed in conjunction with a commercial use. The residential units shall be accessory and subordinate to the use of the lot for commercial purposes. Minimum lot size shall be one acre (43,560 square feet). Septic systems must be designed, sited and constructed to adequately handle all wastes from the commercial use and the residential unit. (Amended March 1992.)

q. Agricultural uses. (March 1994)

r. Utility structures of less than 200 square feet in area. (March 1996)

s. Independent Living / Open Space Housing Development for Older Persons (March 2001)

601.01 *Multiple Principal Uses*. Two or more principal uses may be located on the same parcel without subdivision provided that the minimum standards set forth in this ordinance are adhered to.

602.00 Lot Requirements.

602.01 *Area*. Minimum lot size and dimensions are subject to Planning Board approval based on sewage disposal requirements, soil types, topography, vehicular access, intended use, compatibility with adjacent land uses and existing conditions, but shall in no cases be less than one (1) contiguous dry acre. (March 2001)

602.02 *Frontage*. Minimum frontage 300 feet on Route 102 and not more than one access point per 400 feet. Commercial activities, which provide an access or frontage road, constructed to Town standards, or take access from existing roads other than Route 102, shall have a minimum of 150 feet of frontage.

602.03 *Setbacks*. All buildings, structures, parking areas and other site improvements, excluding access drives, walkways, fire lanes, and landscaped areas, shall be set back a minimum of fifty (50) feet from public rights-of-way and twenty (20) feet from side or rear lot lines; all structures shall be set back from side or rear lot lines a distance equivalent to or exceeding the height of said structure. Where a commercial site provides for pedestrian and vehicular access to an adjacent commercial site, site improvements, other than buildings, may be located within side or rear setbacks. Overhanging eaves and unsupported roofs or sunscreens may project six (6) feet into the setback area.

602.04 *Building Height*. Except for structures not intended for human occupation, (chimneys, water towers, church spires, etc.,) maximum building height is 56 feet.

602.05 *Outside Storage*. Any outside storage is subject to Planning Board approval. If allowed, all storage areas will be visually screened from public rights-of-way, access roads and adjacent

properties. No outside storage shall be permitted between a public right-of-way and the building line.

602.06 *Site Coverage*. A maximum of 65 percent of the gross area of the site shall be occupied by buildings, structures, parking areas, driveways/roads and other site improvements excluding landscaping.

602.07 *Vehicular Access*. Access to the lots within this District shall be as follows:

a. Vehicular access to all lots shall be from public rights-of-way by one or more curb cuts.

b. The location and design of curb cuts/driveways shall minimize traffic hazards and not unduly impede traffic flow in public right-of-ways.

c. No portion of any driveway shall be closer than fifty (50) feet to the right-of-way of an intersecting street or driveway.

603.00 Special Exceptions.

The following uses are permitted by special exception of the Zoning Board of Adjustment (ZBA) subject to site plan review of the Planning Board and any conditions of approval imposed by the ZBA to meet the standards and requirements of this ordinance. The ZBA shall determine if the proposed commercial use will meet the standards established herein for that use:

a. Gasoline Sales:

1) Shall not be located within a 500 feet radius of another gasoline sales station within the Town of Litchfield except where the existing station is located across a major road upon which the proposed station takes access.
2) Pumps shall be set back at least 50 feet from the public right-of-way.
3) Two access/egress points shall be provided
4) Frontage shall be at least 400 feet on Route 102 and at least 200 feet on other Town approved roads.
5) All underground storage tanks shall be double lined and contain a leak detection system in accordance with State of New Hampshire standards.
6) Such uses shall not create undue traffic, congestion or hazard.

b. Automobile Service and Repair:

1) Two access/egress points shall be provided.
2) Frontage shall be at least 400 feet on Route 102 and at least 200 feet on other Town approved roads.
3) The service entrance for the storage or repair of automobiles or other motorized vehicles shall be to the rear.
4) Such uses shall not create undue traffic, congestion or hazard.

c. Fast-Food Restaurant with Take-Out and/or Drive-Through Service:

1) Two access/egress points shall be provided.
2) Frontage shall be at least 400 feet on Route 102 and at least 200 feet on other Town approved roads.
3) Such uses shall not create undue traffic, congestion or hazard.

700.00 SOUTHWESTERN COMMERCIAL DISTRICT (ROUTE 3-A) *(Adopted March 14, 1989)*

700.01 *District Boundaries*. The boundaries of the Southwestern Commercial District are established based on the December 1989 tax map and lot numbers, map number precedes lot number.

Beginning at the Litchfield Town Line, west of Route 3-A to the Merrimack River and including 1-2; 1-4 (west of a line from the intersection of the rear lot line of 1-3 and the southern lot line of 1-4 to the intersection of the rear lot line of 1-5 and the northern lot line of 1-4); 1-6; 1-7 (west of the eastern boundary of the PSCO NH STR RR right-of-way); 1-16; 1-17 and 3-42 (west of a line from the northwestern corner of 1-15 to the southwestern corner of 3-41); 3-48, 3-33 and 3-40 (west of a line from the northwestern corner of 3-41 to the southwestern corner of 3-39); ending at the southern lot lines of 3-37 and 3-38.

700.02 *Site Plan Review*. In each case, construction of a building for non-residential use, or alteration and rehabilitation of an existing non-residential structure, the building inspector shall refer the applicant for a building permit to the Planning Board for site plan review in accordance with the Site Plan Review Regulations in effect at the time of application. The Planning Board, after holding one or more public hearings upon each application for site plan review, shall approve, approve with modifications, or disapprove said site plan. When modifying or disapproving a site plan after review, the Board shall enter its reason for the modification or disapproval into its records.

700.03 *Performance Standards* All land use activities shall be conducted and operated to minimize negative environmental impacts to neighboring properties from emissions of smoke, noise and odors, vibrations, discharges and stormwater runoff, and shall conform to all State and Federal regulations and the following performance standards contained in Section 403.00.

701.00 Permitted Uses.

The following uses are permitted in the Southwestern Commercial District. Uses not listed in Section 701.00 or 703.00 are prohibited. (March 12, 1991)

a. Banks and branch offices of financial institutions.

b. Establishments offering goods for sale including dry goods, foods, hardware, clothing and apparel, motorized vehicles and other general retail commodities, but not including automotive service or gasoline sales.

c. Restaurants not including fast-food restaurants with take-out and/or drive-through service.

d. Civic Centers.

e. Professional offices.

f. Health care facilities and services.

g. Personal services and offices.

h. Hotels/motels.

i. Indoor theaters.

j. Churches and associated parsonages.

k. Public, private or non-profit recreational facilities, fraternal orders, or membership clubs.

l. Schools, nurseries and day care centers.

m. Funeral homes.

n. Retail establishments for the sale of motor vehicles, supplies and equipment, but not including establishments primarily for the servicing or repair of machinery, large appliances or equipment having internal combustion engines.

o. Research and testing laboratories.

p. Agricultural uses.

q. Accessory uses to permitted uses including the servicing or repair of machinery, large appliances or equipment having internal combustion engines where such uses are secondary and customary to the principle use.

r. Warehousing of goods including those listed in (b) above. (Amended March 1992.)

s. Mixed use - Commercial/Residential as follows: A maximum of one residential unit may be developed in conjunction with a commercial use. The residential unit shall be accessory and subordinate to the use of the lot for commercial purposes. Minimum lot size shall be one acre (43,560 square feet). Septic systems must be designed, sited and constructed to adequately handle all wastes from the commercial use and the residential unit. (Amended March 1992.)

t. Utility structure of less than 200 square feet in area. (March 1996)

701.01 *Multiple Principal Uses*. Two or more principal uses may be located on the same parcel without subdivision provided that the minimum standards set forth in this ordinance are adhered to.

702.00 Lot Requirements.

702.01 *Area*. Minimum lot size and dimensions are subject to Planning Board approval based on sewage disposal requirements, soil types, topography, vehicular access, intended use and compatibility with adjacent land uses and existing conditions, but shall in no cases be less than one (1) contiguous dry acre. (March 2001)

702.02 *Frontage*. Minimum frontage of 150 feet on a Town approved road. Frontage on NH Route 3-A cannot be included in the calculation of minimum frontage.

702.03 *Setbacks*. All buildings or structures, parking areas, and other site improvements, excluding access drives, walkways, fire lanes, and landscaped areas, shall be set back a minimum of fifty (50) feet from public rights-of-way (excluding Route 3-A,) and twenty (20) feet from side or rear lot lines. All buildings or structures shall be set back from side or rear lot lines a distance equal to or exceeding the height of said structure. A fifty (50) foot wide landscaped buffer shall be maintained between NH Route 3-A and any developed portions of a site. Where a commercial site provides for pedestrian and vehicular access to an adjacent commercial site, site improvements, other than buildings, may be located within side or rear setbacks.

702.04 *Building Height*. Except for structures not intended for human occupation, (chimneys, water towers, church spires, etc.,) maximum building height is 56 feet.

702.05 *Outside Storage*. Any outside storage is subject to Planning Board approval. If allowed, all storage areas will be visually screened from public rights-of-way, access roads and adjacent properties. No outside storage shall be permitted between a public right-of-way and the building line.

702.06 *Site Coverage*. A maximum of 65 percent of the gross area of the site shall be occupied by buildings, structures, parking areas, driveways/roads and other site improvements excluding landscaping.

702.07 *Vehicular Access*. Access to the lots within the District shall be as follows:

a. Vehicular access to all lots shall be from public rights-of-way by one or more curb cuts.
b. The location and design of curb cuts/driveways shall minimize traffic hazards and not unduly impede traffic flow in public rights-of-way.
c. No portion of any driveway shall be closer than fifty (50) feet to the right-of-way of an intersecting street or driveway.

703.00 Special Exceptions.

The following uses are permitted by special exception of the Zoning Board of Adjustment subject to site plan review by the Planning Board and any conditions of approval imposed by the ZBA to meet the standards and requirements of this ordinance. The ZBA shall determine if the proposed commercial use will meet the standards established herein for that use:

a. Gasoline Sales:

1) Shall not be located within a 500 feet radius of another gasoline sales station.
2) Pumps shall be set back at least 50 feet from the right-of-way.
3) Two access/egress points shall be provided.
4) Frontage shall be at least 200 feet on a Town approved road.
5) All underground storage tanks shall be double lined and contain a leak detection system in accordance with State of New Hampshire standards.
6) Such uses shall not create undue traffic, congestion or hazard.

b. Automobile Service and Repair:

1) Two access/egress points shall be provided.
2) Frontage shall be at least 200 feet on a Town approved road.
3) The service entrance for the storage or repair of automobiles or other motorized vehicles shall be to the rear.
4) Such uses shall not create undue traffic, congestion or hazard.

c. Fast-Food Restaurants with Take-Out and/or Drive-Through Service:

1) Two access/egress points shall be provided.
2) Frontage shall be at least 200 feet on a Town approved road.
3) Such uses shall not create undue traffic, congestion or hazard.

800.00 NORTHERN COMMERCIAL DISTRICT (Adopted March 14, 1989)

800.01 *District Boundaries*. The boundaries of the Northern Commercial District are established based on the December 1989 tax map and lot numbers, map number precedes lot number.

a. West Side of Route 3A: Beginning at the southern lot line of 22-14 and extending to the southern lot line of 20-7 including 22-13; the lot known as the Moores Falls Lot (map 22); 22-10; 22-11; 22-9; 22-7; 22-96; 22-5; 22-4; 22-2; 22-1; 21-12; 21-10; 21-9; 21-7; 21-5; 21-3; 21-1; 20-21; 20-17; 20-19; 20-15; 20-13; 20-12; 20-10; 20-8; 21-5; and 20-7.

b. East Side of Route 3A: Including lot 22-8 (west of a line from the intersection of the southern lot line of 22-12 and the eastern boundary of the New England Power Company right-of-way to the northeast corner of 22-6); 22-6, 22-3, 21-64, 21-11, 21-13, 21-8, 21-4, 21-23, 21-65, 21-2, 20-32, 20-31, 20-30, 20-29, 20-27, 20-25, 20-23, 20-28, 20-26, 20-24, 20-22, 20-20, 20-18, 20-16, 20-14, 20-11, 20-9; and 20-6. 3-13-90.

800.02 *Site Plan Review*. In each case where construction of a building for non-residential use, or alteration and rehabilitation of an existing residential or non-residential structure, the building inspector shall refer the applicant for a building permit to the Planning Board for site plan review in accordance with Site Plan Review Regulations in effect at the time of application. The Planning Board, after holding one or more public hearing(s) upon each application for site plan review, shall approve, approve with modifications, or disapprove said site plan. When modifying or disapproving a site plan after review, the Board shall enter its reason for the modification or disapproval into its records.

800.03 *Performance Standards.* All land use activities shall be conducted and operated to minimize negative environmental impacts to neighboring properties from emissions of smoke, noise and odors, vibrations, discharges and stormwater runoff, and shall conform to all State and Federal regulations and the following performance standards contained in Section 403.00.

801.00 Permitted Uses.

The following uses are permitted in the Northern Commercial District. Uses not listed in Section 801.00 or 803.03 are prohibited. (March 12, 1991)

a. Banks and branch offices of financial institutions.

b. Establishments offering goods for sale including dry goods, foods, hardware, clothing and apparel, and other general retail commodities, but not including automotive service or gasoline sales.

c. Restaurants not including fast-food restaurants with take-out and/or drive-through service.

d. Professional offices.

e. Health care facilities and services.

f. Personal services and offices.

g. Hotels/motels.

h. Indoor theaters.

i. Churches and associated parsonages.

j. Public, private or non-profit recreational facilities, fraternal orders, or membership clubs.

k. Schools, nurseries and day care centers.

l. Funeral homes.

m. Residential units constructed prior to March 14, 1989 and home occupations within these units subject to the provisions of Section 504.00. (March 12, 1991)

n. Mixed use - Commercial/Residential as follows: A maximum of one residential unit may be developed in conjunction with a commercial use. The residential unit shall be accessory and subordinate to the use of the lot for commercial purposes. Minimum lot size shall be one acre (43,560 square feet). Septic systems must be designed, sited and constructed to adequately handle all wastes from the commercial use and the residential unit. (Amended March 1992)

o. Agricultural uses. (March 1994)

p. Utility structures of less than 200 square feet in area. (March 1996)

801.01 Multiple Principal Uses. Two or more principal uses may be located on the same parcel without subdivision provided that the minimum standards set forth in this ordinance are adhered to.

802.00 Lot Requirements.

802.01 *Area*. Minimum lot size and dimensions are subject to Planning Board approval based on sewage disposal requirements, soil types, topography, vehicular access, intended use and compatibility with adjacent land uses and existing conditions, but shall in no cases be less than one (1) contiguous dry acre. (March 2001)

802.02 *Frontage*. All uses (excluding conversions of residential lots created prior to March 14, 1989) shall have a minimum of 500 feet of frontage on NH Route 3-A and one access point per 500 feet. Where an access or frontage road, constructed to Town standards, is provided, or access is taken from existing roads other than NH Route 3A, a minimum of 150 feet of frontage shall be provided. All uses on lots created prior to March 14, 1989 shall have a minimum of 150 feet of frontage on NH Route 3-A.

802.03 *Setbacks*. All buildings, structures, parking areas and other site improvements, excluding access drives, walkways, fire lanes, and landscaped areas, shall be set back a minimum of fifty (50) feet from public rights-of-way and twenty (20) feet from side or rear lot lines. For Albuquerque Avenue, all buildings or structures shall be setback a minimum of seventy-five (75) feet from the edge of right-of-way. All buildings or structures shall be set back from side or rear lot lines a distance equal to or in excess of the height of said structure. Where a commercial site provides for pedestrian and vehicular access to an adjacent commercial site, site improvements, other than buildings, may be located within side or rear setbacks. *(Amended March 2005)*

802.04 *Building Height*. Except for structures not intended for human occupation, (chimneys, water towers, church spires, etc.) maximum building height is 35 feet.

802.05 *Outside Storage*. Any outside storage is subject to Planning Board approval. If allowed, all storage areas will be visually screened from public rights-of-way, access roads and adjacent properties. No outside storage shall be permitted between a public right-of-way and the building line.

802.06 *Site Coverage*. A maximum of 65 percent of the gross area of the site shall be occupied by buildings, structures, parking areas, driveways/roads and other site improvements excluding landscaping.

802.07 *Vehicular Access*. Access to the lots within this district shall be as follows:

a. Vehicular access to all lots shall be from public rights-of-way by one or more curb cuts.

b. The location and design of curb cuts/driveways shall minimize traffic hazards and not unduly impede traffic flow in public rights-of-way.

c. No portion of any driveway shall be closer than fifty (50) feet to the right-of-way of an intersecting street or driveway.

803.00 Special Exceptions.

The following uses are permitted by special exception of the Zoning Board of Adjustment subject to site plan review by the Planning Board and any conditions of approval imposed by the ZBA to meet the standards and requirements of this ordinance. The ZBA shall determine if the proposed commercial use will meet the standards established herein for that use:

a. Gasoline Sales:

1) Shall not be located within a 500 foot radius of another gasoline sales station located in the Town of Litchfield except where the existing station is located across a major road from which the proposed station takes access.
2) Pumps shall be set back at least 50 feet from the right-of-way.
3) Two access/egress points shall be provided.
4) Frontage shall be at least 500 feet on Route 3-A and 200 feet on other Town approved roads.
5) All underground storage tanks shall be double lined and contain a leak detection system in accordance with State of New Hampshire standards.
6) Such uses shall not create undue traffic congestion or hazard.

b. Automobile Service and Repair:

1) Two access/egress points shall be provided.
2) Frontage shall be at least 200 feet on a Town approved road.
3) The service entrance for the storage or repair of automobiles or other motorized vehicles shall be to the rear.
4) Such uses shall not create undue traffic congestion or hazard.

c. Fast-Food Restaurant with Take-Out and/or Drive-Through Service:

1) Two access/egress points shall be provided.
2) Frontage shall be at least 200 feet on a Town approved road not including Route 3-A.
3) The Planning Board shall determine whether building design and landscaping is compatible with mixed commercial/residential and historic character of the area.
4) Such uses shall not create undue traffic congestion or hazard.

900.00 TRANSITIONAL DISTRICT (Adopted March 14, 1989)

900.01 *District Boundaries*. The Boundaries of the Transitional District are established based on the December 1989 tax map and lot numbers, map number precedes lot number.

a. Northern Transitional District: North of the Northern Commercial/Industrial Service District, including 22-12; 22-37; 21-17 (north of a line from the intersection of the southern lot line of 22-12 and the western lot line of 21-17 to the intersection of the northern and eastern lot lines of 21-17). (Amended March 2000.)

   South of the Southern Commercial/Industrial Service District, including 21-24; 21-20 (south of the right-of-way from Route 3-A to 21-16, and north of Colby Brook); 21-19 and 21-21 (west of a line from the northwestern corner of 21-19 to the intersection of Colby Brook and the southern lot line of 21-21); and 21-22 (west and south of Colby Brook). (Amended March 2000.)

b. Southern Transitional District: Beginning on the west side of Route 3-A at the Litchfield/Hudson Town Line and extending north to a line beginning at the center line of Page Road and extending southwesterly to the Merrimack River, including 1-1; 1-3; 1-4 (east of a line from the northwestern corner of 1-3 to the southwest corner of 1-5); 1-5; 1-7 (east of the PSCO NH STR RR WAY); 1-8; 1-9; 1-10; 1-11; 1-12; 1-13; 1-14; 1-15; 1-16, 3-17 and 3-42 (east of a line from the northwestern corner of 1-15 to the southwestern corner of 3-41); 3-41; 3-48, 3-33 and 3-40 (east of a line from the northwestern corner of 3-41 to the southwestern corner of 3-39); 3-39; and a portion of 3-38 and 3-37 south of a line extending from the centerline of Page Road southwesterly to the Merrimack River.

   All lands south of the Circumferential Highway right-of-way, west of Route 102 and east of Route 3-A excluding lands in the Highway Commercial Zone.

