

**SALISBURY  
ZONING & ADJUSTMENT BOARD**

***“ZONING ORDINANCE”***

Last Revisions adopted: 3/10/2020

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**ARTICLE I: PREAMBLE, PURPOSE & INTENT**

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- A. The Town of Salisbury, New Hampshire has determined that a Zoning Ordinance is an appropriate land use planning and regulatory mechanism to promote the health, safety, and welfare of the Town. The purposes of this Ordinance are to:
- retain, protect and enhance the beauty and rural atmosphere of the Town;
  - protect property values;
  - conserve natural resources;
  - facilitate appropriate use of land for the community in general; and
  - to assure that land which is developed is appropriate for the development;
  - implement the Salisbury Master Plan and any amendments thereto; and
  - generally to achieve and further the purposes of zoning enumerated in RSA 674:16 and 674:17.
  - be visually acceptable (*Amended March 13, 2001*).
- B. This Ordinance is adopted pursuant to the zoning enabling laws of the State of New Hampshire, RSA Title LXIV, Planning and Zoning.
- C. The intent of this ordinance is to:
- identify and enumerate the uses of land and property permitted in Salisbury as a matter of right or as special exceptions;
  - specify the conditions under which such uses are permitted and the regulations applicable thereto; and
  - establish the minimum requirements necessary for the development and use of property.

**ARTICLE II: INTERPRETATION AND APPLICABILITY**

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- A. The provisions of this Ordinance shall be the minimum regulation applicable to property in Salisbury. If any provision of this Ordinance conflicts with any other provision hereof, or with any Ordinance or regulation adopted by the Town, or with any applicable State or Federal law or regulation, the *most* restrictive provision or that which imposes the highest standard shall take precedence.
- B. This Ordinance shall apply to all land, uses, structures, buildings, and lots within the town.
1. Any existing use or structure legally in existence and in active use at the time of adoption of this Ordinance, or an amendment to it, which is rendered non-conforming by the Ordinance or amendment, may continue to exist subject to Article VII.
  2. A pre-existing, non-conforming lot as defined in this Ordinance may continue to exist as a separate lot, but use or development thereof shall be subject to Article VII.
- C. Unless otherwise stated, or unless otherwise required by the context, any reference to a statute, law, regulation or code in this Ordinance shall be deemed to include any future amendments made to such statute, law, regulation or code.

### **ARTICLE III: DEFINITIONS**

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In this Ordinance, the following terms shall have the following meanings:

**ACCESSORY BUILDING:** A detached, subordinate building located on the same lot as the major building, the use of which is incidental and subordinate to the main building or use of land.

**ACCESSORY USE:** A land use located on the same lot, which is incidental and subordinate to the main building or use of land.

**ACCESSORY DWELLING UNIT:** A second dwelling unit, attached or detached, which is permitted by a land use control regulation to be located on the same lot, plat, site, or other division of land as the permitted principal dwelling unit. (Adopted 3/14)

**ASSISTED LIVING FACILITY / RESIDENTIAL CARE:** 1) A residential complex containing multi-family dwellings designed for and principally occupied by senior citizens. Such facilities may include a congregate meals program in a common dining area. 2) A facility that provides non-medical resident services to seven or more individuals in need of personal assistance essential for sustaining the activities of daily living, or for the protection of the individual, excluding members of the resident family of persons employed as facility staff, on a 24 hour a day basis. (Adopted 3/14)

**BED & BREAKFAST:** A single family dwelling offering temporary lodging as a nightly rental offering only breakfast to its guests. (Adopted 3/14)

**BUILDABLE LOT:** A lot of record which meets the frontage and acreage requirements and is capable of handling the necessary sanitation facilities for the proposed construction; or any pre-existing non-conforming lot of record for which a special exception pursuant to Article VII has been granted by the Board of Adjustment.

**BUILDING:** Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals, or personal property.

**BUSINESS:** Any lawful commercial endeavor to engage in the manufacturing, purchase, sale, lease, or exchange of goods, and/or the provision of services.

- a. Commercial: The purchase, sale, or transaction involving the disposition of any article, substance, commodity, or service; the maintenance or conduct of offices, professions, or recreational or amusement enterprises conducted for profit and also including renting of rooms, business offices, and sales display rooms and premises.
- b. Retail: The selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license. (Adopted 3/14)

**CAMPS:** Premises and facilities used occasionally or periodically for the accommodation of members of the public or associations for outdoor recreational activities, including overnight accommodations. (Adopted 3/14)

**CHURCHES:** A building used for nonprofit purposes by a recognized and legally established sect principally for the purpose of worship. (Adopted 3/14)

**COMMERCIAL:** The manufacture, purchase, sale, or transaction involving the disposition of any article, substance, commodity, or service; the maintenance or conduct of offices, professions, or recreational or amusement enterprises conducted for profit and also including renting of rooms, business offices, and sales display rooms and premises. (Amended 3/14)

**CONVENIENCE STORE:** A retail store with a floor area of less than 2,500 square feet that sells groceries and may also sell gasoline; does not include automotive service stations or vehicle repair shops. (Adopted 3/14)

**DOG DAY CARE FACILITY:** Any premises containing four or more dogs, which are five months or older, where these domestic animals are dropped off and picked up daily between the hours of 7 a.m. and 7 p.m. for temporary care on site and where they may be groomed, trained, exercised, and socialized, but are not kept or boarded overnight, bred, sold, or let for hire. (Adopted 3/14)

**DWELLING:** Any building or portion of a building, including manufactured housing and pre-site built housing, designed for use as the place of residence for one or more families with its own bathing and sanitary facilities and its own living, kitchen and sleeping areas wholly within a room, or rooms connected together. (Amended 3/14)

1. **SINGLE-FAMILY DWELLING:** One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, for the exclusive use of a single family maintaining a household.
2. **TWO-FAMILY DWELLING:** A building on a single lot designed for, or occupied exclusively by, two families living independently of one another. Each unit shall be totally separated from the other by a common fire wall extending from the lowest ground level to the highest roof level of the living portion of both units or common fire wall as part of a ceiling and floor extending from exterior wall to exterior wall except for a common stairwell, if necessary.
3. **MULTI-FAMILY DWELLING:** A building on a single lot designed for three (3) or more, not to exceed five (5) living units per building. Each unit shall have separate entrances and exits and shall be separated by a common firewall.

**FAMILY:** One (1) or more persons living as a single housekeeping unit. (Adopted 3/14)

**FARMERS MARKET:** The seasonal selling or offering for sale of locally grown vegetables, raised or produced, occurring in a pre-designated area, where the vendors are generally individuals who have raised the agriculturally grown products, vegetables or produced or have taken the same on consignment for retail sale. (Adopted 3/14)

**FRONTAGE:** The width of a lot measured along its common boundary with the road or highway right-of-way.

**GAS STATION:** Any lot or parcel of land or portion thereof used partly or entirely for storing or dispensing flammable liquids, combustible liquids, liquified flammable gas, or flammable gas into the fuel tanks of motor vehicles. (Adopted 3/14)

**GENERAL FARMING:** Land consisting of five acres or more on which livestock, horses, produce, crops, or flowers are grown for off-premise consumption, use, or sale, or for personal use. (Adopted 3/14)

**GREENHOUSES:** Retail business whose principal activity is the growing and selling of plants grown within a heated structure on the site and/or having outside storage and a growing display. (Adopted 3/14)

**HOME PRODUCTS OR PRODUCE:** Anything of an agricultural nature grown or produced on the property of the resident; also such articles as are manufactured or altered by members of the household.

**HOTEL:** A building or portion thereof designed or used for the transient rental of five or more units for sleeping purposes. A central kitchen and dining room and accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care. (Amended 3/14)

**INN:** A building, which contains a dwelling unit occupied by an owner or resident manager, in which up to 10 lodging rooms or lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. "Inn" includes such terms as "guest house" and "tourist house." (Amended 3/14)

**KENNEL:** Any place where four or more dogs or cats over three months of age are kept overnight, raised, sold or bred. (Adopted 3/14)

**LODGING HOUSE:** A dwelling containing not more than one living unit, where lodging with or without meals, is provided for compensation to one or more persons, but not more than 30 persons at one time. (Amended 3/14)

**LOT OF RECORD:** A lot or parcel or tract described by metes and bounds, the description of which as been so recorded (*Amended March 10, 1987*).

**MAJOR HOME OCCUPATION:** Major home occupations shall be contained on a residential property in an outbuilding, a detached building and/or in an open space subject to the provisions below. A major home occupation shall require a special exception from the Zoning Board of Adjustment. (Amended 3/02)

**MANUFACTURED HOUSING:** As defined by RSA 674:31, is: *"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 which include plumbing, heating, and electrical heating systems contained therein."* Manufactured housing as defined in this section does not include pre-site built housing. (As defined in RSA 674:31-a.). (*Amended March 11, 1986*).

**MINOR HOME OCCUPATION:** A minor home occupation does not require Town approval unless it exceeds the standards listed below. However all existing and future minor home occupation shall complete a registration form. This form shall be submitted to the Town Office and maintained in the Town records. The registration form shall include the locations, name of owner, and a brief description of the general nature of the minor home occupation. (Amended 3/02)

**MOTELS:** A building or group of buildings in which lodging is provided to transient guests, offered to the public for compensation, and in which access to and from each room or unit is through an exterior door. (Adopted 3/14)

**NON-CONFORMING USE, STRUCTURE OR LOT:** Any legal pre-existing use, structure, or lot which does not conform to the regulations of the district in which it is located, or to the general requirements of this Ordinance.

**PERMANENT SAWMILL:** Used commercially for timber harvested on and off-site and other related production 12 or more months. (Amended 4/94).

**PLANT NURSERY:** An establishment for the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed building. (Adopted 3/14)

**PORTABLE SAWMILL/CHIPPING:** Machinery which can be easily transportable to locations for temporary use for on-site timber harvesting of less than 12 months. (Amended 4/94).