   East of Route 3-A and north of the Circumferential Highway right-of-way, including 1-26; 1-24; all lands west of a line from the northeastern corner of 1-24 to a point extended east from the southeastern corner of 1-13 to a depth of 342 feet east of the right-of-way of Route 3-A and from said point to the southeastern corner of 1-19; all lands west of a line from the northeastern corner of 1-19 to the northeast corner of 3-4; 3-5 and 3-6 (west of a line from the northeastern corner of 3-4 to the southeastern corner of 3-8); 3-8; and 3-10;

   South of Page Road and east of Route 3-A, including 3-9 (south of a line from the southeastern corner of 4-21 to the southwestern corner of 4-20); 4-10 (west of a line from the southwestern corner of 4-13 to the southeastern corner of 4-10, and east of a line from the northwestern corner of 4-10 to the southeastern corner of 3-1); 3-1 (east of a line from the northwestern corner of 4-10 to the southeastern corner of 3-1); 1-31 (south of a line from the southwestern corner of 4-2 to the intersection of the western lot line of 5-195 and the northern lot line of 2-102, north of lots 76 and 85 identified on January 1988 Tax Maps No. 3 and 4), and west of a line 600 feet east of the rear lot lines of lots fronting on Amsterdam Circle and Rotterdam Drive); 2-102; 5-146; 2-101; 1-21 and 1-22 (west of a line 600 feet east of the rear lot lines of lots fronting on Amsterdam Circle and Rotterdam Drive); 1-23 (west of a line 600 feet east of the east lot line of 1-23 and north of the right-of-way of Albuquerque Avenue); 2-133; 2-99; 2-98 (east of a line measured 600 feet west of the centerline of Cutler Road); 2-28 (north of the Circumferential Highway right-of-way and excluding lands located within the Highway Commercial District); 2-83; 2-84; 2-85; 2-86; 2-87; and 2-88 (south of a line from the northwestern corner of 2-87 to the northeast corner of 2-37).

900.02 *Site Plan Review*. In each case where construction of a building for non-residential use, or alteration and rehabilitation of an existing non- residential structure, the building inspector shall refer the applicant for a building permit to the Planning Board for site plan review in accordance with Site Plan Review Regulations in effect at the time of application. The Planning Board, after holding one or more public hearing(s) upon each application for site plan review, shall approve, approve with modifications, or disapprove said site plan. When modifying or disapproving a site plan after review, the Board shall enter its reason for the modification or disapproval into its records.

900.03 *Performance Standards.* All land use activities shall be conducted and operated to minimize negative environmental impacts to neighboring properties from emissions of smoke, noise and odors, vibrations, discharges and stormwater runoff, and shall conform to all State and Federal regulations and the following performance standards contained in Section 403.00.

901.00 Permitted Uses.

The following uses are permitted in the Transitional District. Uses not listed in Section 901.00 or 903.00 are prohibited. (March 12, 1991)

a. Single and duplex residences occupied prior to March 14, 1989, home occupations within such residences subject to the provisions of Section 504.00, and the replacement of such residences due to loss as a result of fire, flood or other natural disaster, or due to condemnation. (March 12, 1991)

b. Professional and business offices.

c. Schools, including day care centers and nurseries.

d. Churches and associated parsonages.

e. Public or semi-public non-profit recreational facilities.

f. Agricultural uses.

g. Accessory uses to permitted uses including the retail sale of commodities where such retail sales are secondary and customary to the principal use.

h. Mixed use - Commercial/Residential as follows: a maximum of one residential unit may be developed in conjunction with a commercial use. The residential unit shall be accessory and subordinate to the use of the lot for commercial purposes. Minimum lot size shall be one acre (43,560 square feet). Septic systems must be designed, sited and constructed to adequately handle all wastes from the commercial use and the residential unit. (Amended March 1992.)

i. Utility structures of less than 200 square feet in area. (March 1996)

j. Independent Living / Open Space Housing Development for Older Persons (March 2001)

901.01 *Multiple Principal Uses*. Two or more principal uses may be located on the same parcel without subdivision provided that the minimum standards set forth in this ordinance are adhered to.

902.00 Lot Requirements.

902.01 *Area*. Minimum lot size and dimensions are subject to Planning Board approval based on sewage disposal requirements, soil types, topography, vehicular access, intended use and compatibility with adjacent land uses and existing conditions, but shall in no cases be less than one (1) contiguous dry acre. (March 2001)

902.02 *Frontage*. Minimum frontage of 150 feet on a Town approved road. All lots on NH Route 3-A shall have a minimum frontage of 500 feet with the exception of lots of record created prior to March 14, 1989 with depths of 400 feet or less.

902.03 *Setbacks*. All buildings, structures, parking areas and other site improvements, excluding access drives, walkways, fire lanes, and landscaped areas, shall be set back a minimum of fifty (50) feet from public rights-of-way and twenty (20) feet from side or rear lot lines. For Albuquerque Avenue, all buildings or structures shall be setback a minimum of seventy-five (75) feet from the edge of right-of-way. All buildings or structures shall be set back from side or rear lot lines a distance equal to or in excess of the height of said structure. Where a non-residential site provides for pedestrian and vehicular access to an adjacent commercial site, site improvements, other than buildings, may be located within side or rear setbacks. *(Amended March 2005)*

902.04 *Building Height*. Except for structures not intended for human occupation, (chimneys, water towers, church spires, etc.,) maximum building height is 35 feet.

902.05 *Outside Storage*. Any outside storage is subject to Planning Board approval. If allowed, all storage areas will be visually screened from public rights-of-way, access roads, and adjacent properties. No outside storage shall be permitted between a public right-of-way and the building line.

902.06 *Site Coverage*. A maximum of 65 percent of the gross area of the site shall be occupied by buildings, structures, parking areas, driveways/roads and other site improvements excluding landscaping.

902.07 *Vehicular Access*. The location and design of any curb cuts and/or driveways shall minimize traffic hazards and not unduly impede traffic flow in public rights-of-way. (3-13-90.)

903.00 Special Exceptions.

The following uses may be permitted by special exception where the applicant(s) can demonstrate to the satisfaction of the Zoning Board of Adjustment that the use will not: be detrimental to the health or safety of area residents; create undue traffic congestion; and be incompatible with the surrounding residential areas or non-residential land uses.

a. Private or non-profit recreational facilities, membership clubs or fraternal orders.

b. Banks and other financial institutions.

950.00 NORTHERN COMMERCIAL/INDUSTRIAL SERVICE DISTRICT

(Adopted March 14, 2000)

950.01 *Northern Commercial/Industrial Service District Boundaries*. The boundaries of the Northern Commercial/Industrial Service District are established based on the December 1989 tax map and lot numbers, map number precedes lot number.

a. Northern Commercial/Industrial Service District: East of Route 3-A and including 22-8 (east of a line from the northeastern corner of 22-6 to the intersection of the eastern boundary of the New England Power Company power line easement and the northern lot line of 22-8); 21-17 (south of a line from the intersection of the southern lot line of 22-12 and the western lot line of 21-17 to the intersection of the southwestern and northwestern lot lines of 22-37); 21-16; 21-18; 21-15; 21-14; 21-6; 21-20 (north of the southern boundary of the right-of-way from Route 3-A to 21-16); 21-19 and 21-20 (east of a line from the northwestern corner of 21-19 to the intersection of Colby Brook and the southern lot line of 21-21); 21-22 (north and east of Colby Brook).

950.02 *Site Plan Review*. In each case where construction of a building for non-residential use, or alteration and rehabilitation of an existing non- residential structure, the building inspector shall refer the applicant for a building permit to the Planning Board for site plan review in accordance with Site Plan Review Regulations in effect at the time of application. The Planning Board, after holding one or more public hearing(s) upon each application for site plan review, shall approve, approve with modifications, or disapprove said site plan. When modifying or disapproving a site plan after review, the Board shall enter its reason for the modification or disapproval into its records.

950.03 *Performance Standards.* All land use activities shall be conducted and operated to minimize negative environmental impacts to neighboring properties from emissions of smoke, noise and odors, vibrations, discharges and stormwater runoff, and shall conform to all State and Federal regulations and the following performance standards contained in Section 403.00.

951.00 Permitted Uses.

Uses not listed in Section 951.00 or 953.00 are prohibited.

a. The assembly, testing, repair and packaging of pre-manufactured components, devices, and equipment systems.

b. Warehouses and storage of non-explosive, non-toxic materials in an enclosed building.

c. Wholesale businesses.

d. Research or testing laboratories.

e. Computer Services.

f. Professional offices.

g. Municipal uses.

h. Restaurants, not including fast-food restaurants with take-out and/or drive-through service.

i. Accessory uses, including but not limited to retailing, personal and professional services, day care, recreation, auditoriums, and residences for security purposes, which are accessory with and incidental to the principal use.

j. Transportation Terminals.

k. Churches and associated parsonages.

l. Excavation, mining and processing of aggregate materials, subject to RSA 155-E and such regulations as may be enacted or adopted pursuant thereto.

m. Agricultural uses.

n. Utility structures of less than 200 square feet in area.

951.01 *Multiple Principal Uses*. Two or more principal uses may be located on the same parcel without subdivision provided that the minimum standards set forth in this ordinance are adhered to.

952.00 Lot Requirements.

952.01 *Area*. Minimum lot size and dimensions are subject to Planning Board approval based on sewage disposal requirements, soil types, topography, vehicular access, intended use and compatibility with adjacent land uses and existing conditions, but shall in no case be less than one (1) contiguous dry acre. (March 2001)

952.02 *Frontage*. Minimum frontage 150 feet on a Town approved road. Frontage on Route 3-A cannot be included in the calculation of minimum frontage.

952.03 *Setbacks*. All buildings or structures, parking areas and other site improvements, excluding access drives, walkways, fire lanes, and landscaped areas shall be set back a minimum of thirty (30) feet from public rights-of-way and twenty (20) feet from side or rear lot lines. For Albuquerque Avenue, all buildings or structures shall be setback a minimum of seventy-five (75) feet from the edge of right-of-way. All buildings or structures shall be set back from side or rear lot lines a distance equal to or exceeding the height of said structure. A thirty (30) foot wide landscaped buffer shall be maintained between any developed portion of a site and a public right-of-way. Where a non-residential site provides for pedestrian and vehicular access to an adjacent non-residential site, site improvements, other than buildings, may be located within side or rear setbacks. *(Amended March 2005)*

952.04 *Building Height*. Except for structures not intended for human occupation, (chimneys, water towers, church spires, etc.,) maximum building height is 56 feet.

952.05 *Outside Storage*. Any outside storage is subject to Planning Board approval. If allowed, all storage areas will be visually screened from public right-of-ways, access roads, and adjacent properties. No outside storage shall be permitted between a public right-of-way and the building line.

952.06 *Site Coverage*. A maximum of 75 percent of the gross area of the site shall be occupied by buildings, structures, parking areas, driveways/roads and other site improvements excluding landscaping.

952.07 *Vehicular Access*. Access to the lots within this District shall be as follows:

a. Vehicular access to all lots shall be from public right- of-ways by one or more curb cuts.

b. The location and design of curb cuts/driveways shall minimize traffic hazards and not unduly impede traffic flow in public right-of-ways.

c. No portion of any driveway shall be closer than fifty (50) feet to the right-of-way of an intersecting street or driveway.

953.00 Special Exceptions.

The following uses are permitted by special exception of the Zoning Board of Adjustment subject to site plan review of the Planning Board and any conditions of approval imposed by the ZBA to meet the standards and requirements of this ordinance. The ZBA shall determine if the proposed commercial use will meet the standards established herein for that use:

a. Gasoline Sales:

1) Shall not be located within a 500 feet radius of another gasoline sales station.
2) Pumps shall be set back at least 50 feet from the right-of-way.
3) Two access/egress points shall be provided.
4) Frontage shall be at least 200 feet on a Town approved road.
5) All underground storage tanks shall be double lined and contain a leak detection system in accordance with State of New Hampshire standards.
6) Such uses shall not create undue traffic congestion or hazard.

b. Automobile Service and Repair:

1) Two access/egress points shall be provided.
2) Frontage shall be at least 200 feet on a Town approved road.
3) The service entrance for the storage or repair of automobiles or other motorized vehicles shall be to the rear.
4) Such uses shall not create undue traffic congestion or hazard.

c. Fast-Food Restaurant with Take-Out and/or Drive-Through Service:

1) Two access/egress points shall be provided.
2) Frontage shall be at least 200 feet on a Town approved road not including Route 3-A.
3) Such uses shall not create undue traffic congestion or hazard.

d. Retail establishments for the sale of automotive supplies and the sale and maintenance of automobiles, trucks, motorcycles, boats, snowmobiles, trailers, mobile homes, recreational vehicles, and other similar type vehicles.

e. Adult Sexually Oriented Businesses:

The purpose of this ordinance is to establish reasonable and uniform regulations to prevent the concentration of adult sexually oriented businesses within the Town of Litchfield; to promote the health, safety and general welfare of its citizens; and, to prevent problems of blight and deterioration which accompany and are brought about by the concentration of adult sexually oriented businesses. The provisions of this ordinance have neither the purpose

nor the effect of imposing limitations or restrictions on the content of any communicative materials, including sexually oriented materials. It is neither the intent nor the effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

1) No adult sexually oriented business shall be permitted within five hundred (500) feet of the Residential, Transitional and Northern Commercial Districts. With the exception of distances between two separate adult businesses, distance shall be measured in a straight line, without regard to intervening structures, from the closest property line or boundary of any adjacent district, place or use to the closest exterior wall or temporary or permanent physical divider for the structure housing the adult sexually oriented business.
2) No adult sexually oriented business shall be permitted within seven hundred fifty (750) feet of any public sports/recreation park, church, place of worship, parish house, convent, public, parochial, or private school, drug free zone, kindergarten, licensed day car or nursery school, or State approved day care center.
3) No adult sexually oriented business shall be permitted within five hundred (500) feet of town boundaries.
4) No adult sexually oriented business shall be permitted within seven hundred fifty (750) feet of another existing adult sexually oriented business or one for which a certificate of occupancy has bee applied. Distance shall be measured in a straight line, without regard to intervening structures, from the closest exterior wall or temporary or permanent physical divider for the structure housing an adult sexually oriented business to the closest exterior wall or temporary or permanent physical divider for another structure housing an adult sexually oriented business.
5) No adult sexually oriented business shall be permitted within a property, building, premise, structure, or other facility that contains an existing adult sexually oriented business or within one for which a certificate of occupancy has been applied.
6) No sexually explicit material or advertising shall be visible from outside the building.
7) No private viewing rooms or booths shall be constructed unless one side is always lighted and open to a public central area.
8) For those uses permitted in the district, which sell sexually explicit goods and paraphernalia, such sexually explicit goods and paraphernalia must not be located within ready view to children and minors under the age of 18.
9) Hours of operation – 10 AM to 11 PM Monday to Saturday and 12 noon to 9 PM Sundays.
10) No one under 18 years of age allowed on the premises of an adult sexually oriented business.
11) The site shall be maintained daily in a condition that is free and clear of litter, including sexual paraphernalia or packaging.
12) The use shall not crate undue traffic, congestion or hazard, including vehicular and pedestrian movement.
13) When reviewing site plan applications the Planning Board may impose reasonable restrictions for buffering, outdoor lighting, and landscaping and building aesthetics as provided in 'Site Plan Review Regulations for the town of Litchfield, NH'.
14) Such a use will be subject to all other state and local permitting requirements.

1000.00 SOUTHERN COMMERCIAL/INDUSTRIAL SERVICE DISTRICT (Adopted March 14, 1989; Amended March 2000)

1000.01 *Southern Commercial/Industrial Service District Boundaries*. The boundaries of the Southern Commercial/Industrial Service District are established based on the December 1989 tax map and lot numbers, map number precedes lot number.

a. Southern Commercial/Industrial Service District: South of Page Road and east of Cutler Road, including 2-88 (south of a line from the southeastern corner of 5-146 on Cutler Road to the southwestern corner of 5-8 and north of a line from the northeastern corner of 2-87 to the northwestern corner of 2-37).

West of Cutler Road and east of Route 3-A, including 1-30 (north of the Circumferential Highway right-of-way); 2-98 (west of a line measured 600 feet west of the centerline of Cutler Road); 1-32-77; 1-25; 1-91, 1-23, 1-22 and 1-21 (east of a line from the northeastern corner of 1-24 to a point measured 342 feet east from the intersection of the southern lot line of 1-13 and Route 3-A, and west of a line measured 600 feet east of the rear lot lines of lots fronting on Amsterdam Circle); 1-20 (east of a line from the northeastern corner of 1-24 to a point measured 342 feet east of the intersection of the southern lot line of 1-13 and Route 3-A and continuing from said point to the southeastern corner of 1-19); 1-18 (east of a line from the northeastern corner of 1-24 to a point measured 342 feet east of the intersection of the southern lot line of 1-13 and Route 3-A continuing from said point to the southeastern corner of 1-19; continuing along the rear lot line of 1-19 to the northeastern corner of 3-4); 3-1, 3-2 and 3-3 (east of a line from the northeastern corner of 1-19 to the northeastern corner of 1-4), west of a line from the northwestern corner of 4-10 to the southeastern corner of 3-1; 3-5 and 3-6 (east of a line from the northeastern corner of 3-4 to the southeastern lot line of 3-8); 4-11; 4-10 (west of a line from the northwestern corner of 4-10 to the southeastern corner of 3-1); 1-31 (north and west of a line measured 600 feet to the north and west of lots fronting on Amsterdam Circle and Rotterdam Drive and excluding lands in the Southern Transitional Zone).

1000.02 *Site Plan Review*. In each case where construction of a building for non-residential use, or alteration and rehabilitation of an existing non- residential structure, the building inspector shall refer the applicant for a building permit to the Planning Board for site plan review in accordance with Site Plan Review Regulations in effect at the time of application. The Planning Board, after holding one or more public hearing(s) upon each application for site plan review, shall approve, approve with modifications, or disapprove said site plan. When modifying or disapproving a site plan after review, the Board shall enter its reason for the modification or disapproval into its records.

1000.03 *Performance Standards*. All land use activities shall be conducted and operated to minimize negative environmental impacts to neighboring properties from emissions of smoke, noise and odors, vibrations, discharges and stormwater runoff, and shall conform to all State and Federal regulations and the following performance standards contained in Section 403.00.

1001.00 Permitted Uses.

Uses not listed in Section 1001.00 or 1003.00 are prohibited. (March 12, 1991)

a. The assembly, testing, repair and packaging of pre-manufactured components, devices, and equipment systems.

b. Warehouses and storage of non-explosive, non-toxic materials in an enclosed building.

c. Wholesale businesses.

d. Research or testing laboratories.

e. Computer Services.

f. Professional offices.

g. Municipal uses.

h. Restaurants, not including fast-food restaurants with take-out and/or drive-through service.

i. Accessory uses, including but not limited to retailing, personal and professional services, day care, recreation, auditoriums, and residences for security purposes, which are accessory with and incidental to the principal use.

j. Transportation Terminals.

k. Churches and associated parsonages.

l. Excavation, mining and processing of aggregate materials, subject to RSA 155-E and such regulations as may be enacted or adopted pursuant thereto. (March 12, 1991)

m. Agricultural uses. (March 1994)

n. Utility structures of less than 200 square feet in area. (March 1996)

1001.01 *Multiple Principal Uses*. Two or more principal uses may be located on the same parcel without subdivision provided that the minimum standards set forth in this ordinance are adhered to.

1002.00 Lot Requirements.

1002.01 *Area*. Minimum lot size and dimensions are subject to Planning Board approval based on sewage disposal requirements, soil types, topography, vehicular access, intended use and compatibility with adjacent land uses and existing conditions, but shall in no case be less than one (1) contiguous dry acre. (March 2001)

1002.02 *Frontage*. Minimum frontage 150 feet on a Town approved road. Frontage on Route 3-A cannot be included in the calculation of minimum frontage.

1002.03 *Setbacks*. All buildings or structures, parking areas and other site improvements, excluding access drives, walkways, fire lanes, and landscaped areas shall be set back a minimum of thirty (30) feet from public rights-of-way and twenty (20) feet from side or rear lot lines. For Albuquerque Avenue, all buildings or structures shall be setback a minimum of seventy-five (75) feet from the edge of right-of-way. All buildings or structures shall be set back from side or rear lot lines a distance equal to or exceeding the height of said structure. A thirty (30) foot wide landscaped buffer shall be maintained between any developed portion of a site and a public right-of-way. Where a non-residential site provides for pedestrian and vehicular access to an adjacent non-residential site, site improvements, other than buildings, may be located within side or rear setbacks. *(Amended March 2005)*

1002.04 *Building Height*. Except for structures not intended for human occupation, (chimneys, water towers, church spires, etc.,) maximum building height is 56 feet.

1002.05 *Outside Storage*. Any outside storage is subject to Planning Board approval. If allowed, all storage areas will be visually screened from public right-of-ways, access roads, and adjacent

properties. No outside storage shall be permitted between a public right-of-way and the building line.

1002.06 *Site Coverage*. A maximum of 75 percent of the gross area of the site shall be occupied by buildings, structures, parking areas, driveways/roads and other site improvements excluding landscaping.

1002.07 *Vehicular Access*. Access to the lots within this District shall be as follows:

a. Vehicular access to all lots shall be from public right- of-ways by one or more curb cuts.

b. The location and design of curb cuts/driveways shall minimize traffic hazards and not unduly impede traffic flow in public right-of-ways.

c. No portion of any driveway shall be closer than fifty (50) feet to the right-of-way of an intersecting street or driveway.

1003.00 Special Exceptions.

The following uses are permitted by special exception of the Zoning Board of Adjustment subject to site plan review of the Planning Board and any conditions of approval imposed by the ZBA to meet the standards and requirements of this ordinance. The ZBA shall determine if the proposed commercial use will meet the standards established herein for that use:

a. Gasoline Sales:

1) Shall not be located within a 500 feet radius of another gasoline sales station.
2) Pumps shall be set back at least 50 feet from the right-of-way.
3) Two access/egress points shall be provided.
4) Frontage shall be at least 200 feet on a Town approved road.
5) All underground storage tanks shall be double lined and contain a leak detection system in accordance with State of New Hampshire standards.
6) Such uses shall not create undue traffic congestion or hazard.

b. Automobile Service and Repair:

1) Two access/egress points shall be provided.
2) Frontage shall be at least 200 feet on a Town approved road.
3) The service entrance for the storage or repair of automobiles or other motorized vehicles shall be to the rear.
4) Such uses shall not create undue traffic congestion or hazard.

c. Fast-Food Restaurant with Take-Out and/or Drive-Through Service:

1) Two access/egress points shall be provided.
2) Frontage shall be at least 200 feet on a Town approved road not including Route 3-A.
3) Such uses shall not create undue traffic congestion or hazard.

d. Retail establishments for the sale of automotive supplies and the sale and maintenance of automobiles, trucks, motorcycles, boats, snowmobiles, trailers, mobile homes, recreational vehicles, and other similar type vehicles.

1025.0 HOUSING FOR OLDER PERSONS (Adopted March 2001)

Repealed – March 10, 2009

1026.00 Definitions.

Repealed – March 10, 2009

1027.00 Site Plan Approval. (March 2002)

Repealed – March 10, 2009

1028.00 Maximum Number of New HOP Units in a Calendar Year. (Amended March 2004)

Repealed – March 10, 2009

1029.0 Exemptions.

Repealed – March 10, 2009

1030.00 Severability Clause.

Repealed – March 10, 2009

NOTE: 338 Housing for Older Persons units have been approved as follows:

Gilcreast Farm; Map 32, Lot 7 (48 units)
Stage Crossing; Map 12, Lot 17 (78 units)
Woodland Place; Map 2, Lot 98 (23 units)
Heritage Park; Map 2, Lot 86 (18 units)
Canberra Village; Map 14, Lot 12 (48 units)
Annandale on the River; Map 1, Lots 6, 7 (57 units)
Blossom Court; Map 4, Lot 10 (24 units)
Pine Creek Village; Map 23, Lot 17 (42 units)

The abovementioned units are vested under RSA 674:39 and are required to maintain their status as Housing for Older Persons and maintain compliance as approved and recorded at the Hillsborough County Registry of Deeds prior to November 10, 2008.

1050.00 TELECOMMUNICATION FACILITIES *(Adopted March 10, 1998)*

In recognition of the requirements of the federal Telecommunications Act of 1996, this ordinance is designed and intended to balance the interests of the residents of Litchfield, telecommunications providers, and telecommunications customers in the siting of telecommunications facilities within the town so as to ensure coordinated development of communications infrastructure while preserving the health, safety and welfare of the Town and its residents. This ordinance establishes general guidelines for the siting of telecommunications towers and antennas to enhance and fulfill the following goals:

a. Preserve the authority of Litchfield to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities, by enhancing the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

b. 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;

c. Provide for co-location and minimal impact siting options through assessment of technology, current location options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town;

d. Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;

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

f. Provide for constant maintenance and safety inspections for any and all facilities;

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

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

1051.00 Definitions.

1051.01 *Alternative tower structure*. Innovative siting techniques such as artificial trees, clock towers, bell towers, steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

1051.02 *Antenna*. Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any band width. This definition does not include residential direct to home satellite services for private use.

1051.03 *Co-location*. The use of an existing tower or an existing telecommunications facility, for multiple purposes or users.

1051.04 *Guy wires*. A cable used to secure and steady a tower.

1051.05 *Height*. The distance measured from ground level to the highest point on the tower or other structure, including antennas.

1051.06 *Monopole*. Any tower consisting of a single pole, constructed without guy wires or ground anchors.

1051.07 *Preexisting towers and antennas*. Any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Also, any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Town.

1051.08 *Secondary use*. A use of land or of a building or portion thereof which is unrelated to the principal use of the land or building.

1051.09 *Telecommunications facilities*. Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications services (PCS) and common carrier wireless exchange access services.

1051.10 *Tower*. A 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.

1052.00 Applicability.

1052.01 *Public Property*. Antennas or towers located on property owned, leased, or otherwise controlled by the Town may be exempt from the requirements of this section, except that these uses are only permitted in the zones and areas as delineated in Section 1053.02. This partial exemption shall be available if a license or lease authorizing the 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.

1052.02 *Amateur Radio Antennas*. This ordinance shall not govern any tower, or the installation of any antenna that is under 50 feet in height and is owned and operated by an amateur radio station operator. This application adopts the provisions and limitations as referenced in RSA 674:16, IV.

1052.03 *Essential Services and Public Utilities*. Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunications facilities is a use of land, and is subject to the Town's zoning ordinance and all other applicable ordinances and regulations.

1053.00 Siting Standards.

1053.01 *General Provisions*. The uses listed in this section are deemed to be permitted uses in the designated district in accordance with all other applicable ordinances and regulations of the Town including Site Plan Review and approval by the Litchfield Planning Board.

a. New telecommunications facilities shall be co-located with existing facilities, unless it can be demonstrated that co-location would be mechanically or otherwise infeasible, or would frustrate the provision of service. All new facilities shall permit the co-location of future facilities.

b. Antennas and towers 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.

c. For purposes of determining whether the installation of a tower or antenna complies with the Litchfield Zoning Ordinance and Land Use Regulations, the dimensions of the entire lot shall control, even though the antennas and towers may be located on leased parcels within such lots.

d. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance, shall not be deemed to constitute the expansion of a nonconforming use or structure.

1053.02 *Districts Permitted*. New tower construction and co-location of telecommunication facilities shall only be permitted in the Commercial/Industrial Service Districts and the Highway Commercial District subject to all applicable local, state and federal regulations and Site Plan Review and approval by the Planning Board.

1053.03 *Height Requirements*. Towers shall only be constructed to the minimum height required to provide adequate service. In addition, towers requiring lighting shall not be permitted in any district.

DISTRICT	*New Tower Construction*	*Co-location on Existing Tower*	*Co-location on Existing Structure*
Commercial/Industrial Service District	Max. height 200 feet	Max. height 200 feet	Current structure height + 30 feet, not to exceed 200 feet
Highway Commercial District	Max. height 200 feet	Max. height 200 feet	Current structure height + 30 feet, not to exceed 200 feet

These requirements and limitations shall preempt all other height limitations as determined by the Zoning Ordinance and shall apply only to telecommunications facilities.

1054.00 Bonding 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/or unwilling to remove the tower in accordance with Section 1056.00. Bonding and surety shall be consistent with the provisions in the Subdivision Regulations. Furthermore, the Planning Board shall require submission of proof of adequate liability and comprehensive insurance covering accident or damage.

1055.00 Inspections.

All telecommunication towers shall be inspected quarterly with written proof of the inspection provided to the Code Enforcement Officer within fifteen days of the date of the inspection. Two consecutive missed inspections shall constitute abandonment and invoke the provisions of Section 1056.00.

1056.00 Removal of Abandoned Antennas and Towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Town. A declaration of abandonment shall only be issued following a public hearing, noticed according to RSA 676:4, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within ninety (90) days, the Town may execute the security and have the tower removed. If there are two or more uses of a single tower, this provision shall not become effective until all uses cease using the tower.

1100.00 FLOODPLAIN CONSERVATION DISTRICT *(Adopted 1975, Amended March 13, 1979, March 1987, Amended March 9, 1993), (Amended March 13, 2007), May 2009*

1100.01 *Purpose and Authority*. The Floodplain Conservation District is enacted to ensure that development on land within the District will not endanger the health, safety and welfare of the occupants of the land within the floodplain or the public during time of flood, that development will not result in increased flood levels during the base flood discharge, and to encourage the most appropriate use of land within the community.

The Floodplain Conservation District is an overlay district and supplements the regulations of the underlying district in the Town's Zoning Ordinance. If any provision of this District differs or appears to conflict with any provision of the Zoning Ordinance, other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations 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 Hillsborough, NH" dated September 25, 2009 or as amended, together with the associated Flood Insurance Rate Maps dated September 25, 2009 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference. (*Amended May, 2009 by Selectmen's Resolution)*

1101.00 Definitions.

The following definitions shall apply only to the Floodplain Conservation District and shall not be affected by the provisions of any other ordinance of the Town of Litchfield.

1101.00.1 *Area of Special Flood H*azard. The land in the floodplain within the Town of Litchfield subject to a 1 percent or greater chance of flooding in any given year. The area is designated as *Zones A or AE* on the Flood Insurance Rate Map.

1101.01 *Base Flood*. The flood level having a one-percent possibility of being equaled or exceeded in any given year.

1101.02 *Basement*. Any area of a building having its floor subgrade on all sides.

1101.03 *Breakaway Wall*. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.

1101.04 *Building*. See "structure".

1101.05 *Development*. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

1101.06 *FEMA*. Federal Emergency Management Agency.

1101.07 *Flood or Flooding*. A general and temporary condition of partial or complete inundation of normally dry land areas from:

a. the overflow of inland or tidal waters; and/or

b. the unusual and rapid accumulation or runoff of surface waters from any source.

1101.08 *(Deleted)*

1101.09 *Flood Insurance Rate Map (FIRM)*. 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 Litchfield.

1101.10 *(Deleted)*

1101.10.1 *Flood Insurance Study (FIS)*. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

1101.11 *Floodplain or Flood-prone Area*. Any land area susceptible to being inundated by water from any source (see "Flooding").

1101.12 *Flood-proofing*. 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.

1101.13 *Floodway*. See "Regulatory Floodway".

1101.14 *Functionally Dependent Use*. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

1101.15 *Historic Structure*. Any structure that is:

a. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

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

   1) by an approved state program as determined by the Secretary of the Interior; or
   2) directly by the Secretary of the Interior in states without approved programs.

1101.16 *Lowest Floor*. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an

enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

1101.17 *Manufactured Home*. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when 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 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

1101.17.1 *Manufactured Home Park or Subdivision* A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

1101.18 *(Deleted)*

1101.18.1 *Mean Sea Level*. The National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

1101.18.2 *New Construction*. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

1101.19 *l00-year flood*. See "base flood".

1101.20 *Recreational Vehicle*. A vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. (Amended March 1994.)

1101.21 *Regulatory Floodway*. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

1101.22 *Special Flood Hazard Area*. See "Area of Special Flood Hazard"

1101.23 *Start of Construction*. Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

1101.24 *Structure*. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

1101.25 *Substantial Damage*. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

1101.26 *Substantial Improvement*. Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds 50 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 for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

1101.26.1 *Violation*. The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

1101.27 *Water Surface Elevation*. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains.

1102.00 Permitted Uses.

Any use which is permitted in the underlying zoning district and which does not involve the erection of any new building or structure; the permanent storage of materials or equipment; or the dumping, filling dredging or excavation of any materials.

1103.00 Special Exceptions.

a. The Zoning Board of Adjustment may grant special exceptions for the following uses within the special flood hazard area. The ZBA shall notify the Conservation Commission and the Planning Board when an application for a special exception within the Floodplain Conservation District is received. The Planning Board and the Conservation Commission shall have the opportunity to submit written comment on the application prior to the public hearing:

   1) The erection of new and the enlargement of existing nonresidential buildings and structures.
   2) The temporary storage of non-hazardous materials and equipment, as defined by the State of New Hampshire.
   3) The alteration of the surface configuration of the land.

b. All special exceptions granted by the Zoning Board of Adjustment shall meet the following conditions:

1) The proposed construction, use and/or alteration of the surface configuration of land shall be consistent with the purpose of the Floodplain Conservation District and is otherwise permitted by the Zoning Ordinance.
2) The proposed construction, use and/or alteration of the surface configuration of land will not substantially obstruct nor divert flood flow, reduce natural floodwater storage capacity, nor increase stormwater runoff velocity so that water levels on other lands are substantially raised or danger from flooding increased.
3) A safe means of vehicular and pedestrian escape are provided in the event of flooding.
4) The proposed methods of drainage and sewage disposal will not cause pollution or endanger health during flooding.
5) Any proposed construction, building or use allowed as a special exception under this section shall conform with Part 60.3 of the National Flood Insurance Program Regulations and Section 1106.00 of this Ordinance.

1104.00 Permit Required.

All proposed development in any special flood hazard area shall require a permit. The Code Enforcement Officer shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.

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

In addition, the applicant shall provide the Code Enforcement Officer with the following information for all new or substantially improved buildings or structures:

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

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

c. any certification of flood-proofing.

The Code Enforcement Officer shall maintain this information for public inspection, and shall furnish it upon request.

1105.00 Location of the 100-Year Flood Elevation.

In special flood hazard areas the Code Enforcement Officer shall determine the 100-year flood elevation in the following order of precedence according to the data available:

a. In zones A and AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM or FHBM.

b. In unnumbered A zones the Code Enforcement Officer shall obtain, review, and reasonably utilize 100 year flood elevation data available from any federal, state or other source including data submitted to the Town for development proposals.

1106.00 Construction Standards.

1106.01 *Flood-prone Areas*. All new construction or substantial improvements within a flood-prone area shall be:

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

b. Constructed with materials resistant to flood damage.

c. Constructed by methods and practices that minimize flood damages.

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

1106.02 *A and AE Zones*. In addition, any new construction or substantial improvement within the A and AE zones, as determined by the Code Enforcement Officer, shall meet the following criteria:

a. All new construction or substantial improvement of residential structures shall have the lowest floor (including basement) elevated to or above the 100 year flood elevation.

b. All new construction or substantial improvements of nonresidential structures shall have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:

1) be flood-proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
2) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
3) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.

c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be:

1) elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level;
2) securely anchored to resist floatation, collapse, or lateral movement - methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

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

1) be on the site for fewer than 120 consecutive days;
2) be fully licensed and ready for highway use; or

3) meet all of the standards contained in Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "Manufactured Homes" in Paragraph (c) (6) of Section 60.3. (Amended March 1994.)

e. For all new nonresidential 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, and usable solely for the parking of vehicles, building access or storage;
2) the area is not a basement;

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

(a) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
(b) the bottom of all openings shall be no higher than one foot above grade;
(c) openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood-water.

f. 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 Code Enforcement Officer with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

1107.00 Alteration of Watercourses.

Any development involving the alteration of a watercourse shall meet the following requirements:

a. Prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Code Enforcement Officer in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Code Enforcement Officer, including notice of all scheduled hearings before the Wetlands Board.

b. The applicant shall submit to the Code Enforcement Officer certification provided by a registered professional engineer assuring that the flood carrying capacity of the altered or relocated watercourse can and will be maintained.

c. 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.

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

e. 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 in flood levels within the community during the base flood discharge."

1108.00 Variances and Appeals.

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

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

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

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

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

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

1.) 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 to $100 of insurance coverage; and
2.) such construction below the base flood level increases risks to life and property.

e. The written notification shall be maintained with the record of all variance actions.

f. The Town shall maintain a record of all variance actions, including the justification for its issuance, and report the issuance of any variance to FEMA's Federal Insurance Administrator in its annual or biennial report.

1200.00 WETLANDS CONSERVATION DISTRICT (Amended March 2001)

1200.01 *Purpose and Intent*. The purpose of this ordinance 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 subjected to high water tables for extended periods of time. It is intended that this ordinance shall:

a. Prevent the development of structures and land uses on and around naturally occurring and artificial wetlands, because those structures and land uses may contribute to pollution of surface and groundwater by sewage or toxic substances.

b. Prevent the destruction of, or significant changes to, natural and artificial wetlands. These wetlands provide many functions such as flood protection, ground water recharge, pollution abatement, and water storage for later discharge to enhance stream flow during dry periods.

c. Protect unique, ecologically sensitive and unusual natural areas.

d. Protect wildlife habitats, wildlife corridors and maintain ecological balances.

e. Protect potential water supplies and existing aquifers (water-bearing stratum) and aquifer recharge areas.

f. Prevent expenditure of municipal funds 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.

g. Encourage those low-intensity uses that can be harmoniously, appropriately and safely located in or near wetlands.

1201.00 ***Definitions***. *See Section 200.25 for the definition of wetlands.*

1201.01 *Swamps*. The vegetation community typically consists mostly of trees and woody shrubs, including:

Alders	Poison Sumac	Arrow-wood
Red Maple	Atlantic White Cedar	Rhodora
Black Ash	Sphaghum Moss	Spicebush
Black Spruce	Sweet Pepperbush	Buttonbush
Tamarack (Larch)	Common Elder	Willows
High-bush Blueberry	Winterberry	March Rose
Black Gum		

1201.02 *Marshes*. Treeless wetlands dominated by soft-stemmed herbaceous plants. The surface of the marsh is covered with water year round, though seasonal fluctuations in water depth are expected. Marshes range from the wet meadow variety to deep marshes, which can be covered with several feet of water. The vegetation community is typically made up of some or all of the following:

Arums	Leatherleaf	Bladderworts
Pickerel Weeds	Bur-weeds	Rushes
Sedges, including Bullrushes	Duckweeds	Cotton-grasses & Wool-grasses
Eelgrass	Smartweeds	Frog's-bits
Sweet Gale	Horsetails	Water-lillies
Wetland Grasses	Water Milfoil	Cat-tails

1201.03 *Bogs* consist of peat or muck deposits of significant depths and are characterized by a distinct group of trees and plants, which are adapted to the bog's highly acidic conditions. The water in a bog is practically devoid of oxygen and nutrients. Bogs usually develop in undrained glacial depressions. Typical plants are:

Atlantic White Cedar	Pale Laurel	Black Spruce
Pitcher-plants	Bladderworts	Rhodora
Bog or Buckbean	Sedges	Bog-laurel
Sheep Laurel	Bog-rosemary	Sphagnum Moss
High-bush Blueberry	Sweet Gale Leatherleaf	

1201.04 *Wetland Soils*. Soil series and land types commonly associated with wetlands, as described by the Soil Survey of Hillsborough County, New Hampshire, Eastern part, dated October, 1981, including, "very poorly drained" and "poorly drained" soils:

1201.05 *Artificial Wetlands.* Wetlands that were created during mitigation for wetland losses due to approved construction or wetland violations.

1201.06 *Vernal Pools.* Temporary bodies of water varying in size that provide essential breeding habitat for certain amphibians and invertebrates, but does not support fish, as defined in Identification and Documentation of Vernal Pools in New Hampshire; published by the New Hampshire Fish and Games Department (1997), as amended.

1201.07 *Fen (groundwater / seepage wetlands).* Sedgey / shrubby peatlands influenced by groundwater seepage and/or water of streams and lakes. More minerotrophic compared to bogs. Water fluctuations are less pronounced that in marshes. Water quality / pH has a strong influence. They can be found as groundwater basins, drainageways, bases of slopes, sloping upland til positions, and riverbanks.

1201.08 *Basin Marshes and sandy pondshore marshes.* Wetlands that have broadly fluctuating ground or surface water levels from spring inundation to nearly dry late summer drawdown. They occur on porous substrates of sandy pondshores, outwash, glacial lakebed and river plain deposits. They have feeding and breeding ground for amphibians and reptiles.

1201.09 *Buffer.* A naturally vegetated upland area adjacent to a wetland or surface water. "Naturally vegetated" includes uncut or undisturbed forest and abandoned pasture or fields. Buffers reduce the adverse effect of human activities on the wetland or surface water by protecting water quality, protecting and providing wildlife habitat, reducing direct human disturbance from dumped debris, noise, carnivorous pets, and many other possible effects. Buffers help to maintain biodiversity, aesthetic diversity and recreational value.

1202.00 Wetland Delineation.

Wetlands shall be determined by using Field Indicators for Identifying Hydric Soils in New England. Version 2, New England Interstate Water Pollution Control Commission, 1998, and the 1987 Corps of Engineers Wetlands Delineation Manual, as amended.