**PRE-SITE BUILT HOUSING:** As defined by RSA 674:31-a, is: *“Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation or assembly and installation, on the building site.”* Pre-site built housing shall not include manufactured housing. As defined in RSA 674:31 (Amended March 11, 1986).

**PRIVATE:** Belonging to, or restricted for the use or enjoyment of particular persons. (Adopted 3/14)

**RECREATION COMMERCIAL INDOOR:** An indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support facilities. (Adopted 3/14)

**RECREATION COMMERCIAL OUTDOOR:** A recreational land use conducted outside of a building, characterized by potentially moderate impacts on traffic, the natural environment, and the surrounding neighborhood, including athletic fields; miniature golf; skateboard park; swimming, bathing, wading and other therapeutic facilities; tennis, handball, basketball courts; batting cages, trampoline/trapeze facilities. (Adopted 3/14)

**RESTAURANTS:** An establishment where food and/or beverages are prepared, served, and consumed, and whose principal method of operation includes one or both of the following characteristics: (1) customers are normally provided with an individual menu and served their food and beverages by a restaurant employee at the same table or counter where the items are consumed; or (2) a cafeteria-type operation where food and beverages generally are consumed within the restaurant building. (Adopted 3/14)

**RETAIL SALES ESTABLISHMENT:** A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser. (Adopted 3/14)

**RIGHT-OF-WAY:** Means and includes all range roads, Town, State and Federal highways, and the land on either side of same as covered by law.



**ROADSIDE STAND:** A temporary structure not permanently affixed to the ground and is readily removable in its entirety, which is used solely for the display or sale of farm products and crafts produced on the premises upon which such roadside stand is located. No roadside stand shall be more than 300 square feet in ground area and there shall not be more than one roadside stand on any one premise. (Adopted 3/14)

**SERVICE STATION:** The business of repairing, overhauling, removing, adjusting, replacing, assembling or disassembling parts of any motor vehicle. (Adopted 3/14)

**SIGN:** Any device for visual communication that is displayed for the purpose of bringing the subject thereof to the attention of the public.

**SPECIAL EXCEPTION:** A use of a building or lot which may be permitted under this Ordinance only upon application to the Board of Adjustment and subject to the approval of that Board, and only in cases where the words "special exception" appear in this Ordinance.

**STABLES:** An accessory building having four (4) or fewer stalls or compartments where animals, excluding dogs and cats, are sheltered and fed. (Adopted 3/14)

**STRUCTURE:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

**SUBDIVISION:** The division of a lot, trust, or parcel of land into two or more lots, plats, sites, or other division of land for the purpose, whether immediate or future, for sale, lease, rent, condominium conveyance, or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdivision or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision.

**VARIANCE:** Such departure from the terms of this Ordinance as the Board of Adjustment, upon appeal in specific cases; is empowered to authorize under applicable state statutes.

## ARTICLE IV: GENERAL PROVISIONS

- A. No building may be erected, altered, or used and no property may be used or occupied except in accordance with the provisions of this Ordinance.
- B. Development and construction of any kind are subject to any and all regulations and Ordinances as may be in effect in the Town from time to time, including but not limited to:
  - 1. Site Plan Review Regulations, regulating non-residential development and multi-family dwellings.
  - 2. Building Regulations.
  - 3. Building or occupancy permit requirements.
  - 4. Health and sanitation regulations.
  - 5. Subdivision Regulations.
  - 6. Mobile Home Park By-laws
  - 7. Regulations regarding driveways and other accesses to Town roads.
- C. No dwelling or structure shall exceed a height of 35 feet above the elevation of the finished grade adjacent to, and in the immediate vicinity of, the building or structure. Church spires, silos, belfries, television reception and amateur radio antennas, and chimneys are excluded (35 feet is the maximum). *Amended March 13, 2001.*
- D. Adequate off-street parking shall be provided to accommodate intended use.
- E. All sanitary systems shall be constructed and maintained in accordance with standards set and enforced by the New Hampshire State Department of Health, the New Hampshire Water Supply and Pollution Control Commission, and any local regulations or Ordinances that may be adopted by the Town.
- F. Manufactured housing and pre-site built housing located on buildable lots shall comply with space requirements and other reasonable controls applicable to conventional single family housing. *(Amended March 11, 1986).*
- G. No property owner shall permit ruins, open cellar holes, or excavated areas caused by catastrophe or discontinuance of construction to remain in a hazardous or unsightly condition for more than one year from the date of such occurrence or the date of settlement of resulting court litigation. Where there is clear and present danger, the Board of Selectmen may order more timely action.
- H. The excavation of clay, sand, gravel, or loam, or any other form of earth is permitted for private on-site uses in conjunction with the construction of buildings or facilities or in landscaping. Any Town restrictions on disposal of top soil, as in the Site Plan Review Regulations, shall prevail in all instances. Permit(s) required for all commercial excavations shall be carried out under regulations adopted by the local regulatory board, pursuant to authority vested in that board by Town Meeting in accordance with the provisions of RSA 155-E. (Permits Required)
- I. The removal of timber may take place in any district in the Town, provided required permits are obtained from the Selectmen and/or appropriate state agencies.

- J. Signs shall be permitted only as designated in Article VIII. Official Town, State, or Federal signs shall be exempt from these regulations.
- K. No solid waste disposal facility (landfill or other type), unless dictated by State law, shall be operated within the bounds of the Town unless it is to serve as the Town's facility and is operated by the Town on land owned by it or leased for that purpose or is operated by a private party under contract with the Town. Any allowed facility shall be for the use of Town residents, property owners, and businesses only unless Town Meeting action provided otherwise.
- L. No toxic wastes or other form of hazardous wastes, so-called and so-defined by State and Federal law or agencies, shall be stored in or disposed of in any solid waste disposal area or in any part of the Town. A business or industry in Town legitimately using or creating toxic or other hazardous materials may store wastes from such materials or processes for a limited period and under strict controls, as shall be set forth by the Selectmen. In granting permits for storage, the Board shall adhere to any and all applicable State and Federal regulations and statutes, and may adopt appropriate local regulations.
- M. Use of Biosolids must be in compliance with local, state, and federal regulations and/or laws.
- N. Any junk yard or place for the storage of discarded machinery, vehicles, or other scrap materials shall be maintained in accordance with the standards set and enforced by RSA 236: 111-129.

**Accessory Dwelling Units**

**(Adopted 3/11/14)**

**Section 1. PURPOSE**

For the purpose of providing expanded housing opportunities and flexibility in household arrangements to accommodate family members or nonrelated people of a permitted, owner occupied, single family dwelling, while maintaining aesthetics and residential use compatible with homes in the neighborhood. Accessory dwelling units (ADU's) consistent with NH RSA 674:21 may be permitted as a Conditional Use in all zoning districts.

**Section 2. REQUIREMENTS/LIMITATIONS**

- A. Accessory dwelling units shall be secondary and accessory to a principal single-family dwelling unit.
- B. An ADU shall not be considered to be an additional dwelling unit for the purpose of determining minimum lot size.
- C. Only one ADU shall be allowed per principal dwelling unit and/or lot; but in no case shall an ADU be permitted on a lot of record of less than two acres.
- D. An ADU is only permitted on a residential property in which the owner of record of the property personally resides.
- E. The gross living area of an ADU shall not be less than 350 square feet or greater than 850 square feet.
- F. In addition, an accessory dwelling unit shall not have a total square footage greater than 40% in aggregate of the total heated above grade floor area of the principal dwelling.

- G. If a property containing an approved ADU is conveyed and the new owner wishes to maintain the accessory unit, the new owner shall apply for a certificate of occupancy for the dwelling unit to ensure that one of the two dwelling units is owner occupied.
- H. On-site Sewage Disposal System
  - 1. If the existing on-site sewage disposal system is proposed for continued use with the addition of an ADU, such system must be inspected and tested to ensure compliance with New Hampshire RSA 485A: 38.
  - 2. If a new or additional on-site sewage disposal system is necessary to accommodate the ADU, such system must be designed by a licensed septic designer as adequate to support the ADU in accordance with New Hampshire RSA 485A: 38 and it must be approved by NH DES.
- I. An accessory dwelling unit use shall be recorded by addendum at the county Registry of Deeds indicating all of the terms of the approval granted.
- J. Accessory dwelling units may not be a manufactured home as defined in Article III, but may be pre-site built housing as defined in Article III.
- K. Accessory dwelling units shall not have more than two (2) bedrooms.
- L. No accessory dwelling unit or structure shall be converted to a condominium or any other form of ownership separate from the ownership of the one-family dwelling.

**Section 3. PROCEDURE FOR OBTAINING A CONDITIONAL USE PERMIT**

- A. Applications for a Conditional Use Permit shall be subject to the same procedures as a Site Plan Review, consistent with NH RSA 674:43.
- B. A building permit for an ADU must be approved and issued prior to the construction of such unit.

**Section 4. ADDITIONAL STANDARDS FOR REVIEW FOR A CONDITIONAL USE PERMIT**

- A. The property and proposed use must conform to the area and dimensional requirements of a single-family residential lot.
- B. The secondary unit must be developed in a manner which does not alter the character or appearance of the principal dwelling unit as a single-family residence (or other detached accessory structures, when applicable).
- C. Adequate off street parking shall be provided to serve the combined needs of the principal dwelling unit and the accessory dwelling unit.
- D. Adequate provisions must exist or be made for ingress, egress and turning of vehicles within the site.
- E. Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.

F. Any ADU must meet all relevant life safety, building, and sanitary codes.

**ARTICLE V: LOT SIZE AND LOCATION OF BUILDINGS**

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- A. The minimum size of a buildable lot shall be two acres. (*Amended March 14, 2000*).
- B. A buildable lot shall have a minimum frontage of 200 feet. Frontage shall be on a Class I through V highway or on an established road in a subdivision approved by the Planning Board. Lots on Class VI roads may be buildable subject to the provisions of RSA 674:41, I(c). (*Amended March 14, 2000*)
  - 1. The Planning Board may, according to its adopted subdivision regulations, allow a subdivider to reduce the required minimum frontage TO encourage open space development as set forth by the Master Plan. (*Amended 4/94*).
- C. Residential and Commercial Lots
  - 1. Residential - Only one principal residential structure shall be located on a buildable lot. (*Amended 4/94*).
  - 2. Commercial - One residential structure and necessary commercial buildings. (*Amended 4/94*).
- D. A pre-existing non-conforming lot of record may be considered a buildable lot under this Article subject to the provisions of Article VII.
- E. All structures shall be set back at least 75 feet from the center line of Town, subdivision, or private roads and at least 100 feet from the center line of State or Federal highways. (*Amended on 3/10/87, 3/10/98*).
- F. Residential and agricultural structures shall be set back at least 35 feet from side or rear property lines. Commercial structures shall be set back at least 50 feet from side or rear property lines. (*Amended 3/10/98*).
- G. Wells and Septic Systems: All wells and septic systems shall be subject to state regulations and approval. (*Amended 3/10/98*).

**ARTICLE VI: DISTRICTS AND PERMITTED USES**

**(Adopted 3/11/14)**

For the purposes of this Ordinance, the Town of Salisbury is divided into the following districts, as shown on the official Zoning Map to be filed with the Town Clerk upon the adoption of this Ordinance. Each of these districts is intended to be developed in a manner consistent with the Salisbury Master Plan, as amended and the Purpose Section of this Zoning Ordinance, Article 1: A.

A. Residential Districts

1. Purpose

The purpose of this district is to provide for low to moderate density residential housing that encourages a variety of housing types to accommodate a range of households. Such housing will be served by private wastewater treatment systems and wells and will be developed in a manner that will maintain the rural character of Salisbury.

2. Applicability

This district shall include the areas so indicated on the official Zoning Map to a depth of 300 feet from the center line of the state or town roads on which they abut, as follows:

U.S. 4: (OLD TURNPIKE ROAD): North from Whittemore road to a point 1000 feet north of the junction with College Road, both sides.

ROUTE 127: From the Salisbury/Webster Town line to the junction of the Mutton/U.S. 4 intersection, both sides; on North side from the intersection of 127 and Old Coach Road.

On the south side from a point 300 feet east of the junction of Route 127 and Old Coach Road; and from the point to the Salisbury/Franklin line, both sides, except for an area on the southeast side included in the State Experimental forest.

RABBITT ROAD: From the Salisbury/Boscawen Town lines to U.S. 4 on the south side and to the Retail Village District on the north side.

MUTTON ROAD: From the Salisbury/Boscawen Town line to the Retail Village District boundary near the junction of Route 127 and U.S. 4.

WARNER ROAD: From Route 127 westward to the edge of the Blackwater Flood Control Basin, both sides.

WHITTEMORE ROAD: Both sides. CENTER ROAD: East from U.S. 4 to a point about 1800 feet east of the junction with Whittemore Road, both sides.

HENSMITH ROAD: Both sides. OAK HILL ROAD: From U.S. 4 to a point opposite the northwest corner of Oak Hill Cemetery, both sides.

LOVERIN HILL ROAD: Both sides. WEST SALISBURY ROAD: Both sides.

DUNLAP ROAD: Both sides. BAY ROAD: From the Salisbury/Andover Town line to West Salisbury Road, both sides. SANBORN'S CLEARING: Subdivision on both sides of Raccoon Hill Road, all lots.

3. Permitted Uses

Any use shown as a Permitted Use in the Residential Districts in the Table of Land Uses, Table 1, shall be permitted in the Residential Districts.

4. Uses by Special Exception

Any use shown as a use by Special Exception in the Residential Districts in the Table of Land Uses, Table 1, shall be permitted in the Residential Districts only if a Special Exception is granted by the Zoning Board of Adjustment in accordance Article VII, Section B.

5. Conditional Uses

Any use shown as a use by Conditional Use in the Residential Districts in the Table of Land Uses, Table 1, shall be permitted in the Residential Districts only if a Conditional Use Permit is granted by the Planning Board in accordance with Section E.

6. Dimensional Standards

All buildings and structures erected, structurally altered, enlarged and all land within the Residential Districts shall be used in accordance with the dimensional standards for the Residential Districts as shown in the Table of Dimensional Requirements, Table 2.

B. Retail Village District

1. Purpose

The purpose of this district is to encourage a mix of compatible uses including residential, civic, retail, commercial and recreational in relatively close proximity. Such uses shall maintain or enhance the historic, cultural and architectural quality of this area. Such mixed uses may be served by private and/or common wastewater treatment systems and wells.

2. Applicability:

This district shall include the areas so indicated on the official Zoning Map to a depth of 300 feet from the center line of the state or town roads on which they abut, as follows:

U.S. 4 (Old Turnpike Road): From the Rabbit Road to the Junction with Route 127, both sides continuing to the junction of Whittemore Road both sides.

OLD COACH ROAD: From U.S. 4 to its junction with Route 127, both sides.

ROUTE 127: From U.S. 4 Eastward to the junction with Old Coach Road, both sides.

RABBITT ROAD: From U.S. 4 to Old Coach Road, both sides.

3. Permitted Uses

Any use shown as a Permitted Use in the Retail Village Districts in the Table of Land Uses, Table 1, shall be permitted in the Retail Village District.

4. Conditional Uses

Any use shown as a use by Conditional Use in the Retail Village District in the Table of Land Uses, Table 1, shall be permitted in the Retail Village District only if a Conditional Use Permit is granted by the Planning Board in accordance with Section E.

5. Dimensional Standards

All buildings and structures erected, structurally altered, enlarged and all land within the Retail Village District shall be used in accordance with the dimensional standards for the Retail Village District as shown in the Table of Dimensional Requirements, Table 2.

### C. Agricultural District

#### 1. Purpose:

The purpose of the Agricultural District is to preserve Salisbury's rural character. This zone will provide for agricultural and farming practices and low-density residential development served by private wastewater treatment systems and wells. It will be developed in a manner that preserves Salisbury's rural, natural and scenic environment.

#### 2. Applicability

This district shall include all areas of the Town not included in a Residential Districts or the Village Retail District as described above, or as may be added to or subtracted from those districts at a later date.

#### 3. Permitted Uses

Any use shown as a Permitted Use in the Agricultural District in the Table of Land Uses, Table 1, shall be permitted in the Agricultural District.

#### 4. Conditional Uses

Any use shown as a use by Conditional Use in the Agricultural District in the Table of Land Uses, Table 1, shall be permitted in the Agricultural District only if a Conditional Use Permit is granted by the Planning Board in accordance with Section E.

#### 5. Dimensional Standards

All buildings and structures erected, structurally altered, enlarged and all land within the Agricultural District shall be used in accordance with the dimensional standards for the Agricultural District as shown in the Table of Dimensional Requirements, Table 2.

### D. Village Center Overlay District

#### 1. Purpose:

The purpose of this overlay district is to encourage a mix of uses, including residential, commercial, civic, and open space in proximity to one another in a manner consistent with Salisbury's traditional development patterns. The Village Center Overlay District shall promote the following objectives:

- A. Encourage a mix of uses including residential, commercial and civic;
- B. Provide a diversity of housing styles, types, and sizes to accommodate households of all ages, sizes, and incomes;
- C. Retain existing buildings with historical features or architectural features that enhance the visual character of the community;



- D. Encourage new building to be consistent with the current village architectural character and building patterns;
- E. Encourage a more efficient use of land through compact development that promotes a more walkable environment; and
- F. Provide consistency with Salisbury's master plan.

## 2. Applicability:

The Village Center Overlay District is defined on the Zoning Map of the Town of Salisbury and is generally located along US Route 4 and NH Route 127 in the "Crossroads" area and is identified on the Town of Salisbury Zoning Map, March, 2014, as amended, comprising of all or part of the following lots:

Tax Map 244, Lots 1, 2, 3, 4, 6, 7\*, 8, 9, 10, 11, 12\*, 17\*, 18, 19, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43\*, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54\*, 55, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78 and 79. Tax Map 245, Lots 15 and 36. Tax Map 257, Lots 1, 2, 17\* and 18\*.

Please Note: The asterisk (\*) marks those properties that are only partially in the VCOD.

The Village Center Overlay District (VCOD) shall be construed as overlaying other existing zoning districts. This VCOD does not remove or alter the zoning rights permitted by the underlying, existing zoning districts or overlay districts. Review under the VCOD is voluntary unless the subject site has been previously approved under a VCOD development and an occupancy permit has been issued.

## 3. Permitted Uses

Any use shown as a Permitted Use in the Village Center Overlay District in the Table of Land Uses, Table 1, shall be permitted in the Village Center Overlay District.

## 4. Conditional Uses

Any use shown as a use by Conditional Use in the Village Center Overlay District in the Table of Land Uses, Table 1, shall be permitted in the Village Center Overlay District only if a Conditional Use Permit is granted by the Planning Board in accordance with Section E.

## 5. Dimensional Standards

All buildings and structures erected, structurally altered, enlarged and all land within the Village Center Overlay District shall be used in accordance with the dimensional standards for the Village Center Overlay District as shown in the Table of Dimensional Requirements, Table 2.

## E. Conditional Use Standards

The planning board may issue a Conditional Use Permit approving uses in Sections A through D provided the planning board determines the following conditions are met.

- 1. The use is specifically authorized as a conditional use;
- 2. If completed as proposed by the applicant, the development in its proposed location will comply with the purposes and requirements of this Article;

3. The use will not materially endanger the public health, safety, or welfare;
4. The use will be compatible with the natural, environmental, and historic resources of the town; and
5. The use will be adequately serviced by community facilities and services of a sufficient capacity to ensure the proper operation of the proposed use, and will not necessitate excessive public expenditures to provide facilities and services with sufficient additional capacity.

In addition, if the use is proposed under the Village Center Overlay District the following criteria will apply.

1. The use will provide an environment to ensure both vehicular and pedestrian safety;
2. The use will be compatible with the village area and with adjoining or abutting uses in the area in which it is to be located; and
3. Architecture and landscape design shall contribute to the Purpose of this Article and comply with the Design Standards in the Salisbury Village Design Guidelines Manual.