1203.00 Wetlands Incorrectly Delineated.

Where it is alleged that an area has been incorrectly delineated as a wetland, or that an area not so designated meets the criteria for wetlands designation, the Conservation Commission shall determine whether the area has been correctly delineated. The Conservation Commission shall make their judgment under this section only upon the determination by a certified wetlands scientist(s) on the basis of additional on-site investigation or other suitable research, that the information contained on the Wetlands Map is incorrect. This evidence shall be acceptable only when presented in written form by said scientist(s) to the Conservation Commission. Any necessary wetlands delineation procedures shall be conducted at the expense of the landowner or developer. Once an area has been determined to be a wetland under this section, the area shall become part of the Wetland Conservation District. (Adopted March 1987.)

1204.00 Wetlands Conservation District Boundaries

The limits of the Wetlands Conservation District are hereby determined to be wetland areas and surface waters of 2,000 square feet or more in size; or wetland areas of any size if contiguous to surface waters such as lakes, ponds and streams; other areas subject to high water tables for extended periods of time; and the adjacent buffers. In all cases where the Wetland Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

1205.00 Permitted Uses.

Uses permitted in the Wetland Conservation District are those specific uses which, 1) will not require the erection or construction of any structures or buildings, 2) will not result in a major alteration of the natural surface configuration by the addition of fill or by dredging and, 3) otherwise are permitted by this zoning ordinance. Several information sources on Best Management Practices (BMP's) for these uses may be obtained from the Natural Resources Conservation Service and Hillsborough County Conservation District office in Milford, NH; NH Dept. of Agriculture, Concord, NH and NH DES, Concord, NH.

Permitted uses, which may require a permit, are specifically restricted to the following:

a. *(March 2002)* Forestry/tree farming and harvesting activities, using current recognized BMP's (e.g. Best Management Practices for Erosion Control on Timber Harvesting Operations in NH. Division of Forests and Lands, NH Dept. of Resources and Economic Development. 1996, as amended) and in accordance with Comprehensive Shoreland Protection Act (RSA 483-B), where applicable, in order to protect wetlands from damage and to prevent sedimentation;

b. The cultivation and harvesting of crops according to recognized soil conservation practices using current recognized BMP's (e.g. Manual of Best Management Practices for Agriculture in NH. NHDA. Revised August 1998, as amended) and with diligent consideration of possible non-point source pollution caused by fertilizers, pesticides, and herbicides;

c. Wildlife refuges;

d. Parks and recreation uses consistent with the purpose and intent of this ordinance using current recognized best management practices;

e. Conservation areas and nature trails using current BMP's (e.g. Best management Practices for Erosion Control During Trail Maintenance and Construction, NH Dept. of Economic Development, Concord, 1994, as amended);

f. Open spaces as permitted or required by the subdivision regulations or the zoning ordinance.

1206.00 Prohibited Uses and/or Activities in the Wetlands Conservation District.

a. The storage of petroleum products, paints, household chemicals and similar environmentally dangerous materials.

b. The composting of yard, garden or kitchen wastes.

c. Parking or storage of motor vehicles or other petroleum powered equipment, including, but not limited to, boats, cars, trucks, snowmobiles, all-terrain vehicles and yard equipment.

d. The storage of pesticides

e. The use or storage of herbicides, fertilizers, manure or pool chemicals.

f. The construction, placement or maintenance of any permanent or temporary structures, including, but not limited to, sheds, swimming pools and propane storage tanks.

g. Water supply wells, earth coupled heating or cooling wells.

h. Clearing or cutting of trees or other vegetation, provided, however, that such is reviewed and approved in writing by the Litchfield Conservation Commission:

1.) Prohibition shall not apply to the removal of dead or dying trees or vegetation, trees or vegetation which might be reasonably expected to cause damage or injury to persons or property located outside Wetlands Conservation District;
2.) Prohibition shall not apply to limited removal of vegetation, which is reasonably required for the Permitted Uses in Section 1205.00.

i. The keeping or grazing of livestock, including, but not limited to, cattle and horses without the use of current best management practices.

j. Establishment or expansion of salt storage yards or other deicing chemicals, junkyards, solid waste and hazardous waste facilities.

k. Snow dumps

l. Stump dumps

1207.00 Lot Requirements.

1207.01 *Area*. Wetland areas shall not be included in the calculations of minimum lot size. (Amended March 9, 1999.)

1207.02 *Setbacks and Buffers*. Buildings must be set back seventy-five (75) feet and leachfields must be set back one hundred (100) feet from delineated wetland boundary. *(Amended March 1987, March 2001.)*

1207.03 *Buffers*. Buffers shall be at least a fifty (50) foot wide area of undisturbed naturally vegetated upland habitat along the delineated edge of wetlands, streams and ponds, except in the case of basin marshes, fens, bogs and vernal pools that shall require at least two hundred (200) foot width. The undisturbed condition may have exceptions only where needed for the Permitted Uses

listed in Section 1205.00. The Wetlands Conservation District buffers shall be encouraged, but not required next to manmade vegetated swales, roadside drainage ditches, sedimentation/detention basins, agricultural/irrigation ponds, and wetlands on prior converted cropland, except as required by nearby wetland and surface waters. *(Amended March 2001)*

1208.00 Special Exceptions.

Special Exceptions may be granted by the Zoning Board of Adjustment, after proper public notice and public hearing, for undertaking the following uses in the Wetlands Conservation District when the application has been referred to the Planning Board, the Conservation Commission and the Health Officer for review and comment at least twenty five (25) days prior to the hearing and when they meet the criteria listed in Section 1200.01:

a. Streets, roads, bridges and other access ways and utility right-of-way easements, including power lines and pipe lines, if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the Wetland Conservation District.

b. Water impoundments.

c. Any use which is not otherwise permitted in the Wetlands Conservation District if it can be shown that the proposed use is not in conflict with the purpose and intent of Section 1200.01 and if the proposed use is otherwise permitted by the Zoning Ordinance. (Adopted March 1994)

d. Expansion of principal residential buildings, that exists as of December 29, 2000, to within twenty five (25) feet of the delineated wetland boundary with a written evaluation by a certified wetland scientist.

1208.01 *Criteria for Granting a Special Exception.* Special exceptions for uses within the Wetlands Conservation District may be granted provided that the following conditions are met. The burden of proof shall be upon the applicant who shall furnish such engineering and hydrological data as is reasonably necessary. Economic advantage alone is not reason for granting a special exception.

a. The proposed use, construction and/or alteration shall be constructed in such a way that does not unduly restrict the flow of water.

b. It can be shown that the proposed use is not in conflict with any and all of the purposes and intentions listed in Section 1200.01 of this Ordinance.

c. The use or activity proposed and its attendant impacts cannot reasonably be avoided.

d. The least damaging route and methodology have been selected; and that which is being proposed is the best practicable alternative available.

e. Reasonable and acceptable impact mitigation measures have been incorporated where necessary and appropriate to minimize wetland loss or degradation.

f. No significant impact on the aquatic habitat of rare or endangered species as listed by the state of New Hampshire or federal government will result.

g. Adequate erosion and sedimentation control methods appropriate to the use are incorporated as detailed by the current recognized BMP's (e.g. Stormwater Management and Erosion and

Sedimentation Control Handbook for Urban and Developing Areas in NH. Rockingham County Conservation District, NHDES, and Soil Conservation Service. August 1992, as amended.

h. State wetland permits, as required, are obtained.

1209.00 Non-Conforming Structures.

A lawful non-conforming structure which is destroyed or in need of extensive repair due to flooding may not be rebuilt or repaired.

1250.00 AQUIFER PROTECTION DISTRICT (Adopted March 11, 2003)

1250.01 *Purpose and Intent*

The Town of Litchfield adopts this Ordinance for the promotion of the health, safety, and general welfare of its residents by preserving, maintaining and protecting from contamination the existing and potential ground water resources of the Town and protecting the surface waters that are fed by groundwater. The purpose is to be accomplished by regulating land use practices generally related to commercial-industrial land use (such as but not limited to the disposal or storage of solid wastes, sludge, subsurface waste disposal, road salting materials, gas or other petroleum products), and including home businesses, that might reduce the quality of water that is now -- and in the future will be -- available for use by municipalities, individuals and industries. Maps are provided at the end of this section and depictions of boundaries are for illustrative purposes only. District boundaries are defined in the text of this section and sources cited (Section 1252.00).

1251.00 Definitions

Any term not defined here shall have the same meaning as defined in Section 200, DEFINITIONS, of this Ordinance.

1251.01 *Aquifer*. Geologic formation composed of rock, stratified sand and/or gravel that contain significant amounts of potentially recoverable water.

1251.02 *Bottled Water Facility.* Bottled water facilities in Litchfield are classified as a Community Public Water Supply. Therefore, the bottled water facility must comply with public drinking water regulations as specified by the State of NH Department of Environmental Services, Water Division standards.[1] Where permitted, they must submit plans for Site Plan review and approval to the Litchfield Planning Board prior to operation.

1251.03 *Domestic Wastewater*. Wastewater from human sanitary uses including, but not limited to bathing, clothes washing and toilets.

1251.04 *Ground Water*. Subsurface water that occurs beneath the water table in soils and geologic formations. In this Ordinance, the term refers to the slowly moving subsurface water present in aquifer recharge areas.

1251.05 *Hazardous Waste*. Materials or liquids that pose a threat to the environment, whether in use, storage, or transit, including without exception hazardous wastes identified and listed in accordance with the State of New Hampshire Department of Environmental Services Hazardous Waste Rules, Env-Wm 110-1000.

1251.06 *Impervious*. Not readily permitting the infiltration of water.

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[1] New Hampshire Safe Drinking Water Act. http://www.des.state.nh.us/factsheets/ws/ws-14-1.htm Environmental Fact Sheet. WD-WSEB-14-1. 2001. Operational Responsibilities of Community Public Water Systems.

Department of Environmental Services (DES) Drinking Water Program, Analytical Requirements for Community Public Water Systems, June 6, 2002

1251.07 *Impervious Surface*. A surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt, earthen, wooden, or gravel surfaces, or other surfaces, which could react with or dissolve when in contact with the substances stored on them, are not considered impervious surfaces.

1251.08 *Junkyard*. Any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited 2 or more unregistered motor vehicles which are no longer intended 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 to 2 or more motor vehicles. Junkyard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material, which are parts of a motor vehicle or cut up the parts thereof. This definition includes garbage dumps and sanitary landfills. This definition does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

1251.09 *Leachable Wastes*. Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.

1251.10 *Non-Conforming Use*. Any building or land lawfully occupied by a use at the time of passage of the Ordinance or amendment thereto which does not conform after the passage of this Ordinance or amendment thereto with the regulations of the district in which it is situated.

1251.11 *Non-domestic Wastewater*. Wastewater generated from other than human sanitary uses including but not limited to industrial and commercial wastewater, and a combination of domestic and non-domestic wastewater (for example a home business that would generate wastewater amounts in excess of a normal household).

1251.12 *Outdoor Storage*. Storage of materials where they are not protected from the elements by a roof, walls and a floor with an impervious surface.

1251.13 *Protective Well Radius*. The area around a well, which must be maintained in its natural state as required by Env-Ws 378 or 379 (for community water systems) and Env-Ws 372.13 (for other public water systems).

1251.14 *Public Water System*. A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

1251.15 *Regulated Substance*. Petroleum, petroleum products, including gasoline; and substances listed under 40 CFR 302, 7-1-90 edition, excluding the following substances: ammonia; sodium hypochlorite; sodium hydroxide; acetic acid; sulfuric acid; potassium hydroxide; potassium permanganate; and propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.

1251.16 *Secondary Containment*. A structure such as a berm or dike with an impervious surface, which is adequate to hold at least 110% of the volume of the largest, regulated substances container that will be stored there.

1251.17 *Solid Wastes*. Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material, landscape refuse and sludge.

1251.18 *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 purposes of this Ordinance, buildings are structures.

1251.19 *Surface Water*. Streams, lakes, ponds and tidal waters, including marshes, watercourses, and other bodies of water, natural or artificial.

1252.00 District Boundaries

The extent of the Aquifer Protection District shall be the outermost edge of the surficial extent of all aquifer deposits presently designated as stratified drift, as supported by information included in the U.S.G.S. (United States Geological Survey) Aquifer Delineation study entitled "Geohydrologic Appraisal of the Nashua Area, South-central New Hampshire, by K. W. Toppin, (1986)" or most recent studies. The Aquifer Protection District is a zoning overlay district, which imposes additional requirements and restrictions to those of the underlying, base district. In all cases, the more restrictive requirement(s) and permitted uses shall apply.

1253.00 Permitted Uses

Permitted uses, with the exception of those expressly prohibited in Section 1254.00, Prohibited Uses, shall be the same as the underlying zoning districts within which the aquifer lies. All uses must comply with the Performance Standards unless specifically exempt under Section 1258.00, Exemptions. Other permitted uses are:

a. Industrial or commercial uses, including home businesses, which do not discharge non-domestic wastewater on site (domestic wastewater only in approved septic systems);

b. Residential and Agricultural Development;

c. Other Uses:

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

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

d. Subsurface storage of propane/liquefied natural gas.

1254.00 Prohibited Uses

The following uses are prohibited:

a. Outdoor storage and disposal of solid wastes, other than above ground brush;

b. Subsurface storage of regulated substances, including gasoline, and the subsurface transmission of regulated substances, including gasoline, through pipelines;

c. The disposal of non-domestic wastewater, including animal manure (See 1258.00 j);

d. The covering of more than 15% of the lot in the Residential Zone and 15% of the lot in the Commercial-Industrial Zone by impervious surfaces;

e. Storage of road salt or other de-icing chemicals unless covered and on an impervious surface with berms on any open sides;

f. Excavation of sand or gravel, excepting fire ponds and operations conducted in accordance with an approved Excavation Permit issued pursuant to NH RSA 155-E, Section 100 of the Town of Litchfield Excavation Regulation and RSA 155-E, where such operations will be permitted to within 6 (six) feet of the Estimated Seasonal High Water Table, ESHWT;

g. Storage/treatment/disposal of hazardous waste or the siting or operation of a hazardous waste disposal facility as defined under RSA 147-A;

h. Bottled Water Facilities;

i. Dumping of snow containing de-icing chemicals brought in from other parts of town(s);

j. The siting or operation of a junkyard;

k. The siting or operation of a wastewater or septage lagoon; and

l. The siting or operation of a solid waste landfill.

1255.00 Conditional Uses

The Planning Board may grant a conditional use permit for a use, which is otherwise permitted within the underlying district, if the use is or involves:

a. Above ground storage, handling and use of regulated substances in quantities exceeding 100 gallons (aggregate) or 800 pounds dry weight (aggregate) at any one time, provided that an adequate plan is in place to prevent, contain and minimize releases from catastrophic events such as spills or fires which may cause large releases of regulated substances.

b. Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater, up to a maximum of 30% of a lot in the Residential District and 60% of the lot in the Industrial-Commercial District.

1255.01 In granting Conditional Use approval the Planning Board must determine*:*

a. That the proposed use is not a Prohibited Use defined under Section 1254.00

b. The use will be in compliance with the applicable Performance Standards of Section 1256.00.

c. The use is in compliance with all applicable local, state and federal requirements.

1255.02 The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards.

1256.00 Performance Standards

The following Performance Standards apply to all uses in the Aquifer Protection District unless exempt under Section 1258.00.

a. For any use that will render impervious more than 15% or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall be prepared which the Planning Board determines is consistent with the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, Rockingham County Conservation District, August 1992, and Best Management Practices for Urban Stormwater Runoff, NH Department of Environmental Services, January 1996, as updated and amended.

b. Stormwater management plans prepared pursuant to Paragraph a. shall demonstrate that stormwater recharged to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Wm 1403) at the property boundary.

c. Animal manure, fertilizers, and compost must be stored in accordance with the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets and Food, August 1998, and any subsequent revisions.

d. All regulated substances stored in containers with a capacity of (6) six gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains and outside drains in accordance with Env-Ws 421.

e. Facilities where regulated substances are stored must be inspected biweekly by the facility owner or his designate and must be secured against unauthorized entry by means of doors and/or gates which are locked when authorized personnel are not present.

f. Outdoor storage areas for regulated substances must be protected from exposure to precipitation and must be located at least 50 feet from surface water or storm drains, at least 75 feet from private wells and outside the protective well radius of public water supplies, in accordance with Env-Ws 421.

g. Secondary containment must be provided for outdoor storage of regulated substances in an aggregate of 275 gallons or more on any particular property, in accordance with Env-Ws 421.

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

i. Whenever a business is required to notify the NH Department of Environmental Services (DES) of a release, including but not limited to the requirements of Env-Wm 4112 and Env-Wm 1403, the Town of Litchfield Emergency Management (EM) Director must also be notified. Furthermore, the EM Director must also be notified when a business notifies the NH DES of a failed tank tightness test.

1257.00 Existing Non-Conforming Uses

Existing nonconforming uses may continue without expanding or changing to another nonconforming use, but must be in compliance with all applicable state and federal requirements, including Env-Ws 421, Best Management Practices and Performance Standards c, d, e and h of Section 1256.00

1258.00 Exemptions

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

a. Any private residence is exempt from all Performance Standards except 1256.00 c. Animal wastes shall be handled in accordance with a manure storage and management plan approved by the Hillsborough County Conservation District.

b. Any business or facility, including home businesses, where regulated substances are in quantities of less than (6) six gallons is exempt from Performance Standards 1256.00 e through g.

c. Storage of heating fuels for on-site use or fuels for emergency electric generation provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection for both tank and piping, and secondary containment in place is exempt from Performance Standard 1256.00 e.

d. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards 1256.00 e through h.

e. Storage and use of office supplies is exempt from Performance Standards 1256.00 e through h.

f. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards 1256.00 e through g.

g. The sale, transportation and use of pesticides, if compliant with RSA 430:49 XXVL, are exempt from all provisions of this Ordinance.

h. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03(b)(1) and 501.01(b) are exempt from Performance Standards 1256.00 e through g.

i. Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspection under Section 1259.00, Maintenance and Inspection of this Ordinance provided adequate documentation, including but not limited to state tank registrations, state permit to operate, inventory monitoring records and tank tightness test, is available and is on file with the Litchfield Fire Department and the Emergency Management Director.

j. Farming and associated farm activities in accordance with the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets and Food, August 1998, and any subsequent revisions.

1259.00 Maintenance and Inspection

1259.01 Maintenance

For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with the Performance Standards shall be recorded so as to run with the land on which the structures are located at the Hillsborough County Registry of Deeds. The description shall comply with the requirements of RSA 478:4-a.

1259.02 Inspections

a. Inspections may be required to verify compliance with Performance Standards. Such inspections will be performed by the Code Enforcement Officer or as designated by the Board of Selectmen, at reasonable times with prior notice to the landowner.

b. All properties within the Aquifer Protection District known to be using or storing regulated substances in containers with a capacity of (6) six gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under Section 1258.00, Exemptions, shall be subject to inspections under this section by the Code Enforcement Officer or as designated by the Board of Selectmen.

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

1259.03 Releases and Tank Tightness Test Failures

Whenever a business is required to notify the NH Department of Environmental Services of a release, including but not limited to the requirements of Env-Wm 4112 and Env-Wm 1403, the Town of Litchfield Emergency Management Director must also be notified. Furthermore, the EM Director must also be notified when a business notifies the NH DES of a failed tank tightness test.

1260.00 Administration

All subdivision proposals and other proposed new developments within the Aquifer Protection District shall be reviewed by the Planning Board and shall conform to the provisions of this Ordinance, and further shall assure that:

a. All such proposals are consistent with the need to protect the groundwater of the Town of Litchfield and adjacent communities;

b. For the purpose of minimizing or eliminating leakage or discharges from septic systems into the groundwater, all systems shall be at least 4 (four) feet above the Estimated Seasonal High Water Table, ESHWT;

c. On-site waste disposal systems shall be located to avoid or minimize groundwater contamination;

d. Streets, roads, and parking areas are constructed so that direct application of road salt is not required for winter safety, and so that runoff from such uses is channeled to avoid or minimize groundwater contamination;

e. Any increase in surface storm water generated by development is kept on-site and handled in such a manner as to allow the water to infiltrate into the ground before leaving the site;

f. Written approval of the State of New Hampshire Water Supply and Pollution Control Division has been obtained.

1261.00 Conservation Commission Review

Plans shall be submitted to both the Planning Board and Conservation Commission for all submittals within the Aquifer Protection District. The Conservation Commission shall provide a written finding as to their interest in the application, at their next available meeting. Additional comments may be submitted to the Planning Board.

1262.00 Incorrectly Delineated Zones

Where the bounds, as delineated, are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should be properly located. At the request of the owner(s), the Town may engage a professional geologist or soil scientist to determine more accurately the location and extent of an aquifer, and may charge the owner(s) for all or part of the cost of the investigation. The delineation can be modified by the Planning Board upon receipt of findings of the detailed on-site survey techniques.