#### F. Design Standards

Any development or redevelopment within the Village Center Overlay District will be consistent with the design standards in the Salisbury Village Design Guidelines Manual and the following principles:

1. Buildings should be compatible with their surroundings and traditional New England architecture, expressing a dignified architectural identity.
2. All building elements should be integrated into a coherent unified design.
3. Buildings should be pedestrian-oriented and incorporate elements and site planning that create pedestrian interest and easy access.
4. The reuse of existing buildings with special historical value is strongly encouraged. Additions to the side and rear should have compatible styles to the original building.
5. All new uses should conform to the visual character and physical patterns of the Salisbury's existing village.

Table 1. Table of Land Uses

Use	District			
	Residential	Retail Village	Agricultural	Overlay
Dwellings				
Single Family	P	P	P	P
Two Family	P	P	P	P
Multifamily (Three to Five units/bld.)	CUP	CUP	CUP	CUP
General Farming	P	P	P	P
Roadside Stands	P	P	P	P
Stables	P	P	P	P
Plant Nursery	P	P	P	P
Greenhouses	P	P	P	P
Kennel	CUP	CUP	CUP	CUP
Dog Day Care Facility	P	P	P	P
Farmers Market	P	P	P	P
Recreation Commercial Outdoor	CUP	CUP	CUP	CUP
Camps	CUP	CUP	CUP	CUP
Churches	P	P	P	P
Bed & Breakfast	SE	P	P	P
Hotel	NP	P	NP	P
Inn	NP	P	NP	P
Lodging House	NP	P	NP	P
Motel	NP	P	NP	P
Assisted Living Facility/Residential Care	CUP	P	CUP	P
Business	CUP	P	CUP	P
Convenience Store	CUP	P	CUP	P
Retail Sales Establishment	CUP	P	CUP	P
Restaurant	CUP	P	CUP	P
Recreation Commercial Indoor	CUP	CUP	CUP	CUP
Service Station	NP	P	NP	P
Gas Station	NP	P	NP	P
Minor Home Occupations -See Appendix A	P	P	P	P
Major Home Occupations – See Appendix B	CUP	CUP	CUP	CUP

Key:

P = Permitted

NP = Not Permitted

SE = Permitted by Special Exception

CUP = Conditional Use Permit

Table 2. Table of Dimensional Requirements

Use	District	
	Residential, Retail Village & Agricultural	Village Center Overlay
Minimum Lot Size-Acres	2	30,000 SF <sup>2</sup>
Frontage-Feet	200	75
Setbacks-Feet		
• Front Yard	75	75 State- 50 Town
• Side Yard	35	15
• Rear Yard	35	15
Height <sup>3</sup>	35	35
Lot Cover (impervious)	n/a	50%
Parking <sup>4</sup>	n/a	One space per dwelling unit

Notes for Table 2:

1. The Planning Board may authorize variations from the above standards, except for any requirement provided by state regulation or mandated elsewhere in this ordinance, by up to 25 percent by a Conditional Use Permit issued pursuant to Section E for the purpose of providing flexibility in the design of the project to meet the objectives of this section.
  
2. Minimum lot size will depend on compliance with the provisions found in the DES "Subdivision and Individual Sewage Disposal System Design Rules, Chapter Env-Wq 1000", as amended and may be satisfied through the use of an off-site system that is specified through an easement and agreement between the owner/ applicant for the proposed activity and the owner of the site on which the system is to be constructed. If NH DES determines that the lot size is greater than 30,000 sf, then that will be a permitted lot.
  
3. Consistent with provisions of Article IV, General Provisions, Section C.
  
4. Consistent with provisions of Article IV, General Provisions, Section D.

## ARTICLE VII: NON-CONFORMING USES, STRUCTURES AND LOTS SPECIAL EXCEPTIONS

### A. Non-Conforming Use (Amended 4/94)

1. Except as provided in this Article, a non-conforming use, structure or lot may continue so long as the continuation does not present a danger to health, safety, and welfare of persons or property.
2. A non-conformance may not be changed except to conform to the general requirements of the district in which it is located and to the general provisions of this Ordinance, unless a special exception is granted by the Board of Adjustment in accordance with this Article.
3. A non-conformance may not be expanded beyond its pre-existing size and status unless a special exception is granted by the Board of Adjustment in accordance with this Article. A pre-existing residential use or structure in non-conformance, solely with respect to the dimensional requirements of this Ordinance, may be expanded without a special exception, so long as they expansion does not increase the non-conformity. (*Amended March 12, 1985*).
4. A non-conformance may not be continued if it is abandoned or if it is discontinued for a period of one year or for a total of 12 months in any 24-month period.
5. A non-conforming lot of record, which at the time it was created, was a legal lot shall be a buildable lot upon the issuance of a special exception therefor by the Board of Adjustment. In determining if a special exception is appropriate, the Board shall consider:
  - a. The demonstrable sanitary capability of the lot.
  - b. Whether other contiguously held lots could be combined to conform to the lot size and frontage requirements or to at least lessen the non-conformity.
  - c. Whether ownership of contiguous lots is actually held by different persons or entities.
  - d. Whether the building can meet reasonable setback requirements in accordance with the criteria listed under Section B.

### B. Special Exceptions (Amended 4/94)

1. In determining whether to grant a special exception as allowed under this Ordinance, the Board of Adjustment shall consider, and when it grants a special exception, shall make findings on the following criteria:
  - a. Whether this area proposed for the use is appropriate and capable of supporting the use.
  - b. Whether the proposed use will adversely affect abutters and others in the vicinity by virtue of; effects on property values, creation of noise and waste, duration of the use, proximity to other uses.
  - c. The degree of similarity with other existing in the district and the immediate vicinity.
  - d. Provision of on-site facilities that may be required such as parking and buffering and screening.
  - e. Effects on pedestrian and vehicular traffic.

- f. Whether the proposal will constitute a change in the use or in the nature and purpose of the use. If such a finding is made, a special exception may be granted only if the overall non-conformity will be decreased and if the change will benefit the public interest.
2. Required Plan: A plan drawn approximately to scale for the proposed site of a special exception shall be submitted with the application. The plan shall show the location, distances and measurements of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, the location of the site within the town and any other pertinent information that the board may deem necessary to determine if the proposed use meets the requirements of this Ordinance. (Amended 3/10/98).
3. Prohibited Uses. No business, commercial or industrial venture or use shall be permitted which could cause any undue hazard to health safety or property values or which is offensive to the public because of noise, vibration, excessive traffic, unsanitary conditions, noxious odor, smoke, unsightliness, or similar reason. (Amended 3/10/98).
4. In order for a special exception to be granted, the proposed use shall not adversely affect:
  - a. The capacity of existing or planned community facilities.
  - b. The character of the area affected.
  - c. Traffic on roads and highways in the immediate vicinity.

## ARTICLE VIII: SIGNS

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### Purpose:

The purpose of the Sign Ordinance is to protect the health, safety and public welfare by achieving the following;

1. Limit signs that would increase the likelihood of accidents by distracting attention or obstructing vision.
2. Preserve and protect property values and civic beauty by not permitting signs of excess size, height, number, visual impact and undesirable locations.
3. Provide for signs that are compatible (design & color) with their surroundings and are appropriate to the type of commercial activity to which they pertain.
4. Be consistent with the goals of the Salisbury Master Plan.

### Types of Signage:

**Agricultural** - A sign identifying the uses listed in RSA 21:34-a for commercial purposes; in all zoning districts, one such (1) permanent sign is permitted and shall not exceed six (6) square feet, plus one seasonal and one temporary sign as may be further restricted herein.

**Banner or Flag** - A piece of cloth bearing a design, motto, slogan, etc., sometimes attached to a staff or building that is only displayed during normal business hours and shall not exceed 15 square feet.

**Directional Signs** - Signs indicating the direction of a business, event, yard sale and the sale of real estate is allowed in all zoning districts but shall not exceed six (6) square feet. No more than one sign is permitted in any two-mile length of road, not including those which indicate a change of direction. (Amended 3/93).

**Inflatable Signs** - Means any object enlarged or inflated which floats, is tethered in the air, is activated by air or moving gas, or is located on the ground or on a building with or without copy or other graphic.

**Other Signs** - Shall include, but not limited to, building markers and historic marker signs. The maximum area of these signs shall not exceed 4 square feet.

**Off-Premise Signs** - An off-premise sign is a sign displaying advertising that pertains to a business, person, organization, activity, event, place, service or product not principally located or primarily manufactured or sold on the premises on which the sign is located. These signs are prohibited in all zoning districts.

**Portable Sign** - A sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated without disassembling. Portable signs include, but are not limited to, signs

mounted upon a trailer, wheeled carrier or other non-motorized mobile structure, with wheels or with wheels removed. Allowed by permit for 30 days.

Seasonal Sign – A sign that advertises a business or operation that is open to the public less than six (6) months per year shall not exceed 6 square feet.

Temporary Sign – A sign that is used only temporarily for commercial (as defined in Article 3 of the Zoning Ordinance) purposes and is not permanently mounted. One (1) temporary sign shall be permitted for advertising the opening of a business, a product, a change in business ownership; and includes, but is not limited to, signs used for one-time or annual events. The maximum area of the sign shall not exceed (32) thirty-two square feet and shall not be illuminated. Allowed by permit for 90 days in all Zoning Districts.

Yard Sale Sign - Yard sale signs shall be permitted. Such signs shall not exceed dimensions of six (6) square feet and shall comply with all other requirements established by this ordinance and shall not be posted more than 24 hours prior to the commencement of the sale and shall be removed no more than two hours after its termination. A maximum of two off-premises signs directing passers-by to a yard sale are permitted to be displayed for 24 hours prior to the sale and shall be removed within two (2) hours of its termination.

- A. All signs, including their support structures, shall be maintained in proper repair at all times and in compliance with all applicable building and electric codes, failure to do so will result in a “30-day Notice of Removal” from the Board of Selectmen. All commercial signs associated with a business which terminates its operations shall be removed within thirty (30) days.
  
- B. Residential and Agricultural Districts
  - 1. No more than two signs relating to permitted uses or to special exceptions, are allowed on the grounds or attached to a building. (Amended March 11, 1986).
  - 2. No one sign shall exceed 6 square feet in area with the exception of Temporary Signs as defined above.
  - 3. Signs may be illuminated only by continuous lighting, indirect and white, with light sources placed so that they will not constitute a hazard to street or highway driving by glare, and shall be directed or screened from nearby structures.
  
- C. Retail Village District
  - 1. No more than two signs relating to permitted uses, including goods or services sold on the premises are allowed.
  - 2. No one sign shall exceed 32 square feet in area nor 20 feet in height including supports.
  - 3. Signs may be illuminated only by continuous, indirect lighting, with light sources placed so that they will not constitute a hazard to street or highway driving by glare, and shall be directed or screened from nearby structures. Signs shall only be illuminated during the business’ normal hours of operation.



4. A directional sign that identifies parking lot entrances and exits, restrooms, public telephones, walkways and features of a similar nature are allowed in the Retail Village District only.

#### D. Prohibited Signs

1. Signs using flashing electric lights.
2. Signs displaying symbols or messages which move or which change periodically on any electronic or mechanical basis.
3. Signs having revolving or moving elements, except for a revolving barber pole.
4. Signs designed to change display when viewed from different angles.
5. Signs displaying time and/or temperature are expressly prohibited in all districts and are subject to the same requirements as all other signs.
6. Billboard signs that are defined as a panel larger than 32 square feet designed to carry outdoor advertising.
7. Roof Signs which are erected over or attached to, in whole or in part, the roof of a building.

#### E. Exemptions

The following signs shall be exempt from the provisions of the section:

1. All signs erected or posted by any agency or office of government for the specific use of said agency or office.
2. All signs indicating private property, forbidding trespass, hunting or other activities on the property.
3. Street number signs.
4. All signs associated with Town sponsored events held on Town property.

#### F. Application Process

1. Sign configurations and location for all non-residential, multi-family and home occupation uses shall be approved by the Planning Board or Zoning Board of Adjustments to assure compliance with the Town of Salisbury's Site Plan Review Regulations and Conditional Use Permit Process, prior to submitting a Sign Permit Application to the Board of Selectmen or their Agent.
2. A sign permit application must be completed, submitted to the Board of Selectmen's Office and approved prior to erecting, altering or relocating a sign.
3. All signs shall have a sign permit that can be obtained on the Town's website [www.salisburynh.org](http://www.salisburynh.org) or by contacting the Selectmen's Office.

4. Signs existing legally at the time of the adoption of this Ordinance may continue. Pre-existing non-conforming signs may be replaced in kind but shall not be expanded.
5. Signs not allowed by the language in this ordinance will need to apply for a special exception through the Zoning Board of Adjustment.

## REVISIONS

Temporary Sign Definition Changes - Added the reference to the definition of Commercial, added “or annual” before events, changed the sign’s size requirement from 6 square feet to 32 square feet and added the words “in all Zoning Districts” after 90 days. Exemptions – Added line number 4. Section B (2), added the words “with the exception of Temporary Signs as defined above” after 90 days. (Adopted on 3/13/18, Revised 3/12/19)

## ARTICLE IX: DRIVEWAYS AND OTHER ACCESSES TO TOWN ROADS

It shall be unlawful to construct a driveway or other access to a Town road, or to alter in anyway the size or grade of any driveway, entrance, exit, or approach within the limits of the right-of-way of any Town road to the extent that the new construction or alteration fails to conform to the terms and specifications of a written permit to be issued by the Planning Board or its agent, in accordance with the regulations promulgated by the Planning Board under RSA 236:13. (*Amended March 14, 2000*).

## ARTICLE X: ADMINISTRATION

- A. It shall be the duty of the Board of Selectmen, and the Board is hereby given authority and power, to enforce this Ordinance and to issue permits hereunder.
- B. Under any well-founded information that this Ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce this Ordinance by seeking appropriate legal action.

## ARTICLE XI: BOARD OF ADJUSTMENT

- A. Change the method of selection of the Zoning Board of Adjustment (ZBA) members from being appointed by the Selectmen to being elected by the voters pursuant to RSA 673::3 and RSA 669, beginning with Town Meeting March 11, 2008 and authorizing the ZBA to fill those member and alternate vacancies that may occur between March 13, 2007 and March 11, 2008, pursuant to RSA 669. (*Amended March 13, 2007*)
- B. The Board of Adjustment shall have all powers assigned to it under this Ordinance and by applicable State law.

## ARTICLE XII: AMENDMENTS

- A. This Ordinance may be amended as provide for in RSA 675:3, 675:4, and 675:5.
- B. Upon petition of 25 or more registered voters to the Board of Selectmen for an amendment to this Ordinance, the procedures set forth in RSA 675:4 shall be followed. Petitions shall be received during the period of time 90 to 120 days prior to the Annual Town Meeting.

**ARTICLE XIII: PENALTY**

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Every person, persons, firm or corporation violating any of the provisions of the Ordinance shall be subject to penalties as defined and established under RSA 676.

**ARTICLE XIV: SAVING CLAUSE**

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

**ARTICLE XV: OUTSIDE TECHNICAL REVIEW**

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The Planning Board or the Zoning Board of Adjustment or both may retain technical experts, at any time, during the process of the Boards' consideration of an application in order to verify technical and detailed claims, plans and/or documentation. Such experts could include, but are not limited to, engineers, architects, soil scientists, attorneys, planners etc., The cost of such technical review shall be borne by the applicant (*Amended March 13, 2001*).

**ARTICLE XVI: TELECOMMUNICATIONS EQUIPMENT & FACILITIES**

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*(Draft Language Adopted 9/14/00.*

**SECTION 1: FINDING, INTENT & GENERAL PROVISIONS**

- A. The Town of Salisbury finds that specific regulation of the placement, spacing, installation, location and number of telecommunications facilities is in the public interest so as to conserve and enhance property values, to minimize the visual impact of such facilities upon the natural landscape and scenic vistas within the municipality, to minimize the number of towers and/or to reduce the height and visual impact of towers, and to avoid congestion in the location of such facilities.
- B. The Town hereby states its intent not to discriminate against or favor providers of telecommunications facilities and services.
- C. The Town also finds that regulation of wireless and personal telecommunications facilities, consistent with federal and state policies and law, is in the public interest.
- D. The purposes of this Article are as follows:
  - 1. Provide a reasonable balance between the interests of residents, property owners, business owners, wireless telecommunication providers and telecommunication customers so as to ensure coordinated development of communications infrastructure while preserving the health, safety and welfare of the Town and its constituents;
  - 2. To preserve the authority of the Town to regulate the siting of telecommunications facilities while facilitating the proper location of facilities to provide such services to the community quickly, effectively, and efficiently.
  - 3. To reduce the adverse impacts such facilities may create, including but not limited to impacts on community character and community aesthetics, environmentally sensitive areas, community gateways, historically significant properties and structures, village and rural settings, residential development patterns, flight corridors, public health and safety by injurious accidents to person and property and community prosperity through protection of property values;

4. To encourage co-location and minimal impact siting options through an assessment of technology, current locational options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town;
5. To require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town.
6. Permit the construction of new tower facilities only where all other reasonable alternatives and opportunities have been exhausted and to encourage the users of towers and antennas to configure them in a way that minimizes proliferation and other adverse visual impacts of the towers and antennas;
7. To assure responsibility for adequate telecommunications continuous maintenance and safety inspections for all facilities;
8. To provide for the prompt and safe removal of abandoned or discontinued/outdated technological facilities that are no longer inspected for safety concerns including a mechanism for the Town to remove such facilities in order to protect the public from imminent harm and danger;
9. To ensure that all telecommunication carriers providing facilities or services within the Town comply with these articles and sections and any decisions of the Town made thereto.

E. *GENERAL SITING STANDARDS AND POLICIES:* Wireless telecommunications facilities shall be permitted within the Town, only in accordance with this article, of the Salisbury Zoning Regulations and the specific provisions of this entire article. In the case of conflict with any other provisions of this ordinance or any town ordinance or regulation, that provision imposing the more stringent standard shall apply.

F. *GENERAL PROVISIONS:*

1. Wireless telecommunications facilities may be allowed as primary or secondary uses, either as permitted uses or by conditional use permit issued in accordance with Article XVII, Section 4. In any case, however, the facility must conform to all other applicable ordinances and regulations, and must be approved by the Planning Board through site plan review. If allowed by the Planning Board, an applicant may seek to combine conditional permit review with site plan review.
2. When allowed by this ordinance, and after approval by the Planning Board, a wireless telecommunications facility may be placed upon a property as a primary or secondary use of the property on which it is located. A different primary use of the property shall not preclude the use of the property for an antenna or tower, provided that the Planning Board approves such use as a condition use under Article XVII, Section 4. Any other wireless telecommunication structure or facility shall be allowed only by condition use permit in accordance with Article XVII, Section 4.
3. For purpose of determining whether the installation of a tower or antenna complies with this ordinance, including but not limited to set-back requirements, lot-coverage requirements, and other requirements, the dimension of the entire lot shall control, even though the antenna or tower may be located on a leased parcel within the lot. Towers that are constructed, and antennas that are installed strictly in accordance

with this ordinance shall not be deemed to constitute the expansion of a non-conforming use or structure. Wireless telecommunication facilities shall not be deemed to be an "accessory use."

## **SECTION 2: AUTHORITY**

- A. This **Draft** Ordinance has been temporarily adopted by the Salisbury Planning Board on Thursday, September 14, 2000, in accordance with the authority granted in New Hampshire Revised Statutes Annotated 674:16 and 674:21 and procedurally pursuant to Revised Statutes Annotated 675:1,II.

## **SECTION 3: INTERPRETATION & APPLICABILITY**

- A. The terms of this Section and the Site Plan Review Regulations shall apply to personal wireless service facilities proposed, to be located on property owned by the Town, on privately owned property; and on property that is owned by any other governmental entity that acts in its proprietary capacity to lease such property to a carrier.