1263.00 Enforcement

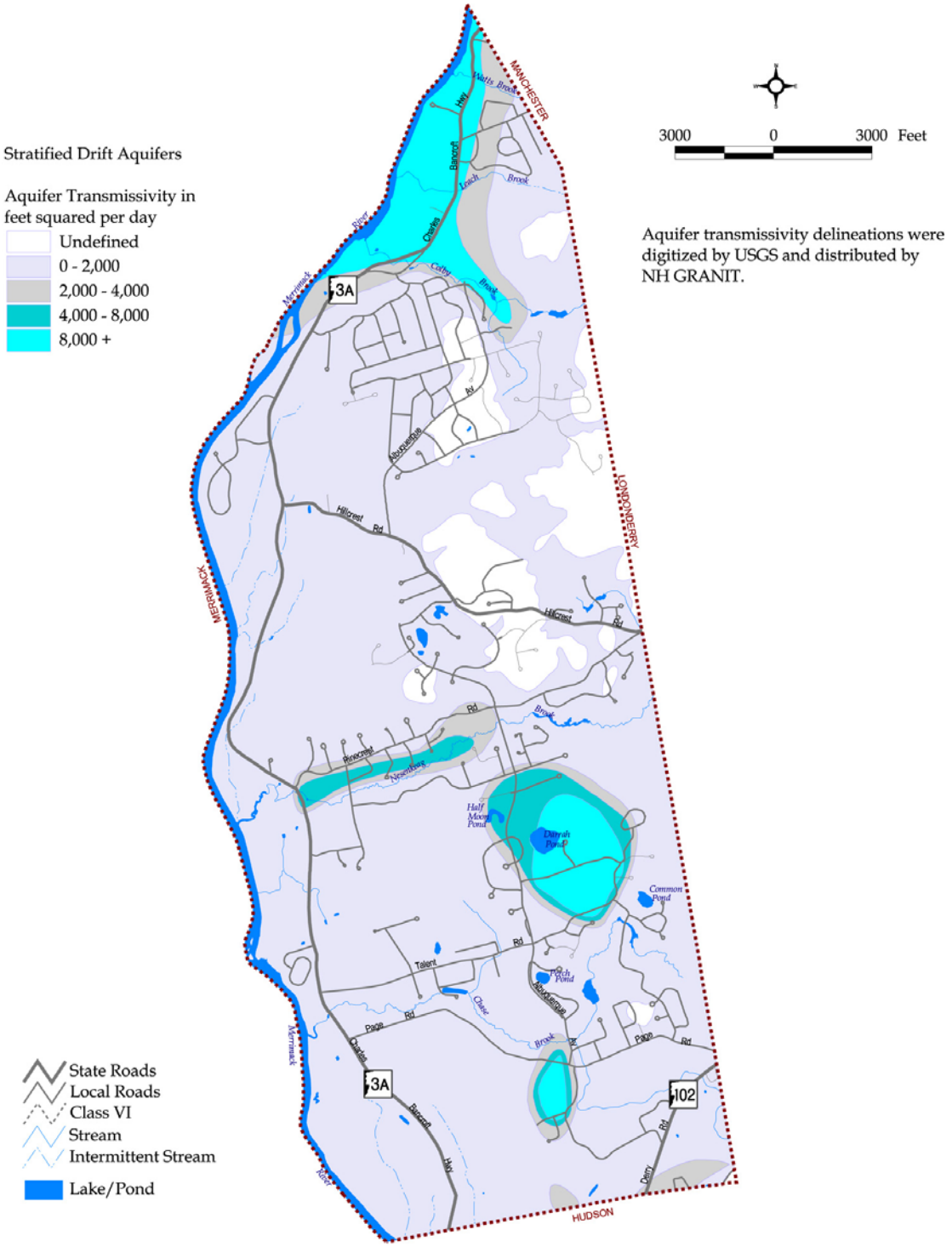
These regulations shall be enforced by the Board of Selectmen or its duly authorized representatives.

1264.00 Validity and Conflict with Other Ordinances

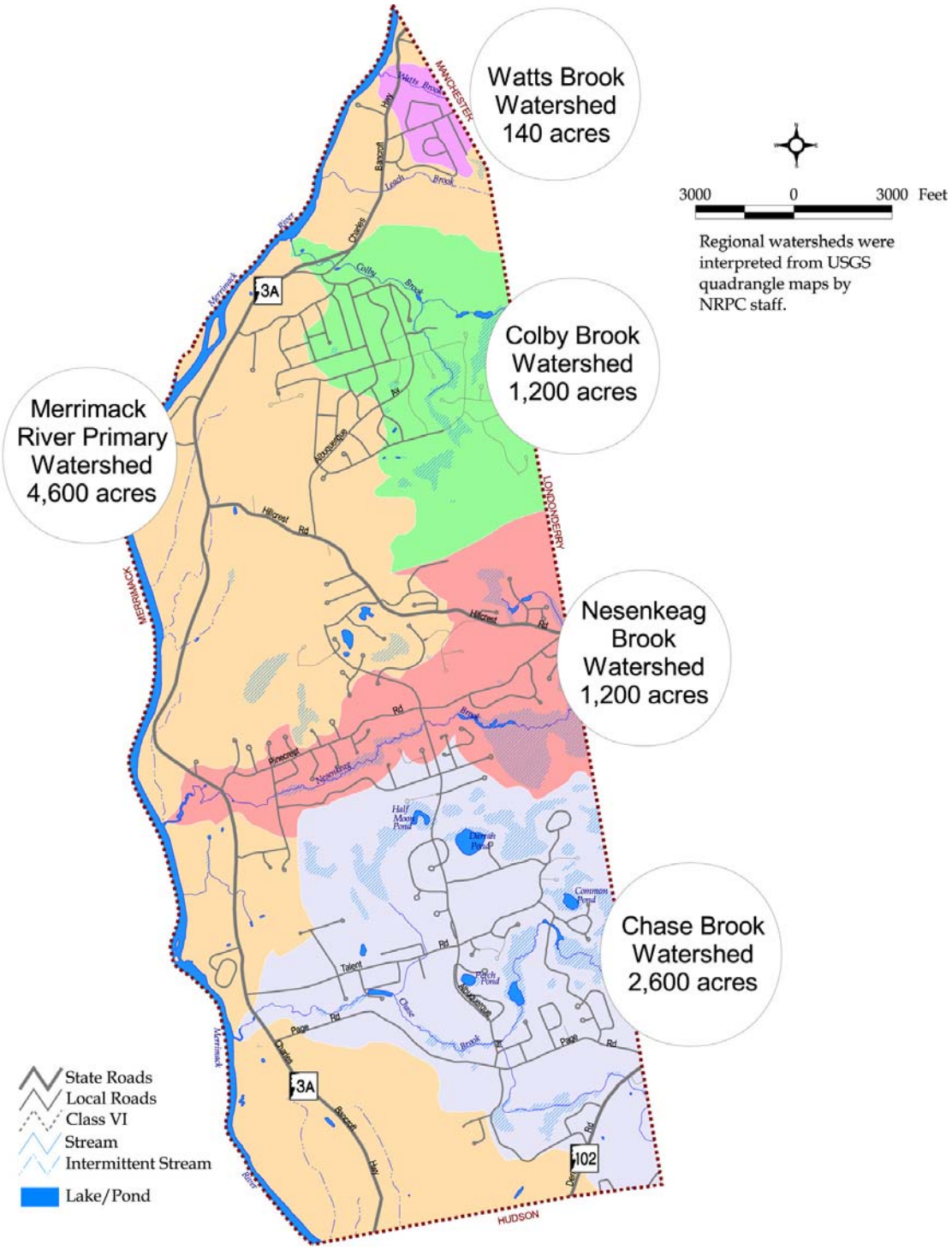
1264.01 *Validity*. Should any section or provisions of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

1264.02 *Conflict With Other Ordinances*. This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other ordinance, law, regulation or by-law. Where this Ordinance imposes a higher standard for the promotion and protection of health, safety and welfare, the provisions of this Ordinance shall prevail.

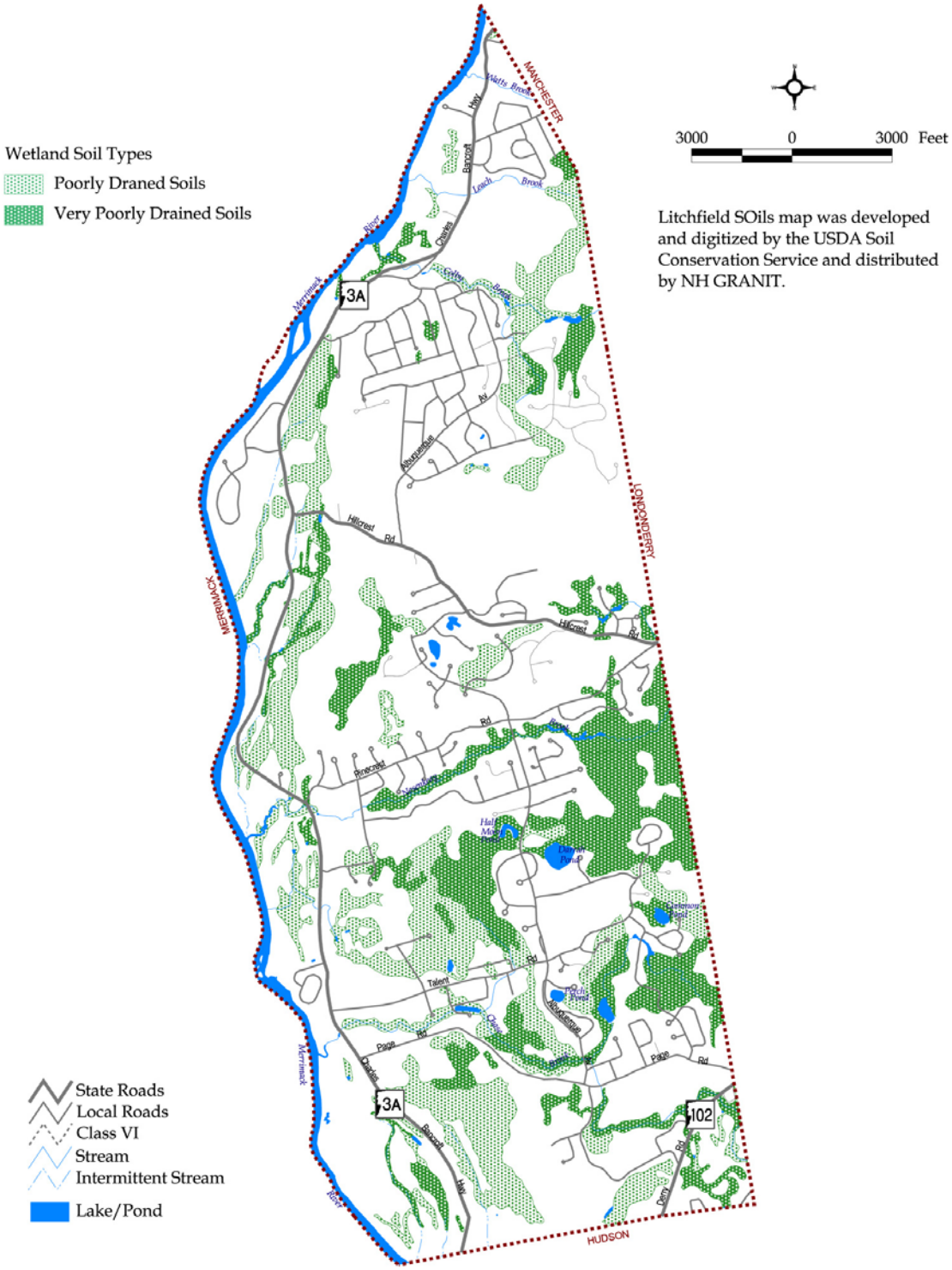
MAP 1: Stratified Drift Aquifers



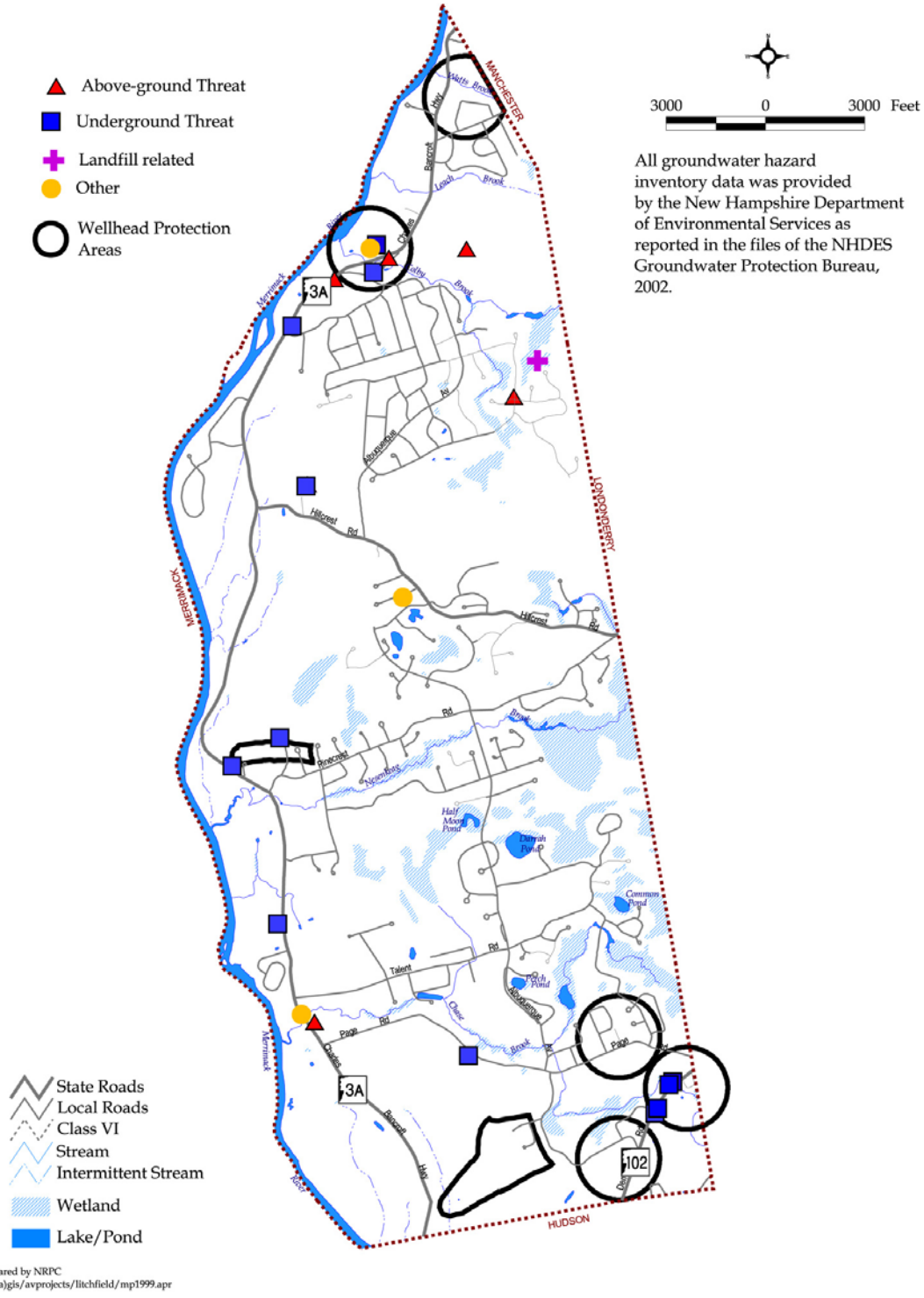
MAP 2: Regional Watersheds



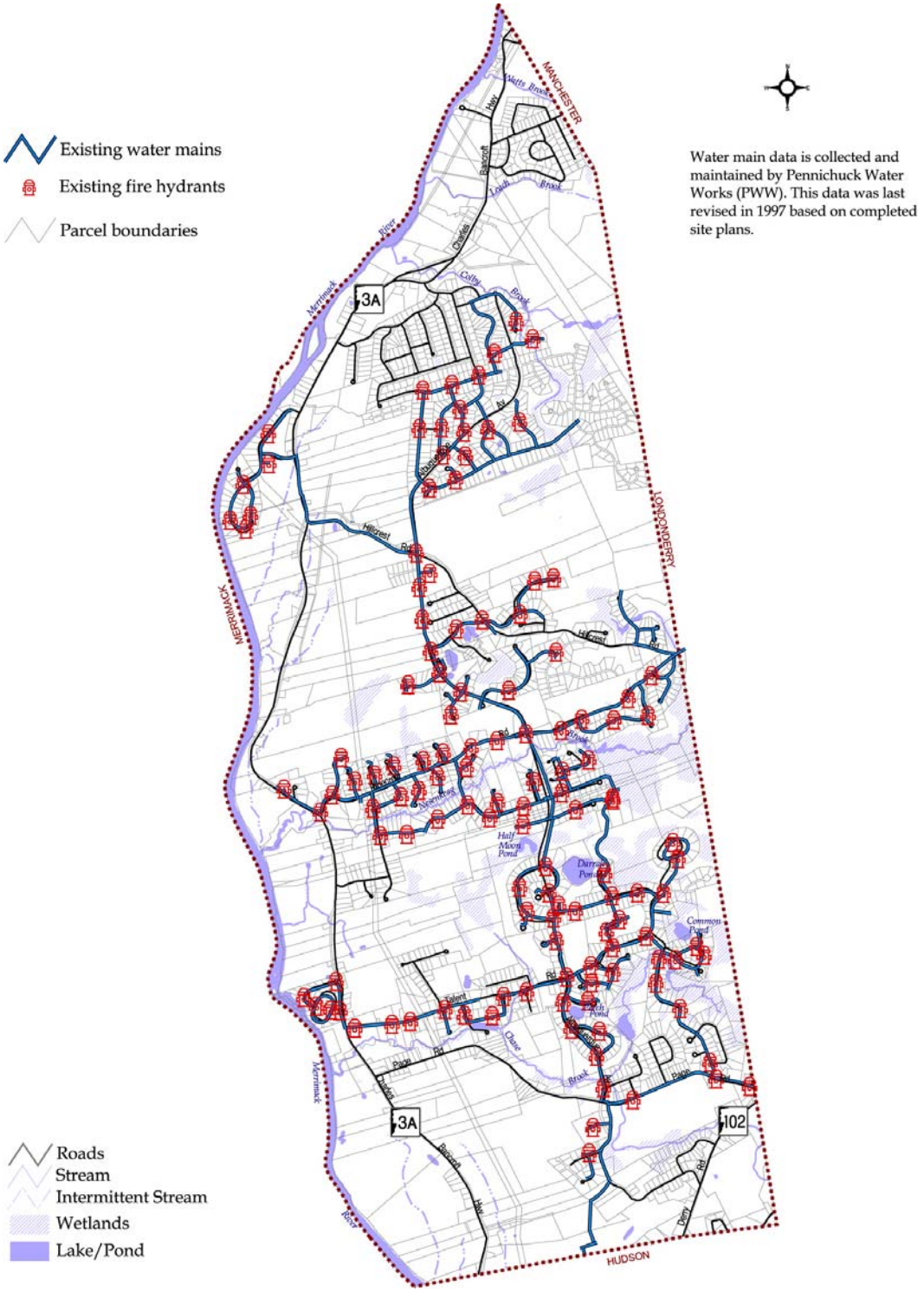
MAP 3: Wetland Soils



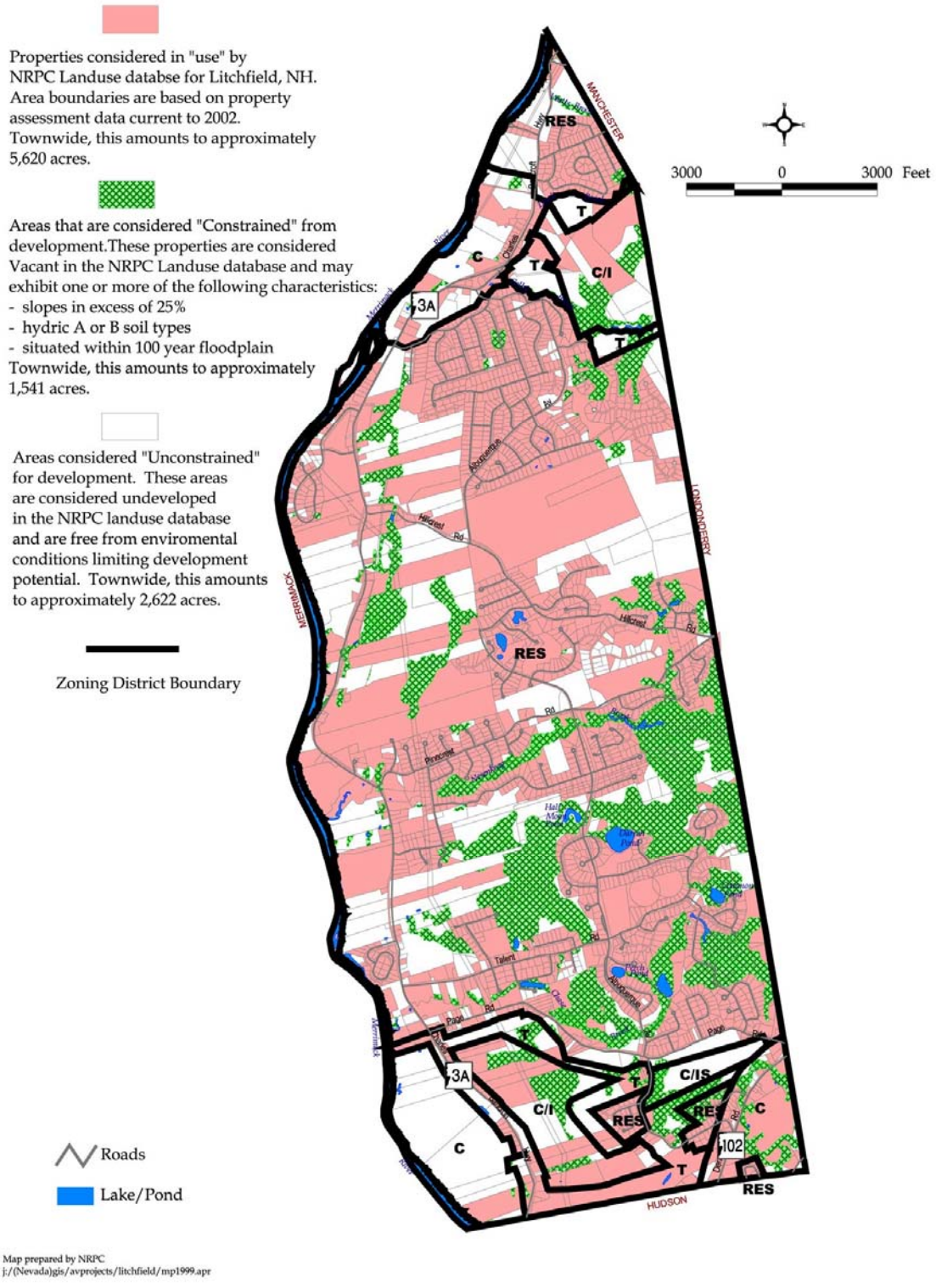
MAP 4: Groundwater Hazard Inventory



MAP 5: Existing Water Mains & Fire Hydrants



MAP 6: Buildout (Land Constraints)



1300.00 PUBLIC CAPITAL FACILITIES IMPACT FEES

1300.01 *Authority*. This ordinance is established pursuant to New Hampshire RSA 674:21 (V).