- B. The following are exempt from the provisions of this Ordinance:

1. *Emergency Wireless Telecommunication Facility.* Temporary Wireless Telecommunication Facilities for emergency communication by public officials.
2. *Amateur (ham) radio services.* In accordance with RSA 674:16, IV, this article shall not apply to any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur (ham) radio station operator and is used exclusively for receive-only antennas.
3. *Parabolic (dish) antenna.* Parabolic antenna that is accessory to a residential use of property.
4. *Maintenance, repair or reconstruction:* Maintenance, repair or reconstruction of a Wireless Telecommunications Facility and related equipment, provided that there is no change in the height or any other dimension of the facility, notwithstanding the provisions of Article XVII, Section 9(A) 1-4.
5. *Essential Services and Public Utilities:* Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in this ordinance or any other Town ordinance or regulation. Siting for telecommunication facilities constitutes a use of land and is regulated by this Article.

## **SECTION 4: CONDITIONAL USE PERMITS AND SITE PLAN REVIEW; CRITERIA CONSTRUCTION AND PERFORMANCE STANDARDS**

- A. *Conditional Use Permits and Site Plan Review; Criteria; Construction and Performance Standards:* In acting upon a conditional use permit, or in applying its site plan review regulations to a wireless telecommunication facility, the Planning Board shall apply and utilize the criteria and standards set forth in this Article, Section 10, in addition to such other standards and criteria as it may establish. The Planning Board may waive one or more of these requirements, in accordance with Article XVII, Section 15, only if it determines that the goals of this Article are served thereby.

## **SECTION 5: FEDERAL REQUIREMENTS**

- A. *Federal Requirements:* All towers and antennas must meet or exceed current standards and regulation of the FAA, FCC, and any other agency of the federal government with the

authority to regulate towers and antennas. If such standards and regulations are changed, then the owners or operators of the towers and antennas shall bring such towers and antennas into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulation, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower and antenna in accordance with Article XVII, Section 14, at the owner's expense through the execution of the posted security [Article XVII, Section 14(D)].

## **SECTION 6: DEFINITIONS**

For the purpose of this Article, the following terms shall have the meaning given herein:

**ACT:** the federal laws governing telecommunications facilities, as amended, including the Telecommunications Act of 1996, and FCC regulations promulgated thereunder.

**ALTERNATIVE TOWER STRUCTURE:** an innovative siting technique or structure such as man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**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 bandwidth.

**ANTENNA ARRAY:** A collection of antennas attached to a mount to send and receive radio signals.

**AVERAGE TREE CANOPY HEIGHT:** An average height found by inventorying the height at above ground level (AGL) of all trees over twenty (20) feet in height for a defined area.

**CAMOUFLAGED.** A personal wireless service facility that is disguised, hidden, part of an existing proposed structure, or placed or within an existing or proposed structure.

**CARRIER:** A Company that provides personal wireless services also sometimes referred to as a provider.

**CO-LOCATION:** The use of a single mount on the ground by more than one carrier (vertical co-location) for the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.

**ENVIRONMENTAL ASSESSMENT (EA):** An EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designed areas.

**EQUIPMENT SHELTER:** An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for personal wireless service facilities such as batteries and electrical equipment. Equipment shelters are sometime referred to as base transceiver stations.

**FAA:** the Federal Aviation Administration

**FCC:** the Federal Communications Commission

**FACILITY:** See Personal Wireless Service Facility

**FALL ZONE:** The area on the ground from the base of a ground mounted personal wireless service facility that forms a circle with a diameter equal to the height of the facility, including any antennas or other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

**GUYED TOWER:** A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

**HEIGHT:** The height above ground level (AGL) from the natural grade of a site to the highest point of a structure, even if said highest point is an antenna.

**LATTICE TOWER:** A type of mount with multiple legs and structural cross bracing between the legs that is self supporting and free-standing.

**MAST:** A thin pole that resembles a street light standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

**MONOPOLE:** A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material, that is designed for the placement of antennas and arrays along the shaft.

**MOUNT:** The structure or surface upon which antennas are mounted, including the following four types of mounts:

- Roof-mounted: Mounted on the roof of a building.
- Side-mounted: Mounted on the side of a building.
- Ground -mounted: Mounted on the ground.
- Structure-mounted: Mounted on a structure other than a building.

**PERSONAL WIRELESS SERVICE FACILITY:** Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended. Personal Wireless Service facilities include a mount, antenna, equipment shelter, and other related equipment.

**PERSONAL WIRELESS SERVICES:** The three types of services regulated by this Ordinance. Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.

**PREEXISTING TOWER OR ANTENNA:** means any tower or antenna lawfully constructed or permitted prior to the adoption of this Article (*draft adopted on 9/14/00*).

**RADIO FREQUENCY (RF) ENGINEER:** An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

**RADIO FREQUENCY RADIATION (RFR):** The emissions from personal wireless service facilities.

**SECURITY BARRIER:** A wall, fence, or berm that restricts an area from unauthorized entry or trespass.

**SEPARATION:** The distance between one carrier's array of antennas and another carrier's array.

**TELECOMMUNICATIONS FACILITY - includes both:**

1. "Wireless telecommunication facilities" such as any structure, antenna, tower, or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR),

and personal communications service (PCS), and common carrier wireless exchange access services; and

2. *“Conventional telecommunications facilities”* such as any telecommunications facility installed within, upon, or across a public right-of-way including poles, wires, conduits, and similar equipment or property, whether installed above or below ground.

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

**SECTION 7: ZONING DISTRICT REGULATIONS**

A. LOCATION: Wireless telecommunications towers and antennas may be located within the Town only in accordance with the following table:

Zoning District	New Tower Construction	Co-location on Existing Tower	Co-location on Existing Structure
Residential	Allowed	Conditional Use Permit	Conditional Use Permit
Agricultural/ Conservation	Allowed	Conditional Use Permit	Conditional Use Permit
Retail Village District	Conditional Use Permit	Conditional Use Permit	Conditional Use Permit

**NOTES:**

*“Permitted”* means permitted without a conditional use permit, but site plan review still required, and subject to any restrictions on existing tower or structure.

*“Conditional Use Permit”* means allowed only by conditional use permit issued under Article XVII, Section 4, and site plan review also required.

*“New Tower Construction”* permits construction of a tower for one or more antennas, as allowed in the permit issued by the Planning Board.

*“Co-location on existing tower”* permits additional number of antenna(s) to an existing telecommunications tower in the manner permitted in the conditional use permit or site plan review as appropriate.

*“Co-location on existing structure”* permits the placement of an antenna on an existing structure other than a telecommunications tower in the manner permitted in the conditional use permit or site plan review as appropriate.

B. EXISTING STRUCTURES: Policy - Personal Wireless service facilities may be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles, or towers, and related facilities, provided that such installation preserves the character and integrity of those structures; and must be confirmed by a licensed professional civil engineer.

C. EXISTING STRUCTURES: Burden of Proof - The applicant shall have the burden of proving that there are no existing structures which are suitable to locate its personal wireless service facility and/or transmit or receive radio signals. To meet that burden, the applicant shall take the following actions to the extent applicable:



1. The applicant shall submit to the Planning Board a list of all contacts made with owners of potential sites regarding the availability of potential space for a personal wireless service facility. If the Planning Board informs the applicant that additional existing structures may be satisfactory, the applicant shall contact the property owner(s) of those structures.
2. The applicant shall provide copies of all letters of inquiry made to owners of existing structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the U.S. Post office shall be provided for each owner of existing structures that was contacted.
3. If the applicant claims that a structure is not capable for physically supporting a personal wireless service facility, this claim must be certified by a licensed professional civil engineer. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the personal wireless service facility without unreasonable costs. The estimated cost shall be provided to the Planning Board.

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

## **SECTION 8: USE REGULATIONS**

- A. A personal wireless service facility shall require a building permit in all cases and may be permitted as follows:
1. *Existing Tower Structures:* Subject to the issuance of a building permit that includes review by the Planning Board, which review shall be limited to issues relating to access, bonding, and security for removal, structural integrity and appropriate camouflage of such siting, carriers may locate a personal wireless service facility on any guyed tower, lattice tower, mast, or monopole in existence prior to the adoption of this Article, or on any personal wireless service facility previously approved under the provisions of this Article so long as the co-location complies with the approved site plan. All the Performance Standards from this Article shall be met. The provisions shall apply only if the height of the mount is not increased, a security barrier already exists, and the area of the security barrier is not increased. Otherwise, site plan review is required.
  2. *Reconstruction of Existing Tower Structures:* An existing guyed tower, lattice tower, monopole, or mast may be re-constructed with the maximum height which shall not exceed 20 feet above the average tree height. The mount shall be replaced with a similar mount, or smaller, that does not significantly increase the visual impact on the community. A site plan review is required for any reconstruction request.
  3. *Existing Structures:* Subject to the provisions of this Article and minor site plan review under RSA 674:43:III and except as otherwise permitted under Section 7; a carrier may locate a personal wireless service facility on an existing structure, building, utility tower or pole, or water tower. For the purpose of this section, new structures that are conforming to all other zoning district requirements shall be considered as existing structure e.g., steeple, stove pipe, chimney etc.

4. *Ground Mounted Facility*: A personal wireless service facility involving construction of a ground mount shall require site plan review and be subject to the provision of this Article.

## SECTION 9: DIMENSIONAL REQUIREMENTS

### A. Personal wireless service facilities shall comply with the following requirements:

1. *Height, Maximum*: The maximum height for any telecommunications tower, support for an antenna, utility pole, ground-mounted facility or existing structure, shall not exceed or project higher than 20 feet above the average tree canopy height, within an inventoried, one hundred and fifty (150) foot radius of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest. The trees in the inventoried area must not be disturbed without Planning Board written approval. Tower or telecommunication equipment shall not be within a 300 feet of any ridge line. Any height limit imposed may be decreased or increased by the Planning Board by approval of a conditional use permit, if the Board affirmatively finds the intent of the ordinance will be preserved, and where the Board finds that a modification is reasonably necessary and appropriate to further the purposes of this Article.
2. *Width, Maximum*: The maximum width of the tower with antenna mounted, shall not exceed four (4) feet.