1300.02 *Intent and Purpose*. This ordinance is intended to:

a. Implement and be consistent with the Town of Litchfield's Master Plan;

b. Allocate a fair and equitable share of the cost of public facilities to new development; and

c. Require new development to contribute its proportionate share of funds necessary to accommodate its impact on public facilities, which is reasonably related to the capital needs created by the development and to the benefits accruing to the development.

1300.03 *Findings*. The Town of Litchfield finds, determines and declares that:

a. The Town of Litchfield is responsible for and committed to the provision of public facilities and services at levels necessary to support residential and non-residential growth and development.

b. Such facilities and services have been and will be provided by the Town utilizing funds allocated via the Capital Improvements Program which has been regularly updated pursuant to New Hampshire RSA 674:5.

c. The rate of growth experienced by the Town in recent years, as well as projected growth rates, would necessitate an excessive expenditure of public funds in order to maintain adequate facility standards.

d. Each of the types of land development described in Sections 500 - 1000 hereof, will create a need for the construction, equipping, or expansion of public capital facilities.

e. The imposition of impact fees is one of the preferred methods of ensuring that public expenditures are not excessive, and that development bears a proportionate share of the cost of public capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.

f. The fees established by the Public Capital Facilities Impact Fee Schedule for the categories identified in Section 1302.01 are derived from, based upon, and do not exceed the costs of:

   1) Providing additional public capital facilities necessitated by the new land developments for which the fees are levied; or
   2) Compensating the Town of Litchfield for expenditures made for existing public facilities, which were constructed in anticipation of new growth and development.

g. The reports entitled Town of Litchfield, New Hampshire: Development of Impact Fee Schedules, prepared by Cannon Associates, December, 1990 and Proposed Impact Fee Schedules for the Town of Litchfield, NH, prepared by Nashua Regional Planning Commission, December, 1992, set forth reasonable methodologies and analyses for the determination of the impact of new development on the need for and costs of public capital facilities in the Town of Litchfield, New Hampshire.

h. From time to time, the Planning Board may make modifications to its methodology in order to account for changing circumstances, and in order to simplify the process. Any such modifications shall be based upon a written report outlining the modifications and voted upon by the Planning Board prior to implementation. (Amended March 2000.)

1300.04 *Applicability and Rules of Construction.*

a. This ordinance shall be uniformly applicable to all new development, which occurs within the corporate boundaries of the Town of Litchfield.

b. The provisions of this ordinance shall be liberally construed so as to effectively carry out its purpose of the interest of the public health, safety and welfare.

c. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance, the following rules of construction shall apply to the text of this ordinance:

1) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
2) The word "shall" is always mandatory and not discretionary; the word may is permissive.
3) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
4) The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".
5) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
6) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", or "or", or "either...or", the conjunction shall be interpreted as follows:

(a) "And" indicates that all connected terms, conditions, provisions or events shall apply.
(b) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
(c) "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

7) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

1301.00 ***Definitions.***

The following definitions shall apply only to the Public Capital Facilities Impact Fees section and shall not be affected by the provisions of any other ordinance of the Town of Litchfield.

1301.01 *Dwelling Unit*. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. (Definition contained in Section 200.7.

1301.02 *Feepayer*. A person applying for the issuance of a building permit, permit for manufactured home installation, subdivision, site plan or other local land use decision, permit or approval.

1301.03 *Gross Living Area*. The effective area of a residential unit as indicated in the assessment files. It includes finished space that is heated, but excludes heated garages and outbuildings which do not include living quarters.

1301.04 *New Development*. Any building activity which results in:

a. the creation of a new dwelling unit;

b. the construction of additional square footage of non-residential floor area; and

c. the conversion of an existing use to another use if such change of use creates a demand for additional capital facilities as defined by this ordinance.

d. New Development does not include:

1.) the reconstruction of a structure that has been destroyed by fire or natural disaster, provided that there is no change in the size and density of the structure;
2.) the replacement of a manufactured home; and
3.) the construction of any accessory structure which would not increase the demand for facilities by the principal structure.

1301.05 *Public Capital Facilities*. Assets, facilities, and equipment which are owned and operated by the Town of Litchfield or cooperatively with other municipalities and which have a useful life of no less than five years. Public Capital Facilities do not include the costs associated with the operation, maintenance, repair of such facilities, or with facility replacements which do not increase the capacity or level of service, but does include reasonable costs for planning, engineering, design, land acquisition, and other reasonable costs associated with such facilities.

1302.00 Imposition of Public Capital Facilities Impact Fees.

a. Any person, who after December 7, 1991 for public road systems and December 8, 1992 for municipal facilities, public library and public recreation, seeks to undertake new development within the Town of Litchfield, New Hampshire, by applying for a building permit or permit for manufactured home installation and who is not vested under RSA 674:39, is hereby required to pay public capital facilities impact fees in the manner set forth in Section 1302.01 of this Ordinance. (Amended March 1993.)

b. No new building permit or new permit for manufactured home installation or any activity requiring payment of an impact fee pursuant to Section 1302.01 of this Ordinance shall be issued unless and until the public capital facilities impact fees hereby required have been determined.

c. Impact fees imposed pursuant to this ordinance shall be adjusted for inflation or deflation utilizing a cost escalation (inflation) factor. (See, Review and Establishment of Fees section for details.) The applicable impact fees shall be assessed by the Planning Board at the time of subdivision or site plan approval, and shall be stated in the Board's Notice of Decision and as a note on the approved plat or plan. When no Planning Board approval is required, impact fees, adjusted for inflation or deflation, shall be assessed prior, or as a condition for the issuance of a building permit or other appropriate permission to proceed with development. *(Adopted March 2005), (Amended March 13, 2007)*

1302.01 *Computation of the Public Capital Facilities Impact Fee.*

a. The amounts of the public capital facilities impact fees shall be determined using the values contained in the Public Capital Facilities Impact Fee Schedules for the following:

1) Public Road Systems
2) Municipal Facilities
3) Public Library
4) Public Recreation

The Public Capital Facilities Impact Fee Schedules shall be established and reviewed as set forth in Section 1309.00 Review and Establishment of Fees. (Amended March 1993, March 2000.)

b. For the uses identified in the Public Road Systems Impact Fee Schedule, the land use definitions contained in Trip Generation (4th Edition, Institute of Transportation Engineers; Washington, D.C., 1987) shall apply.

c. If a proposed new development includes mixed uses, then the fees shall be determined by using the above schedules and apportioning the space committed to uses specified on the schedules.

d. If the type of proposed new development activity is not specified on the above fee schedules, the Code Enforcement Officer shall use the fee calculations applicable to the most nearly comparable type of land use on the above fee schedules. The Code Enforcement Officer shall be guided in the selection of a comparable type by the Litchfield Master Plan, supporting documents of the Master Plan, and the Litchfield Zoning Ordinance. If the Code Enforcement Officer determines that there is not a comparable type of land use on the above fee schedules then the Code Enforcement Officer shall determine the fee by considering demographic or other documentation which is available from the Town's Planning Department, and state and regional authorities.

e. In the case of change of use, redevelopment, or expansion or modification of an existing use, which constitutes new development, the impact fees shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use.

1302.02 *Payment of Fees.* The feepayer shall pay the public capital facilities impact fees required by this Ordinance to the Town of Litchfield prior to issuance of a certificate of occupancy.

1302.03 *Appeals.*

a. Any aggrieved party may appeal to the Planning Board the amount of the public facilities impact fees imposed pursuant to Section 1302.01, herein, or the Board of Selectmen's decision regarding valuation of fee credits as provided in Section 1306.00 herein. The appellant must notify the Secretary of the Planning Board in writing within thirty (30) days of the event giving rise to the appeal.

b. If a feepayer elects to appeal the amount of the impact fees, the feepayer shall prepare and submit to the Planning Board an independent fee calculation study for the new development activity, which is proposed. The independent fee calculation study shall follow the prescribed methodologies and formats contained in the reports cited in Section 1300.03, g. The documentation submitted shall show the basis upon which the independent fee calculation was made and no discounts shall be allowed.

c. All costs incurred by the Town during the review of the feepayer's independent fee calculation study shall be paid by the feepayer.

1.) If a letter of credit drawn on a New Hampshire bank is submitted in an amount equal to the amount of the public capital facilities impact fee as determined by Section 1302.01 herein, a building permit or permit for manufactured home installation may be issued.

2.) All appeals of Planning Board decisions on Public Capital Facilities Impact Fees shall be to the Hillsborough County Superior Court as set forth in RSA 677:4. *(Adopted March 1993)*

1303.00 Administration of Funds Collected.

All funds collected shall be properly identified by and promptly transferred for deposit in the appropriate Public Capital Facilities Impact Fee Accounts as determined in Section 1303.01 of this Ordinance and used solely for the purposes specified in this Ordinance.

Impact fee accounts shall be special revenue fund accounts and under no circumstances will impact fee revenues accrue to the General Fund.

1303.01 *Custody and Maintenance of Fund Accounts.*

a. There are hereby established Public Capital Facilities Impact Fee accounts for Public Road Systems, Municipal Facilities, Public Library Facilities and Public Recreation Facilities. These shall be non-lapsing, interest bearing accounts which are not commingled with other Town funds. (Amended March 1993.)

b. The Town Treasurer shall have custody of all accounts, and shall pay out the same only upon written orders of the Board of Selectmen.

c. At the end of each fiscal year, the Town Treasurer shall make a report, giving a particular account of all public capital facilities impact fee transactions during the year.

1304.00 Use of Funds.

a. Funds withdrawn from the Public Capital Facilities Impact Fee accounts shall be used solely for the purpose of acquiring, constructing, equipping, or making improvements to public capital facilities which result in an increase in capacity. (Amended March 1993.)

b. In the event that bonds or similar debt instruments have been issued for public capital facilities which were in anticipation of current growth, or are issued for advanced provision of capital facilities for which public capital facilities impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in paragraph a, above.

c. Effective upon passage of this Ordinance the routine updates of the Town's Capital Improvement Program shall contain a methodology for assigning funds, including any accrued interest, from the several Public Capital Facilities Impact Fee Accounts to specified public capital facilities improvement projects and related expenses. *(Amended March 2000.)*

Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same Public Capital Facilities Impact Fee Accounts until the next fiscal period except as provided by the refund provisions of this Ordinance.

d. Funds may be used to provide refunds as described in Section 1305.00.

1305.00 Refund of Fees Paid.

a. The current owner of property on which public capital facilities impact fees have been paid may apply for a full or partial refund of such fees, together with any accrued interest.

The refund shall be owed when the Town has failed, within the period of six (6) years from either the payment of such fee or the last installment payment, to expend or encumber such fees on public capital facilities intended to benefit the development which paid the fees. In event that a refund is due, the Board of Selectmen shall notify the owner of record by certified mail return receipt requested.

b. In the event that the owner elects to apply for a refund, such application shall be submitted in writing to the Board of Selectmen within one (1) year from the date of receiving notice from the Selectmen a refund is due.

1306.00 Credits.

a. Land and/or public capital facilities improvements may be offered by the feepayer as total or partial payment of the required impact fees. The offer must request or provide for a public facilities impact fee credit.

b. Credit for the dedication of land shall be valued as follows: (1) at the equalized assessed value determined by the Town Assessor; or (2) by such other appropriate method as the Board of Selectmen may establish for particular improvements; or (3) by fair market value established by private appraisers acceptable to the Town. Credit for the dedication of land shall be provided when the property has been conveyed at no charge to, and accepted by, the Town in a manner satisfactory to the Board of Selectmen.

c. Applicants for credit for construction of public facilities improvements shall submit acceptable engineering drawings and specifications and construction cost estimates to the Board of Selectmen. The Board of Selectmen shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the Board of Selectmen determines that such estimates submitted by the applicant are either unreliable or inaccurate.

The Board of Selectmen shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the public facilities impact fee component(s) to which the credit will apply, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his agreement to the terms of the letter or certificate and return such signed document to the Board of Selectmen before credit will be given. The failure of the applicant to sign, date, and return such document within sixty (60) days shall nullify the credit.

d. Except as provided in Paragraph E, credit against public facility impact fees otherwise due will not be provided until:

1) the construction is completed and accepted by the Town of Litchfield or the State, whichever is applicable; and
2) a suitable maintenance and warranty bond is received by the Town of Litchfield, when applicable.

e. Credit may be provided before completion of specified public facility improvements if adequate assurances are given by the applicant that the standards set out in Paragraph D will be met and if the feepayer posts security as provided below for the cost of such construction. Security in the forms of a performance bond, irrevocable letter of credit or escrow agreement shall be posted with the Board of Selectmen in an amount determined by the Board of Selectmen. If the public capital facilities construction project will not be constructed within one (1) year of the acceptance of the offer by the Board of Selectmen, the amount of the security shall be annually reviewed and approved by the Board of Selectmen.

f. Any claim for credit must be made no later than the time of application for building permit or permit for manufactured home installation.

g. Credits shall not be transferable from one project or development to another without the approval of the Board of Selectmen.

h. Credits shall not be transferable from one component of the public facilities impact fee to any other component of this fee.

i. Determinations made by the Board of Selectmen pursuant to the credit provisions of this section may be appealed to the Litchfield Planning Board pursuant to the procedures contained in Section 1302.03 of this ordinance.

1307.00 Additional Assessments.

Payment of a public capital facilities impact fee does not restrict the Town nor the Planning Board from requiring other payments from the feepayer, including such payments relating to the cost of the extensions of water treatment and distribution facilities, wastewater treatment and disposal facilities, sanitary sewers and flood control facilities, or other infrastructure and facility needs not otherwise included in the public capital facilities impact fees.

1308.00 Premature and Scattered Development.

Nothing in this Ordinance shall be construed so as to limit the existing authority of the Litchfield Planning Board to provide against development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Litchfield's Site Plan Review Regulations, Subdivision Regulations, or Zoning Ordinance.

1309.00 Review and Establishment of Fees.

Pursuant to the authority to administer Innovative Land Use Controls under RSA 674:21, II, the Public Capital Facilities Impact Fee Schedules shall be set in accordance with RSA 674:21, V, (a), and shall be reviewed by the Planning Board annually in August and recommended to the Board of Selectmen for approval. The Planning Board shall schedule a public hearing, after providing proper public notice, for the review of the fee schedules. The Board of Selectmen shall act on the Planning Board's recommendation within 30 days of receipt of the recommendation from the Planning Board. Individual lots shall be subject to the impact fees in effect at the time of plan approval and recording at the registry of deeds. (Amended March, 2001, 2004.)

1309.01 *Cost Escalator (Inflation Factor).*
(Adopted March 13, 2007)

A brief report titled, Impact Fee Cost Escalator, September, 2006, was prepared by Nashua Regional Planning Commission for the Planning Board detailing procedures for adjusting applicable impact fees for inflation or deflation.

The Cost Escalator (inflation factor) is a multiplier based on the Construction Cost Index (CCI), for public roads, and The Building Cost Index (BCI), for municipal facilities, public library and public recreation capital projects as detailed in an approved Capital Improvements Plan (CIP). The CCI and BCI are indexes provided by the Engineering News Record (ENR),

Individual impact fees in the adopted Impact Fee Schedule that have been in existence (without a fee update) for one (1) year or more, shall be subject to correction utilizing a cost multiplier in accordance with the Findings and other provisions of this ordinance. The escalator (inflation factor is derived as follows:

a. The year that an individual impact fee was last updated is called the "base year." The "Average Annual Index" in the CCI and BCI, published by ENR, is utilized to calculate the Cost Escalator factor, or multiplier that is applied to an impact fee.

   1. The most recent published Average Annual Index is divided by the base year Average Annual Index. The resulting number is the multiplier applied to a given impact fee. See the examples below for road and facilities impact fees last updated in 2000.

      (a) Public Roads uses the CCI. In 2000, the base year, the Average Annual Index (AAI) is 6,221. The most recent year AAI (2005) is 7,446. 7,446 ÷ 6,221 = 1.1969. Therefore, a year 2000 road impact fee for a single family detached dwelling is assessed an impact fee of $1,180.87 x 1.1969 = $ 1413.38 in 2006.
      (b) Municipal facilities, fire, police, library and recreation use the BCI. In 2000 the base year AAI is 3,539. The most recent year AAI is 4,205. 4,205 ÷ 3,539 = 1.1882. Therefore, a year 2000 fire impact fee of $0.062 per 1000 square feet of gross living area is assessed an impact fee of $0.062 x 1.1882 = $0.074.

1310.00 ***Severability.***

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

1311.00 ***Effective Date.***
This Ordinance shall become effective on March 10, 1992.

1400.00 PUBLIC SCHOOL FACILITIES IMPACT FEE

1400.01 *Authority*. This ordinance is established pursuant to New Hampshire RSA 674:21 (V).

1400.02 *Intent and Purpose*. This ordinance is intended to:

a. Implement and be consistent with the Town of Litchfield's Master Plan;

b. Allocate a fair and equitable share of the cost of public school facilities to new development (Amended March 9, 1993); and

c. Require new development to contribute its proportionate share of funds necessary to accommodate its impact on public school facilities which is reasonably related to the capital needs created by the development and to the benefits accruing to the development. (Amended March 9, 1993.)

1400.03 *Findings*. The Town of Litchfield finds, determines and declares that (Amended March 9, 1993):

a. The Litchfield School District is responsible for and committed to the provision of educational facilities and services at levels necessary to support residential and non-residential growth and development.

b. Such facilities and services have been and will be provided by the School District utilizing funds allocated via the Town of Litchfield's Capital Improvements Program which has been regularly updated pursuant to New Hampshire RSA 674:5.

c. The rate of residential growth experienced by the Town in recent years, as well as projected growth rates, would necessitate an excessive expenditure of public funds in order to maintain adequate facility standards.

d. Each of the types of land development described in Sections 500-1000 hereof, will create a need for the construction, equipping, or expansion of school facilities.

e. The imposition of public school facility impact fees is one of the preferred methods of ensuring that public expenditures are not excessive, and that development bears a proportionate share of the cost of public capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare. (Amended March 9, 1993.)

f. The fees established by the Public School Capital Facilities Impact Fee Schedule are derived from, based upon, and do not exceed the costs of (Amended March 9, 1993):

   1) providing additional public school facilities necessitated by the new land developments for which the fees are levied (Amended March 9, 1993); or
   2) compensating the Town of Litchfield for expenditures made for existing public school facilities which were constructed in anticipation of new growth and development. (Amended March 9, 1993.)

g. The report entitled Town of Litchfield, New Hampshire: Development of Impact Fee Schedules, prepared by Cannon Associates and dated December, 1990 sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs of public school facilities in the Town of Litchfield, New Hampshire. (Amended March 9, 1993.)

h. From time to time, the Planning Board may make modifications to its methodology in order to account for changing circumstances, and in order to simplify the process. Any such modifications shall be based upon a written report outlining the modifications and voted upon by the Planning Board prior to implementation.

1400.04 *Applicability and Rules of Construction.*

a. This ordinance shall be uniformly applicable to all new development which occurs within the corporate boundaries of the Town of Litchfield.

b. The provisions of this ordinance shall be liberally construed so as to effectively carry out its purpose of the interest of the public health, safety and welfare.

c. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance, the following rules of construction shall apply to the text of this ordinance:

1) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
3) Words used in the present tense shall include the future; and words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
4) The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".
5) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
6) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", or "or" or "either...or", the conjunction shall be interpreted as follows:

(a) "And" indicates that all connected terms, conditions, provisions or events shall apply.
(b) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
(c) "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

7) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

1401.00 Definitions.

The following definitions shall apply only to the Public Capital Facilities Impact Fees section and shall not be affected by the provisions of any other ordinance of the Town of Litchfield.

1401.01 *Dwelling Unit*. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

1401.02 *Feepayer*. A person applying for the issuance of a building permit, permit for manufactured home installation, subdivision, site plan or other local land use decision permit or approval.

1401.03 *Gross Living Area*. The effective area of a residential unit as indicated in the assessment files. It includes finished space that is heated, but excludes heated garages and outbuildings which do not include living quarters.

1401.04 *New Development*. Any building activity which results in:

a. The creation of a new dwelling unit or the addition of living space to an existing dwelling unit;

b. The conversion of an existing nonresidential use to a residential use or the conversion of a seasonal residential use to a year-round residential use if such change of use creates a demand for additional school facilities as defined by this ordinance.

c. New development does not include:

1.) The reconstruction of a structure that has been destroyed by fire or natural disaster, provided that there is no change in the size and density of the structure;
2.) The replacement of a manufactured home; and
3.) The construction of any accessory structure which would not increase the demand for facilities by the principal structure.

1401.05 *School Facilities*. The undivided interest of the Town of Litchfield in the assets, facilities, and equipment which are owned and operated by the Litchfield School District or cooperatively with other municipalities and which have a useful life of no less than five years. School facilities do not include the costs associated with the operation, maintenance, repair of such facilities, or with facility replacements which do not increase the capacity or level of service, but does include reasonable costs for planning, engineering, design, and land acquisition.

1402.00 Imposition of Public School Facilities Impact Fees.

a. Any person, who after December 7, 1991 seeks to undertake new development within the Town of Litchfield, New Hampshire, by applying for a building permit or permit for manufactured home installation and who is not vested under RSA 674:39, is hereby required to pay a public school facilities impact fee in the manner set forth in Section 1402.01 of this Ordinance. (Amended March 9, 1993.)

b. No new building permit or new permit for manufactured home installation for any activity requiring payment of an impact fee pursuant to Section 1402.01 of this Ordinance shall be issued unless and until the public school facilities impact fee hereby required has been determined. (Amended March 9, 1993.)

c. Impact fees imposed pursuant to this ordinance shall be adjusted for inflation or deflation utilizing a cost escalation (inflation) factor. (See, Review and Establishment of Fees section for details.) The applicable impact fees shall be assessed by the Planning Board at the time of subdivision or site plan approval, and shall be stated in the Board's Notice of Decision and as a note on the approved plat or plan. When no Planning Board approval is required, impact fees, adjusted for inflation or deflation, shall be assessed prior, or as a condition for the issuance of a building permit or other appropriate permission to proceed with development. *(Adopted March 2005), (Amended March 13, 2007)*

1402.01 *Computation of the Public School Facilities Impact Fees.*

a. The amount of the public school facilities impact fee shall be determined using the values contained in the Public School Capital Facilities Impact Fee Schedule. The Public School Capital Facilities Impact Fee Schedule shall be established and reviewed as set forth in Section 1410.00 Establishment and Review of Fees. (Amended Mar.ch 1993, March 2000.)

b. If a proposed new development includes mixed uses, then the fee shall be determined by apportioning the space committed to the uses specified on the schedule.

c. If the type of proposed new development activity is not specified on the fee schedule, the Code Enforcement Officer shall use the fee calculations applicable to the most nearly comparable type of land use on the fee schedule. The Code Enforcement Officer shall be guided in the selection of a comparable type by the Litchfield Master Plan, supporting documents of the Master Plan, and the Litchfield Zoning Ordinance. If the Code Enforcement Officer determines that there is not a comparable type of land use on the fee schedule then the Code Enforcement Officer shall determine the fee by considering demographic or other documentation which is available from the Town's Planning Department, and state and regional authorities.

d. In the case of redevelopment, expansion or modification of an existing use, which constitutes new development, the impact fee shall be based upon the net positive increase in the school facilities impact fee for the new use as compared to the previous use.

1402.02 *Payment of Fees.* The feepayer shall pay the public school facilities impact fee required by this Ordinance to the Town of Litchfield prior to issuance of a certificate of occupancy. (Amended March 9, 1993.)

1402.03 *Appeals.*

a. Any aggrieved party may appeal to the Planning Board the amount of the public school facilities impact fee imposed pursuant to Section 1402.01, herein or the Board of Selectmen's decision regarding valuation of fee credits as provided in Section 1406.00 herein. The appellant must notify the Secretary of the Planning Board in writing within thirty (30) days of the event giving rise to the appeal. (Amended March 9, 1993.)

b. If a feepayer elects to appeal the amount of the impact fee, the feepayer shall prepare and submit to the Planning Board an independent fee calculation study for the new development activity, which is proposed. The independent fee calculation study shall follow the prescribed methodologies and formats contained in the report entitled Town of Litchfield, New Hampshire: Development of Impact Fee Schedules, prepared by Cannon Associates and dated December, 1990. The documentation submitted shall show the basis upon which the independent fee calculation was made and no discounts shall be allowed.

c. All costs incurred by the Town during the review of the feepayers independent fee calculation study shall be paid by the feepayer.

1.) If a letter of credit drawn on a New Hampshire bank is submitted in an amount equal to the amount of the public school facilities impact fee as determined by Section 1402.01 herein, a certificate of occupancy may be issued. (Amended March 9, 1993.)
2.) All appeals of Planning Board decisions on public school capital facilities impact fees shall be to the Hillsborough County Superior Court as set forth in RSA 677:4. (Adopted March 9, 1993)

1403.00 Administration of Funds Collected.

All funds collected shall be properly identified by and promptly transferred for deposit in the Public School Facilities Impact Fee Account as determined in Section 1403.01 of this Ordinance and used solely for the purposes specified in this Ordinance. (Amended March 9, 1993.)

The Public School Facilities Impact Fee Account shall be a special revenue fund account and under no circumstances will impact fee revenues accrue to the General Fund. (Amended March 9, 1993.)

1403.01 *Custody and Maintenance of Fund Accounts.*

a. There is hereby established a Public School Facilities Impact Fee Account. This shall be a non-lapsing, interest-bearing account, which is not commingled with other Town funds. (Amended March 9, 1993.)
b. The Town Treasurer shall have custody of all accounts, and shall pay out the same only upon approval by the Litchfield Board of Selectmen, which shall only act upon petition by the Litchfield School District.

c. At the end of each fiscal year, the Town Treasurer shall make a report, giving a particular account of all public school facilities impact fee transactions during the year. (Amended March 9, 1993.)

1404.00 Use of Funds.

a. Funds withdrawn from the Public School Facilities Impact Fee Account shall be used solely for purposes of construction or improvement of public school facilities, provided that any such construction or improvement leads to or is directly related to increased facility capacity. (Amended March 9, 1993.), (Amended March 13, 2007)

b. In the event that bonds or similar debt instruments have been issued for public school facilities which were constructed in anticipation of current growth, or are issued for advanced provision of capital facilities for which public school facilities impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in paragraph a, above. (Amended March 9, 1993.)

c. Effective upon passage of this Ordinance the routine updates of the Town's Capital Improvement Program shall contain a methodology for assigning funds, including any accrued interest, from the Public School Facilities Impact Fee Account to specified public school capital facilities improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same Public School Facilities Impact Fee Account until the next fiscal period except as provided by the refund provisions of this Ordinance. (Amended March 9, 1993, March 2000.)

d. Funds may be used to provide refunds as described in Section 1405.00.

1405.00 Refund of Fees Paid.

a. The current owner of property on which a public school facilities impact fee has been paid may apply for a full or partial refund of such fees, together with any accrued interest. (Amended March 9, 1993.)

b. The refund shall be owed when the School District has failed, within the period of six (6) years from either the payment of such fee or the last installment payment, to expend or encumber such fees on school facilities intended to benefit the development which paid the fees. In event that a refund is due, the Board of Selectmen shall notify the owner of record by certified mail return receipt requested.

c. In the event that the owner elects to apply for a refund, such application shall be submitted in writing to the Board of Selectmen within one (1) year from the date of receiving notice from the Selectmen that a refund is due.

1406.00 Credits.

a. Land and/or school facilities improvements may be offered by the feepayer as total or partial payment of the required impact fee. The offer must request or provide for a public school facilities impact fee credit. (Amended March 9, 1993.)

b. Credit for the dedication of land shall be valued as follows: (1) at the equalized assessed value determined by the Town Assessor; or (2) by such other appropriate method as the Board of Selectmen or Litchfield School Board may establish for particular school facility improvements; or (3) by fair market value established by private appraisers acceptable to the Town or School Board. Credit for the dedication of land shall be provided when the property has been conveyed at no charge to, and accepted by, the School District in a manner satisfactory to the School Board.

c. Applicants for credit for construction of school facilities improvements shall submit acceptable engineering drawings and specifications and construction cost estimates to the Board of Selectmen. The Board of Selectmen shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the Board of Selectmen determines that such estimates submitted by the applicant are either unreliable or inaccurate.

The Board of Selectmen shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the public school facilities impact fee component(s) to which the credit will apply, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his agreement to the terms of the letter or certificate and return such signed document to the Board of Selectmen before credit will be given. The failure of the applicant to sign, date, and return such document within sixty (60) days shall nullify the credit. (Amended March 9, 1993.)

d. Except as provided in Paragraph e, credit against public school facility impact fees otherwise due will not be provided until (Amended March 9, 1993):

1) the construction is completed and accepted by the School District; and
2) a suitable maintenance and warranty bond is received by the School District, when applicable.

e. Credit may be provided before completion of specified public facility improvements if adequate assurances are given by the applicant that the standards set out in Paragraph D will be met and if the feepayer posts security as provided below for the cost of such construction. Security in the forms of a performance bond, irrevocable letter of credit or escrow agreement shall be posted with the School District Clerk in an amount determined by the Board of Selectmen. If the public school capital facilities construction project will not be constructed

within one (1) year of the acceptance of the offer by the Board of Selectmen, the amount of the security shall be annually reviewed and approved by the Board of Selectmen prior to acceptance of the security by the District Clerk. If the public school facilities construction project is not to be completed within five (5) years of the date of the feepayer's offer, the School Board must approve the school facilities construction project and its scheduled completion date prior to the acceptance of the offer by the Board of Selectmen or School Board. (Amended March 9, 1993.)

f. Any claim for credit must be made no later than the time of application for building permit or permit for manufactured home installation.
g. Credits shall not be transferable from one project or development to another without the approval of the Board of Selectmen.

h. Credits shall not be transferable from the public school facilities impact fee to any other public capital facilities impact fee which may be required by the Town of Litchfield. (Amended March 9, 1993.)
i. Determinations made by the Board of Selectmen pursuant to the credit provisions of this section may be appealed to the Litchfield Planning Board pursuant to the procedures contained in Section 1402.03 of this ordinance.

1407.00 Additional Assessments.

Payment of a public school facilities impact fee does not restrict the Town or the Planning Board in requiring other payments from the feepayer, including such payments relating to the cost of the extensions of water and sewer mains or other infrastructure and facility needs not otherwise included in the public school facilities impact fee. (Amended March 9, 1993.)

1408.00 Waivers.

An applicant proposing to develop elderly housing or an adult community may request a waiver, in writing, of the public school facilities impact fee from the Planning Board. In granting the waiver, the applicant shall demonstrate, to the satisfaction of the Board, that the proposed development will have no impact on the school system. Any change in use, from elderly housing or adult community to general residential, will result in revocation of the waiver and require payment of a public school facilities impact fee. (Amended March 9, 1993.)

1409.00 Premature and Scattered Development.

Nothing in this Ordinance shall be construed so as to limit the existing authority of the Litchfield Planning Board to provide against development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Litchfield's Site Plan Review Regulations, Subdivision Regulations, or Zoning Ordinance.

1410.00 Review and Establishment of Fees.

Pursuant to the authority to administer Innovative Land Use Controls under RSA 674:21, II, the Public School Capital Facilities Impact Fee Schedule shall be set in accordance with the provisions of RSA 674:21, V, (a), and shall be reviewed by the Planning Board annually in August and recommended to the Board of Selectmen for approval. The Planning Board shall schedule a public hearing, after providing proper public notice, for the review of the fee schedule. The Board of Selectmen shall act on the Planning Board's recommendation within 30 days of receipt of the recommendation from the Planning Board. Individual lots shall be

subject to the impact fees in effect at the time of plan approval and recording at the registry of deeds. (Amended March, 2001, 2004.)

1410.01 *Cost Escalator (Inflation Factor).*
(Adopted March 13, 2007)

A brief report titled, Impact Fee Cost Escalator, September, 2006, was prepared by Nashua Regional Planning Commission for the Planning Board detailing procedures for adjusting applicable impact fees for inflation or deflation.

The Cost Escalator (inflation factor) is a multiplier based on the Construction Cost Index (CCI), for public roads, and The Building Cost Index (BCI), for public schools capital projects as detailed in an approved Capital Improvements Plan (CIP). The CCI and BCI are indexes provided by the Engineering News Record (ENR),

Individual impact fees in the adopted Impact Fee Schedule that have been in existence (without a fee update) for one (1) year or more, shall be subject to correction utilizing a cost multiplier in accordance with the Findings and other provisions of this ordinance. The escalator (inflation factor is derived as follows:

a. The year that an individual impact fee was last updated is called the "base year." The "Average Annual Index" in the CCI and BCI, published by ENR, is utilized to calculate the Cost Escalator factor, or multiplier that is applied to an impact fee.

   1. The most recent published Average Annual Index is divided by the base year Average Annual Index. The resulting number is the multiplier applied to a given impact fee. See the examples below for road and facilities impact fees last updated in 2000.

      (a) Public Roads uses the CCI. In 2000, the base year, the Average Annual Index (AAI) is 6,221. The most recent year AAI (2005) is 7,446. 7,446 ÷ 6,221 = 1.1969. Therefore, a year 2000 road impact fee for a high school is assessed a per student impact fee of $121.68 x 1.1969 = $ 145.64 in 2006.
      (b) Public schools use the BCI. In 2000 the base year AAI is 3,539. The most recent year AAI is 4,205. 4,205 ÷ 3,539 = 1.1882. Therefore, a year 2000 New Elementary School impact fee of $1.917 per 1000 square feet of gross living area is assessed an impact fee of $1.917 x 1.1882 = $2.278.

1411.00 ***Severability.***

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

1412.00 ***Effective Date.***
This Ordinance shall become effective on March 10, 1992.

1500.00 SIGNS

1500.01 *Purpose*. To assist the Town in its efforts to protect the safety and welfare of the public; to preserve the rural character of the community; reduce the potential visual clutter by encouraging the effective use of signs; and to allow signs that:

a. give information and direction;

b. provide a format for street advertising;

c. build the image of business and industry;

d. respect the environment; and

e. complement the character of the zoning district and surrounding land uses.
(Amended March 1992.)

1501.00 Application.

The Planning Board will review all sign applications. Six copies of the proposed design of the sign shall be submitted to the Planning Board with the appropriate fees. The design shall indicate the following:

a. size of the sign;

b. height of the sign and type of mounting;

c. location of the sign with respect to the site, road right- of-way, abutting property lines;

d. type of material;

e. lighting; and

f. single or double sided.

(Amended March 1992.)

1501.01 *Fees*
(March 2003) A completed application for a sign will only be accepted if accompanied by the required fees established in the Town of Litchfield application Fee Schedule, contained in appendix F of the Litchfield Subdivision Regulations. Failure to pay the fees constitutes valid grounds for the Board to terminate further consideration of the application and to disapprove the application without a public hearing.

1501.02 *Public Notice*
(March 2003) A public hearing shall be held for all completed sign applications prior to approval.
Public notice shall be posted in two (2) public places at least ten (10) days prior to the meeting. Abutter notice and newspaper notice in a newspaper of general circulation shall be required ten (10) days prior to the meeting if the sign is illuminated in any fashion or is larger than 24 square feet.

1502.00 General Requirements.

1502.01 *Sign Height*. The maximum height of freestanding signs within each district shall be as follows and shall be measured to the top of the actual sign:

a. residential district - 8 feet;

b. commercial district - 20 feet; and

c. commercial/industrial district - 20 feet.

(Adopted March 1992.)

1502.02 *Design and Lighting*.

a. No reflective material will be used.

b. No banners, streamers, etc. will be used.

c. No neon, flashing, moving or colored lights will be used.

d. No lighting shall glare, obstruct or interfere with vision of drivers on the road.

1502.03 *Real Estate Signs*. Property sales and real estate signs other than commercial/industrial shall not exceed six (6) square feet. They may be double faced. All such signs shall be removed within one week after the property is sold. No permit is required.

1502.04 *Development Signs*. Signs identifying housing developments shall be properly maintained or they will be removed within thirty days after written notice to the project developer. (Adopted March 1987.)

1503.00 District Requirements.

1503.01 *Highway, Southwestern and Northern Commercial Districts, Transitional District and Commercial/Industrial District*.

a. Each lot may have 1 free standing sign with a maximum area of 32 square feet (not including reader board). Up to 32 square feet of reader board attached to the sign shall also be allowed. Each occupant of a multi-tenant building may have one additional sign, not to exceed 4 square feet, attached to the building. All size measurements are made on the face of one side of the sign, and exclude poles and mounting brackets. Signs may be double-faced. (Amended March 13, 1990, Amended March 9, 1993.)

b. Fascia signs on front of building may not exceed 35% of the length of the building occupied by the applicant and not more than two (2) feet in height.

c. Mobile signs (temporary, on wheels, etc.) will be permitted for new businesses within six months of opening on a temporary basis for no more than thirty (30) days. Planning Board approval is not required for temporary signs. A permit issued by the Building Inspector is required. (Amended March 14, 1989, Amended March 13, 1990.)

d. Property sales and real estate signs shall not exceed 32 square feet and shall be removed within one week after the property is sold. No permit is required.

e. All signs which are not attached to the building must be set back at least 10 feet from right-of-way or property line.

1503.02 *Residential District Home Occupation Signs.*

a. Each home occupation may erect one exterior sign up to 2 square feet in size. Signs may be mounted above the mailbox, mounted on a pole or attached to the structure. Signs mounted above mailboxes shall not be illuminated nor adversely impact lines of sight. If the sign is mounted or hung from a pole or mailbox post, projects from the house, or is otherwise constructed so that it may be viewed from 2 sides, it may use up to 2 square feet of display on both sides of the sign. (Amended March 9, 1993.)

b. If the home occupation is carried out in an accessory structure (i.e., garage, barn) which is set back more than 100' from the road, one additional sign of 2 sq. ft. may be attached to the accessory structure.

c. The material and style of the signs shall be in keeping with the architecture of the home. No internally lit plastic signs shall be permitted.

d. Poles for the signs shall not exceed eight feet in height, measured to the top of the pole.

e. Signs, except for those mounted above mailboxes, shall be setback at least five feet from all property lines. (Amended March 9, 1993.)

f. No sign shall be more than 8 feet in height, measured to the top of the sign, or its supporting structure.