### B. Setbacks: These setback requirements shall supersede any less stringent applicable standard found elsewhere in this ordinance or any other Town ordinance or regulation.

1. Towers shall be set back a distance equal to 125% of the height of the tower from any off-site residential structure.
2. Tower, guys, and accessory facilities shall comply with the minimum zoning district setback requirements.
3. Towers over 90 feet in height shall not be located within one-quarter mile of any existing tower that is over 90 feet in height.
4. *Security Fencing*: Towers enclosed by security fencing shall not be less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.

### C. Fall Zone Dimensional Requirements:

1. *Fall Zone for Ground Mounts*: In order to ensure public safety, the minimum distance from the base of any ground-mount of a personal wireless service facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Article. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the site plan review.
2. *Fall Zone for Non-Ground Mounts*: In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but

the setback provisions of the zoning district shall apply (see section 9B of this Article). In the case of pre-existing non-conforming structures, personal wireless service facility and their equipment shelters shall not increase any non-conformities.

3. Planning Board Flexibility: Heights – See Section 9(A)1.

## **SECTION 10: PERFORMANCE AND DESIGN STANDARDS**

A. Visibility: Visual impacts are measured on the basis of:

1. Change in community scale, as exhibited in relative height, mass or proportion of the personal wireless service facility within their proposed surroundings.
2. New visible elements proposed on a contrasting background.
3. Different colors and textures proposed against a contrasting background.
4. Use of materials that are foreign to the existing built environment.

B. Enhancements: Enhancements are measured on the basis of:

1. Conservation of opportunities to maintain community scale, e.g., buffering areas and low-lying buildings should not be compromised so as to start a trend away from the existing community scale.
2. Amount and type of landscaping and/or natural vegetation.
3. Preservation of view corridors, vistas, and view sheds.
4. Continuation of existing colors, textures, and materials,

C. Visibility focuses on:

1. Eliminating or mitigating visual impact.
2. Protecting, continuing, and enhancing the existing environment.
3. Camouflage for Facilities on Existing Buildings or Structures: Roof Mounts: When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building's silhouette.
4. Camouflage for Facilities on Existing Buildings, or Structures – Side Mounts: Personal wireless service facilities which are side mounted shall blend with the existing building's architecture and, if individual antenna panels are over five (5) square feet, the panels shall be painted or shielded with non-glare material consistent with the design features and materials for the building.
5. Camouflage for Ground Mounted Facilities: All ground-mounted personal wireless service facilities shall be surrounded by a buffer of dense tree growth that extends continuously for a minimum distance of one hundred and fifty (150) feet from the mount, security barrier, or designated clear area for access or equipment, whichever is greatest, and screens views of the facility in all directions. These trees must be existing on the subject property, planted on site, or be within a landscape easement on

an adjoining site. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. For towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer, if approved by the Planning Board. The Planning Board shall have the authority to decrease, relocate, or alter the required buffer based on site conditions. The one hundred and fifty (150) foot vegetative buffer area shall be protected by a landscape easement, not to be less than 10 feet wide, or be within the area of the carrier's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.

6. Color - To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be of a color which blends with the background or surroundings. Color shall be approved by the Planning Board and it should result in a no "sun" glare.

D. Equipment Shelters - Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following design standards:

1. Equipment shelters shall be located in underground vaults; or
2. Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the personal wireless service facility; or
3. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of neighborhood; or
4. If mounted on a roof top, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be part of the original structure.

E. Lighting, Signage, and Security Barrier

1. Lighting: The mounts of personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.0 initial foot candles. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
2. Signage: Signs shall be limited to those needed to identify the property and the owner and warn of any danger. Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind, except as allowed by the Planning Board in the interest of public safety. All signs shall comply with the Requirement of the Salisbury Zoning Ordinance, Article VIII.
3. Security Barrier: The Planning Board shall have final authority on whether a ground mounted personal wireless service facilities should be surrounded by a security barrier and shall approve the size area requested for it.

F. Scenic Landscapes and Vistas - Ground-mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, or abutting properties. All ground-mounted personal wireless service facilities shall be surrounded by a buffer of dense tree growth as outlined in Section 10(C).

1. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived entirely, if approved by the planning board.
- G. Driveways - If available, existing entrances and driveways to serve a personal wireless service facility shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic, and environmental impact. New driveways to serve a personal wireless service facility shall not exceed twelve (12) feet in width. A gravel or crushed stone surface is encouraged.
- H. Antenna Types - Any antenna array placed upon an existing or proposed ground mount, utility pole or transmission line mount shall have a diameter of no more than four (4) feet, inclusive of the diameter of the mount.
- I. Ground and Roof Mounts - All ground mounts shall be of a mast type mount. Lattice towers, guyed towers, and roof mounted monopoles are expressly prohibited, unless constructed as part of a reconstruction project permitted under Section 8(A), 2.
- J. Hazardous Waste - No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred and ten percent (110%) of the volume of the hazardous materials stored or used on the site.
- K. Noise - Personal wireless service facility shall not generate noise in excess of that permitted under Article VII entitled *Non-Conforming Uses, Structures & Lots Special Exceptions*, see(B) 3 Article VII.
- L. Radio Frequency Radiation (RFR) Standards - All equipment proposed for a personal wireless service facility shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio frequently Radiation (FCC Guidelines), under Report and Order, FCC 96-326, published on August 1, 1996, and all subsequent amendments.

#### **SECTION 11: MONITORING AND MAINTENANCE**

- A. Maintenance - The owner of the facility shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.
- B. Monitoring - As part of the issuance of the site plan approval or building permit, the property owner shall agree that the Town of Salisbury may enter the subject property to obtain RFR measurements and noise measurements, at the expense of the carrier and landowner, and provides them the opportunity to accompany the Town representative when the measurements are conducted.

#### **SECTION 12: PERMIT PROCEDURES**

- A. *GENERAL:* All applications under this subdivision shall apply to the Zoning Board of Adjustment for Special Exception and upon their decision, make application with the

Planning Board for Site Plan Review, in accordance with Site Plan Review Regulations. In addition, applications under this subdivision shall submit the information required by this section. All applications shall be handled as required by RSA 676:4.

- B. Joint meetings and public hearings between the Planning Board and Zoning Board of Adjustment may be held in accordance with the provision of RSA 676:2.
- C. Applications shall be submitted to the Zoning Board of Adjustment to grant a Special Exception. It shall be the burden of the applicant to provide sufficient evidence to persuade the Zoning Board of Adjustment that all applicable criteria have been met and that the proposal does not represent unreasonable adverse impacts. An applicant's failure to satisfy the burden of proof shall result in the denial of an application. When the Zoning Board reviews an application for Special Exception it confirms:
  - 1. The proposal is in harmony with Section 1 of this Article; and
  - 2. The proposal is in accordance with the general and specific provisions of this Ordinance, particularly Sections 7 through 10 of this Article.
- D. *INFORMATION REQUIRED*: Each applicant requesting a Conditional Use Permit or Site Plan approval shall submit a scaled plan in accordance with the Site Plan Review Regulations. The application shall also include: a scaled elevation view, topography, inventory map of trees over 20 feet tall (including data on each tree height), radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses (up to 200 feet away), and any other information deemed necessary by the Planning Board to assess compliance with this Article. The applicant shall also submit the following prior to any approval by the Board:
  - 1. Written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
  - 2. Written proof that an evaluation has taken place which demonstrates that the use/facility satisfies the requirements of the National Environmental Policy Act (NEPA). If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Board prior to the beginning of the federal 30 day comment period, and the Town process, shall become part of the application requirement.
  - 3. An inventory of existing towers that are within the jurisdiction of the Town and those within two miles of the Town borders, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for the co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this section or other organizations seeking to locate antennas within the jurisdiction of the Town, provided, however, that the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
  - 4. A description of the proposed coverage range together with the technical reasons for the facility design.

5. A description of the tree cover on the subject property and adjacent properties by dominant species and average height as measured by or available from a verifiable source.
  6. Representations, dimensioned to scale, of the proposed tower, antennas, equipment shelters including elevation drawings of all structures and the vegetative buffer.
  7. A visual impact assessment including, before-condition photographs and after-condition photographic simulations of the proposed facility, showing what can be seen from any public view point.
- E. If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna in a manner that will achieve the required technical result. This evidence may consist of:
1. Substantial evidence that no existing towers or structure are located within the geographic area required to meet the applicant's engineering requirements, including a description of the geographic area required.
  2. Substantial evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements, and why.
  3. Substantial evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  4. Substantial evidence that the applicant's proposed antenna would cause electromagnetic interference with antennae on existing towers or structures, or antennae on existing towers or structures would cause interference with the applicant's proposed antenna.
  5. Substantial evidence that the fees, costs or contractual provisions required by the owner to share the existing tower or structure are unreasonable.
  6. Substantial evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.
- F. An applicant proposing to build a new tower shall execute an agreement that allows for the maximum allowance for co-location upon the new structure, which shall become a condition of any approval. This agreement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the Town and grounds for denial of approval for the tower.
- G. The applicant shall submit engineering information detailing the size and coverage required for the facility location. The Planning Board or the Zoning Board of Adjustment or both may retain technical expert(s) in the field of radio frequency engineering and "planning" experts to review and verify technical claims made by the applicant including but not limited to the co-location findings, alternative locations, and innovative design opportunities. The cost of such technical reviews shall be borne by the applicant in accordance with RSA 676:4, I (g).
- H. *FACTORS CONSIDERED IN DECISIONS*: The Planning Board shall consider at least the following criteria when acting upon an application for a conditional use permit:

1. Height of proposed tower or other structure;
2. Proximity of tower to residential development or zones;
3. Nature of uses on adjacent and nearby properties;
4. Surrounding topography;
5. Surrounding tree coverage and foliage;
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
7. Proposed ingress and egress to the site;
8. Availability of suitable existing towers and other structures.
9. Visual impacts on view sheds, ridgelines and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures; and
10. Availability of alternative tower structure and alternates siting locations.