1503.03 *Agricultural "You-Pick" Advertising Signs.* Agricultural uses wishing to advertise the availability of agricultural products sold on a "You-Pick" basis shall be permitted one sign for each field from which such products are sold, without being required to obtain a permit from the planning board, provided the following conditions are met.

a. Only one sign per field;

b. Sign cannot exceed 8 square feet in size on each side; two-sided signs shall be permitted;

c. The sign must be located on the property;

d. Due to the seasonal nature of "You-Pick" sales, such signs may only be displayed from the time such sales begin until the time sales on a "You-Pick" basis cease;

e. Height, setbacks, design and lighting shall be the same as found in Section 1503.02 Residential District Home Occupation Signs.

1503.04 *Additional Requirements.*
(March 2003) Permanent subdivision and Housing for Older Persons signs shall not exceed 24 square feet (i.e. 4’x 6’) and shall be maintained at all times. Signs that are in disrepair shall be removed at the developer’s expense and funds, in the form of an escrow account, may be required by the Planning Board to cover cost of repair or removal. Low wattage full cut-off style downward facing lighting may be approved at the discretion of the Board.

1504.00 ***Prohibited Signs.***

a. No signs except Town and State highway direction and regulatory signs may be used on Albuquerque Avenue.

b. No off premises advertising signs are allowed.

c. No roof-mounted signs are allowed.
(Adopted March 10, 1981; Amended March 8, 1983, March 1987.)

1600.00 NON-CONFORMING USES AND BUILDINGS

1600.01 *Non-conforming Uses.* Any non-conforming use of land or buildings may continue in its present use, except that any non-conforming use or building may not be:

a. changed to another non-conforming use;

b. re-established after abandonment for one year;

c. extended or enlarged.

1700.00 BOARD OF ADJUSTMENT (Amended March 1994)

The Board of Selectmen shall appoint five (5) members to the Zoning Board of Adjustment (ZBA) whose duties shall conform to the provisions of Chapters 672-677 NH RSA. Thereafter, the Board of Selectmen shall appoint members to three (3) year terms as terms expire or vacancies occur. Appointments to fill vacancies shall be only for the unexpired portion of the term.

The ZBA may act upon appeals from administrative decisions, special exceptions to the Zoning Ordinance and variances from the Zoning Ordinance.

1800.00 ENFORCEMENT AND ADMINISTRATION (Adopted March 1994)

1801.00 Board of Selectmen

It shall be the duty of the Board of Selectmen to enforce and administer the provisions of this Ordinance.

1802.00 Code Enforcement Officer

The Board of Selectmen may appoint a Code Enforcement Officer to enforce this Ordinance under their general supervisory authority.

1803.00 Violations of the Ordinance (Amended March 2001)

Upon any well founded information that these Ordinances are being allegedly violated, the Code Enforcement Officer or the Board of Selectmen shall take immediate steps to enforce the provisions of this Ordinance as provided in RSA 676:17, 676:17-a, and 676:17-b by taking the appropriate legal action and/or seeking an injunction in the Hillsborough County Superior Court.

1803.01 *Procedures.* Information of alleged violation of these ordinances, provided in writing to the Code Enforcement Officer or Board of Selectmen shall be investigated within 30 days of the date of receipt by the Code Enforcement Officer or the Board of Selectmen.

a. Minimum written information of potential violations of these ordinances must include a description of the alleged violation(s), the location of the alleged violation, the name, address and telephone number of the individual providing the information of the alleged violation(s) and the date of submission to the town authority.

b. The Litchfield Code Enforcement Officer or the Board of Selectmen shall provide a copy of the complaint to the owner of the property of the alleged violation.

c. The Code Enforcement Officer or Board of Selectmen shall issue a written decision concerning the alleged violation within 10 calendar days of the 30-day investigation period of Section 1803.01.

d. Should no written decision be issued, upon the expiration of the time limit in Section 1803.01.c., the individual providing the information of potential violation may appeal as set forth in Section 1900.00 of this ordinance.

1804.00 Fines and Penalties *(Amended March 2001)*

Civil and criminal enforcement of this ordinance shall be pursuant to Title LXIV, Planning and Zoning, or NH Revised Statutes Annotated (RSAs) as may be amended. *(Amended March 13, 2007)*

1900.00 APPEALS *(Adopted March 1994)*

Any person aggrieved from the decision of the Code Enforcement Officer may appeal to the Zoning Board of Adjustment (ZBA) provided that such appeal must be made in writing within thirty (30) days from the date of the order or decision complained of and submitted to the clerk of the Zoning Board of Adjustment. That such appeals may also be taken by any officer, department or bureau of the Town of Litchfield affected by any decision of the Code Enforcement Officer. The Code Enforcement Officer shall transmit forthwith to the Zoning Board of Adjustment all of the papers constituting the record upon which the action appealed from was taken. The Zoning Board of Adjustment shall have the power to hear only those matters as set forth in RSA 674:33, as amended.

2000.00 CONFLICT AND SEVERABILITY *(Adopted March 1994)*

If any section of this Ordinance is found to be in conflict with any other section of the Ordinance or with any local, state, or federal regulation, the more stringent standard shall apply. The invalidity, unconstitutionality or illegality of any Section or provision of this Ordinance or of any zoning district boundary shown on the zoning map shall not have any affect upon the validity, constitutionality or legality of any other Section, provision or zoning district boundary. (March 1994)

2100.00 GROWTH MANAGEMENT (Adopted March 2000; Amended March 2001)

2100.01 *Authority*. This section is enacted pursuant to *RSA 674:16-17* and *674:22*.

2100.02 *Findings*. As documented in the Litchfield Master Plan, the Town hereby finds that:

a. Litchfield's developable land resources are sufficient to support extensive new growth and development. A 1997 Town of Litchfield Buildout Analysis estimated there were 2,258 acres of Developable Land Area (DLA) in residential districts in 1996. Assuming 139 acres were used for new residential development in 1997 to 1998, that it is a Planning Board desire to preserve 320 acres of prime agricultural lands from residential development, and assuming 20% of remaining DLA is reserved for roads and utilities, 1,439 acres of DLA remain in residential zones in 1999. Using a 1990 to 1998 housing unit uncompounded growth rate of 3.3% annually (61 new units per year) it is probable that residential buildout will be reached by 2022.

b. Litchfield's population increased 32.9% from 1980 to 1990 and 24.1% from 1990 to 1998, for an overall increase of 64.9%, or 3.6% annually over the 18-year period.

c. The number of housing units in Litchfield increased 39.9% from 1980 to 1990. The rate of housing growth was another 26.5%, from 1990 to 1998, representing a 1990 to 1998 period growth rate of 3.3 % annually.

d. Litchfield's housing growth rate is greater than the region's. As shown in Table V-24 of the December 7, 1999 Population and Housing Chapter of the Litchfield Master Plan, based on U.S. Census building permit data and building permits issued data in the Litchfield Annual Reports, from 1990 to 1998, the average annual rate of new unit construction in Litchfield is 1.5% higher than the average for a Litchfield fair share region that consists of Litchfield and the five adjacent communities: Hudson, Londonderry, Manchester, Merrimack and Nashua. The 3.3% annual rate of new housing construction in Litchfield is second highest in the Nashua Regional Planning Commission (NRPC) region to Brookline at 5.8%. Similarly, of 15 New Hampshire communities adjacent to or 1 municipality away from Litchfield, the only local growth rate higher than Litchfield is Bedford at 4.6% annually.

e. Population projections for Litchfield by the NH Office of State Planning (OSP) in 1998 project a 2,982 person, or 44.6% increase in population from 1997 to 2010.

f. High levels of demand for housing in Litchfield are expected to continue according to the 1999 Regional Housing Needs Assessment by NRPC. With the region divided into four parts, the eastern region towns Litchfield, Hudson and Pelham had the largest increase in number of sales in 1991 to 1998 at 116 percent.

g. According to analysis by the Litchfield Economic Development Working Group, a subcommittee of the Planning Board, the proposed Circumferential Highway and the Airport Connector Access Road present potential to increase the pace of residential growth to levels above those experienced from 1970 to 1999. This is due to the easy access to interstate highways that these projects will generate.

h. Growth is stimulating increasing demand for Town school facilities. According to the August 18, 1998 Litchfield School Building Committee, Report to the School Board, Elementary School Space Evaluation, the stated capacity of Griffin Memorial (elementary) School (GMS) is 500 students and with an ideal number of classrooms equaling 21. The Litchfield Middle School (LMS) core capacity is 500 including recent additions and the ideal classroom number is 20. Based on 1999 enrollments, GMS is at 100% of capacity and LMS is at 98% of capacity. The 1998 – 2003 Litchfield Capital Improvements Program Update notes that the School Board is evaluating different school space alternatives to address overcrowding.

i. Much of the Litchfield public sector is straining to meet projected service and facility demands. Town facilities at Liberty Way are adequate for current population but need expansion to adequately accommodate personnel and storage needs associated with new development. Two new fire substations need to be constructed; a portion of which will service new residential and commercial development. There are many categories of recreational facilities where the Town does not meet the recommended service level for a municipality the size of Litchfield.

j. As of November 17, 1999 the Town finds that the Litchfield Fair Share Region Average Growth Rate is 1.5%.

k. Based on the limitations listed above, the Town finds that as of November 17, 1999 this growth management ordinance is in effect.

2100.03 *Purpose.* The Town finds the purposes of this section of the Zoning Ordinance to:

a. Promote the development of an economically sound and environmentally stable community, which considers and balances local and regional development needs.

b. Guide efforts by the Town to monitor, evaluate, and establish a rate of residential growth in Litchfield that is consistent with the municipal capacity for planned, orderly, and sensible expansion of local public services to accommodate growth.

c. Provide a mechanism to control the growth of development of residential projects to manage the impact on municipal services.

d. Provide a mechanism when and where municipal services are strained to reduce the rate of residential growth to allow the Town time to correct such deficiencies.

e. Protect the health, safety, convenience, and general welfare of Town residents.

f. Address community development goals in the Town of Litchfield Master Plan.

g. Address public facility needs in the Town Capital Improvements Plan.

h. Establish a policy mechanism to moderate a rapid rate of local residential growth compared with adjacent communities. Therefore, the main purpose is to institute a maximum growth rate on new residential construction. This sustainable rate of development is based on the average percentage increase in building permits issued in Litchfield and the five adjacent municipalities. Instituting a maximum annual rate of residential growth as reflected in a sustainable rate of development allows Litchfield to

grow at a rate similar to the adjoining region, while also enabling Litchfield time to plan for capital facility expansions and provide for orderly development.

2101.00 Applicability and Effect.

This ordinance applies to all lots of record as defined in 2102.00, as well as to all future residential development. The application of this ordinance to lots of record is for tracking purposes only. To receive a residential building permit an applicant is required to possess a building certificate (also referred to herein as a certificate) from the Planning Board for each approved dwelling unit. It is a prerequisite that in order to receive a certificate an applicant must supply to the Town Clerk a properly filled-out application for a certificate. This ordinance does not apply to non-residential building or to the expansion, alternation, renovation or replacement of existing dwelling units. Beginning on the effective date of this ordinance, no building permit for a new dwelling unit shall be issued except in accordance with the issuance of a certificate pursuant to this ordinance.

2102.00 Definitions.

The following definitions shall apply only to the growth management section and shall not be affected by provisions of any other ordinance of the Town.

2102.01 *Building Certificate.* A certificate obtained from the Planning Board entitling the holder to obtain one building permit for one dwelling unit

2102.02 *Housing for Older Persons.* Housing designed specifically for occupancy by older individuals in compliance with all applicable local, state and federal requirements.

2102.03 *Litchfield Fair Share Region Average Growth Rate (LFSRAGR).* Average annual percentage increase in residential building permits issued in the five adjacent municipalities of Hudson, Londonderry, Manchester, Merrimack and Nashua for the preceding five-year period according to building permits issued listings.

2102.04 *Lot of Record.* Land designated as a separate and distinct parcel prior to the date of posting (November 17, 1999) of this ordinance either in a legally recorded deed filed with the Hillsborough County Registry of Deeds or lots submitted as part of a subdivision application accepted by the Planning Board prior to the date of posting.

2102.05 *Sustainable Rate of Development.* A target number of building permits to be issued in the current year equaling the Litchfield Fair Share Region Average Growth Rate Factor (LFSRAGRF) for the preceding five (5) years times the total number of dwelling units existing in Litchfield in the preceding year. Round any fraction calculated herein to the next whole number

2102.06 *Total Target Dwelling Units (TDU).* The total dwelling units present in the Town of Litchfield on 31 December. This number includes single-family homes, as well as dwelling units and duplexes, apartments and other multifamily structures. **NOTE:** For 1998, the TDU number is 2,334 based on an estimated accounting of the number of dwelling units present in Litchfield.

2103.00 Periodic Review.

It shall be the responsibility of the Planning Board to monitor growth in the Town and region and notify the Town of the findings.

a. *(2002)* The Planning Board or its agent(s) shall assemble in March such information necessary for assessing whether unsustainable rates of development continue to exist, and, if so, to determine the sustainable rate of development. Information should include statistics on building permits issued, building permits issued and redeemed. Reliable information that may be used includes: statistics provided by the local Building Inspector and 'Permit Authorized Construction in Permit-Issuing Places by State and County' as reported by the Building Permits Branch of the U.S. Census.

b. The Building Inspector shall provide to the Planning Board information describing the status of requests and issuance of building permits on a semi-annual basis to aid in monitoring the issuance of certificates and permits. The information provided shall include: 1) the number of permits issued in each of the last four (4) semi-annual periods. For reporting purposes, half-year periods conform to the calendar year January 1 - June 30, and July 1 - December 31. Information for each period shall be submitted within 31 days of the end of December and June.

2104.00 Calculation of Annual Certificate Pool and Semi-Annual Certificate Allocation

Data shall be collected for the previous six (6) years on the number of new dwelling units for the five regional towns (see definitions). For the purposes of Section 2104.00 calculations, the yearly statistics to be utilized are based upon a calendar year of January 1 to December 31. To calculate the certificate allocation for the current year, steps a, b and c must be completed as described below:

a. Calculation of the Litchfield Fair Share Region Average Growth Rate Factor. (See Definitions)

b. Calculate the Sustainable Rate of Development. (See Definitions)

c. Calculate the Current Year Certificates Available for Disbursement in Semi-Annual Allocations.

1.) Calculate the net available additional current year certificates (discretionary allocation in 2105.00.e) by subtracting from 2104.00.b the quantity of certificates issued for lots of record in the prior year and any certificates to be guaranteed allocation in the current year, as described in Guaranteed Allocation in 2105.00.c, from the gross available current year certificates calculated above.

(a) If the calculated net available current year certificates is less than or equal to eight (8) then the number of certificates available through discretionary allocation for the current year shall be eight (8).

(b) If the calculated net current year certificates are greater than eight (8) then the number of certificates for the current year available through discretionary allocation shall be the calculated number.

2.) Divide the net current year certificates by two (2) to determine the quantity of certificates that may be issued each semi-annual period. NOTE: Should this ordinance be enacted during the course of a year, the Planning Board shall calculate the semi-annual certificate allocation as described above but shall only issue the quantity of certificates available for the remaining half-year period(s).

(a) If the calculated certificates available for semi-annual allocation equals a fraction then distribute the certificates over the year assigning the largest quantity to the first half-year period such that both half-year periods certificate allocation equals a whole number.

2105.00 Procedures for Distributing Certificates.

Certificates shall be distributed according to the following allocation rules:

a. One building certificate must be obtained for each dwelling unit. .

b. From January 1 through December 31, the Town Clerk, on a form prepared by the Planning Board, shall receive applications for certificates for the current year. These applications shall be time and date stamped when received. The basis for determining the priority standing among all applications for the semi-annual allotment of certificates shall be the order of submission of the applications as indicated by the Town Clerk office stamp. Except for lots of record, no application for certificates may be made prior to recording with HCRD of an approved subdivision. Lots to be built with a duplex are required to obtain two building certificates. **NOTE:** All applications for certificates for a subdivision shall be placed onto a single form provided by the Planning Board and must list all lots.

c. Guaranteed Allocation: So that all developments are assured an allocation of certificates appropriate to the size of their subdivision and investment, all subdivisions approved by the Planning Board shall receive a guaranteed allocation of certificates beginning with the next calendar year after subdivision recording with HCRD a minimum certificate allocation according to the following schedule: all subdivisions shall receive at least one (1) certificate per year; subdivisions with ten (10) to nineteen (19) lots shall receive at least two (2) certificates per year; subdivisions with twenty (20) to twenty-nine (29) lots shall receive at least three (3) certificates per year; subdivisions with thirty (30) to thirty-nine (39) lots shall receive at least four (4) certificates per year; subdivisions with forty (40) or more lots shall receive five (5) certificates per year. See Section 2105.00(f), Discretionary Allocation, for procedures by which subdivisions approved under this ordinance may be granted a discretionary allocation of certificates during the year of their recording at the HCRD.

d. Subdivisions approved under this ordinance and recorded at HCRD may request allocation of certificates during the year of their recording.

e. Each subdivision may receive their minimum guaranteed certificate allocation pursuant to 2105.00(c) at any time during the year and are not required to wait until semi-annual allocations.

f. Discretionary Allocations: The remaining certificates shall be allotted semi-annually by the following system:

1.) Subdivisions approved under this ordinance and recorded at the HCRD may request discretionary allocation of certificates during the year of their recording.
2.) *(2002)* During March and September the Planning Board shall conduct its semi-annual certificate allocations which each respectively cover the six (6) months after the date of the meetings. (Ex. March for April, May, June, July, August, September, and September for October, November, December, January, February and March.)
3.) If a surplus of certificates are left over from distribution in the prior half-year period, the remaining certificates may at the discretion of the Planning Board be added to the number of permits available in the current period.
4.) When the number of certificate applications exceeds the number of certificates available, the semi-annual allocation is distributed among applications using a priority based upon the order in which the Town Clerk received the applications. An applicant on the waiting list may receive some part of the available certificates based on the size of their subdivision; subdivisions less than ten (10) units may receive one (1) certificate; ten (10) to nineteen (19) lot subdivisions may receive two (2) certificates; twenty (20) to twenty-nine (29) lot subdivisions may receive three (3) certificates; thirty (30) to thirty-nine (39) lot subdivisions may receive four (4) certificates and forty (40) or more lot subdivisions may receive five (5) permits. Based on the number of certificates available, the first applicant on the list receives either: a) the maximum allocation they are allowed corresponding to the subdivision size, or b) they receive the total quarterly allocation if this number is less than a. This is repeated by moving down the waiting list until all available certificates are allocated.
5.) At the next semi-annual allocation, the allocation commences with the next applicant scheduled to receive a certificate that did not receive any certificates in the prior allocation.
6.) The owners of lots allocated certificates may formally apply to the Building Inspector for the issuance of a building permit.
7.) A certificate may be used for any dwelling unit within the subdivision for which it was awarded. Certificates may not be transferred to other subdivisions.

2105.01 *Exemptions from Building Certificate Allocation Requirements*. The following new dwelling unit types may apply for and will be granted certificates, but are exempt from certificate allocation outlined in Sections 2104.00 and 2105.00. The requirement that an exempt use requires the issuance of a certificate is a mechanism that will enable the Planning Board to track and monitor all new residential development in Litchfield.

a. Guaranteed minimum certificate allocations provided for under 2105.00(c).

b. Existing lots of record

c. Housing For Older Persons housing developments.

2105.02 *Disclaimer*. *C*ertificate issuance in no way ensures or guarantees building permit issuance.

2106.00 Sunset.

This Ordinance expires May 1, 2010 unless re-adopted prior to that date. If the number of building certificates requested for three (3) consecutive years is less than 75% of the sustainable rate of development in the prior year then the Planning Board shall consider suspension of the growth management ordinance. At such time, if the Planning Board decides to keep the ordinance in place, it shall provide findings as to why continued implementation of the ordinance is necessary to address public facility deficiencies and other impacts of rapid growth. *(Amended March 2005, March2006, March 2008)*

2107.00 Implementing Regulations.

To the extent deemed appropriate, the Planning Board may adopt administrative regulations to guide how staff and agents of the Board can implement this Ordinance pursuant to RSA 674:36, 674:44, 674:4 I (a) and (b), and 674:4 II - III.

CERTIFICATION AND FILING WITH THE TOWN CLERK AND NHOEP

Pursuant to RSA 675:6, 8, and 9

Planning Board Certification – (Signature)

1. _____ Date: _____

2. _____ Date: _____

3. _____ Date: _____

4. _____ Date: _____

5. _____ Date: _____

6. _____ Date: _____

7. _____ Date: _____

Town Clerk Certification – (Signature)

_____ Date: _____

NH Office of Energy and Planning

Copy Forwarded

Date: _____

By: _____

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