*I. DECISIONS:*

1. In approving an application for Site Plan Review or an application for Special Exception and/or in granting a conditional use permit, the respective Board may impose such conditions as it deems appropriate to minimize any adverse effect of the proposed tower on adjoining properties, and to substantially secure the objectives, standards or requirements of the applicable local land use regulations.
2. The Planning Board or the Zoning Board of Adjustment may approve, approve with conditions, or deny an application. All decisions shall be in writing and a denial shall be based upon the record presented to the Board(s).

*J. EXPEDITED REVIEW:* The Planning Board may, by regulation, provide for an expedited review for facilities that utilize existing facilities or sites designated by the Planning Board and Selectmen as desired sites for such facilities.

**SECTION 13: SECURITY AND/OR BOND**

A. **SECURITY:** As a condition of approval for any new tower and, when deemed appropriate for other facilities, the Planning Board shall require the applicant to post adequate surety for the costs of maintenance, repair or removal thereof. The amount and form of the surety shall be determined by the Planning Board [Reference Section 14(D)].

**SECTION 14: ABANDONMENT OR DISCONTINUATION OF USE**

A. **Notification** – At such time that a carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations. In addition, the facility



owner shall notify the Town annually verifying the telecommunications facility is actively in use.

- B. Removal – Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. “Physically remove” shall include, but not be limited to:
1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
  2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  3. Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- C. Failure to Remove – If the owner of the facility does not remove the facility upon the Zoning Administrator’s order, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.
- D. Security for Removal – Recognizing the hazardous situation presented by abandoned and unmonitored telecommunication facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with Section 10.2. The amount of the security shall be based upon the removal cost plus, fifteen percent (15%), provided by the applicant and certified by a professional structural engineer licensed in New Hampshire. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional structural engineer licensed in New Hampshire every five (5) years from the date of the Planning Board’s approval of the site plan. If the cost has increased more than fifteen percent (15%) then the owner of the facility shall provide additional security in the amount of the increase.

## **SECTION 15: WAIVER/ APPEAL**

- A. In compliance with Section 253 of the Act, the Town does not intend to create barriers to the ability of any entity to provide interstate or intrastate telecommunication service. If any such entity, having duly exhausted all applicable avenues to providing such a service, believes that the procedures or standards established by this Article have created such a barrier, the entity may apply within 20 days after the final administrative decisions, to the Planning Board for administrative relief in accordance with this section.
- B. Upon application duly made in accordance with the procedures required for a conditional use permit, the Planning Board may grant waivers from the strict application of the requirements of this Article where the Board finds, on the probability of evidence presented to it, with the burden upon the applicant for the facility, that:
1. Strict adherence to the requirements of this chapter is not required to effectuate the purposes hereof;
  2. Strict compliance would create practical difficulty and unnecessary inconvenience;

3. Strict compliance could potentially cause a conflict with the Act.

## **ARTICLE XVII: SEXUALLY ORIENTED BUSINESSES**

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### **SECTION 1: PURPOSE AND INTENT**

It is the purpose of this Article to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Salisbury and to:

- Protect and promote public health, safety and general welfare;
- To prevent adverse impact which may occur and is brought about by the concentration of sexually oriented business.
- It is not the intent 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, nor is it the intent of this Article to condone or legitimize the distribution of obscene material.

### **SECTION 2: ZONING DISTRICTS**

The Town of Salisbury does not have any Commercial Districts. Salisbury is comprised of three zoning districts: Residential, Retail Village District and Agricultural District and any sexually oriented business shall only be permitted by Special Exception. All proposed development must comply with both the provisions of this article and the zoning regulations and requirements, and any other applicable Ordinances, and State Laws to include in that limitation: RSA 571-B-1.

### **SECTION 3: BUFFERS**

- A. Sexually oriented businesses shall not be permitted within 1000' feet of facilities listed below. Note: the measure of distance between any sexually oriented business and other named point of reference shall be measured in a straight line: church, school, daycare center, residence, another sexually oriented business, or a sexually oriented business for which a building permit application has been made.
- B. Sexually oriented businesses shall not be permitted within 300' feet buffer of any other buildings or facilities used for commercial purposes.

### **SECTION 4: FREE STANDING STRUCTURES:**

Sexually oriented businesses shall only be permitted in single use, free-standing structures. In no instance shall sexually oriented businesses share premises, facilities or buildings with businesses which are not sexually oriented.

**SECTION 5: SPECIAL EXCEPTION & SITE PLAN REVIEW**

A Site Plan Review by the Planning Board, will be required, if a permit/special exception is granted. A sexually oriented business may be allowed in the town, as a Special Exception, provided that it is otherwise lawful and meets all other zoning requirements and is approved by the Board of Adjustment as a Special Exception and is subject to the following conditions:

- A. Meets all regulations in Sections 3 and 4 of this Article.
- B. The proposed site may be required to be screened in such a manner that limits pedestrian and vehicular access to the property, but which does not restrict adequate lines of sight or create unsafe site conditions. This visual barrier shall be maintained by the owner of the property.
- C. The site shall be maintained daily in a condition that is free and clear of any sexual paraphernalia or packaging.
- D. Signs shall not visually depict any person in a "State of Nudity" or "Semi-Nude", and no sexually explicit material or advertising shall be visible from outside the building.
- E. Other reasonable conditions found legally acceptable elsewhere in New Hampshire.

**SECTION 6: LIMITING CLAUSE**

Nothing in this ordinance is intended to authorize, legalize, or permit the establishment, operation or maintenance of any business, building or use which violates any Town of Salisbury ordinance or statute of the State of New Hampshire relative to public nuisances, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof.

**SECTION 7: SEVERABILITY**

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

**ARTICLE XVIII: SPECIAL PERMIT GRANTING AUTHORITY**

FIRST DRAFT: For Hearing on 1/9/2001

Special Permit Granting Authority shall be addressed on a case-by-case basis. Special Permits issued by keep with the spirit and intent of the flexible master plan.

**ARTICLE XIX: EFFECTIVE DATE**

This Ordinance shall take effect immediately upon its passage. Effective March 8, 1994

## ARTICLE XX. OPEN SPACE DEVELOPMENT

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### 1. Authority

This Section is enacted in accordance with the provisions of NH RSA 674:21 (Innovative Land Use Controls) and NH RSA 674: 16-20.

### 2. Purpose

The purpose of this Open Space Development Section is to further the recommendations of the Salisbury Master Plan by encouraging flexibility in the design and development of land to preserve open space and traditional rural character, retaining and protecting important natural, scenic and historic resources, providing for more efficient use of land and town services, and promoting the development of balanced residential communities in harmony with the natural landscape.

### 3. Objectives

Open Space Development (OSD) will promote the following objectives:

- a. Maintain rural character through preservation farmland, forests and rural viewsapes and encouraging residential development that is sited in harmony with the environment and promotes a sense of neighborhood.
- b. Preserve those areas of the site that have high environmental or ecological value such as wildlife habitat (as identified in the Salisbury Master Plan and areas of high quality habitat as based on NH Fish and Game's Wildlife Action Plan) and significant water resource value such as critical watersheds, wetlands, streams and rivers.
- c. Provide for alternative housing opportunities.
- d. Minimize impact of development sprawl by reducing potential for consecutive lot development on major roadways.
- e. Locate buildings and structures on those portions of the site that are the most appropriate for development and avoiding developing in areas not suitable for development such as hydric soil conditions, areas subject to flooding and steep slopes.
- f. Preserve historic, archeological, and cultural features located on the site.
- g. Create a permanently protected contiguous network of open spaces or "greenways" by linking the common open spaces within the open space subdivision and to open space on adjoining lands wherever possible.
- h. Reduce the amount of roads, sidewalks, and storm water management structures that must be built and maintained.
- i. Preserve undeveloped frontage along existing roads, protecting transportation corridors from encroachment of structures.

#### 4. Definitions

For purposes of this Article, the following terms are defined as follows:

- a. Applicant: The owner of land proposed to be subdivided or his representative.
- b. Landscape Buffer: Land area within which adequate vegetation is maintained or provided to visibly separate or screen one use from another and/or to minimize potentially negative impacts on surrounding areas.
- c. Common Area: Land within or related to a development, exclusive of land dedicated as designated open space, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development and/or the town and may include such complementary structures and improvements as are necessary, appropriate and approved by the Planning Board.
- d. Conservation Easement: A permanent legal restriction against future development and other activities as specified in the conservation easement deed. An easement may be worded to permit or restrict public access, allow or disallow recreational uses, allow or disallow other uses, such as limited development, agriculture, or forestry. Easements are tied to the title of the land, regardless of subsequent ownership and runs with the land in perpetuity.
- e. Designated Open Space: Reserved land that is permanently protected from further development and remains in a natural condition or is managed according to an approved management plan for natural resource functions, e.g., forestry, agriculture, habitat protection, passive recreation, or limited uses as approved by the Planning Board under this ordinance as part of an open space subdivision.
- f. Homeowners Association: A private corporation, association, or other legal entity organized in accordance with state law and established by the applicant or the member individuals for the benefit and enjoyment of its members, including oversight and management of common open space, designated open space, and/or shared facilities.
- g. Open Space Subdivision: An alternative form of residential development where, instead of subdividing an entire tract into lots of conventional size pursuant to the underlying Zoning District within which the proposed development tract, a similar number of housing units are arranged on lots of reduced dimensions, with the remaining area of the parcel permanently protected as designated open space.
- h. Parent Parcel: Any lot existing as of March 9, 2010, the date of the adoption of this ordinance.

#### 5. Applicability

- a. In furtherance of the goals of the Salisbury Master Plan, any subdivision for residential use that is proposed on a parent parcel within the Agricultural and Residential Zoning Districts of 20 or more acres may be considered for the OSD Option.
- b. Authorization to Issue a Conditional Use Permit:

Notwithstanding other provisions of Salisbury's zoning ordinance, authority is hereby granted to the Planning Board, as allowed under RSA 674:21, II, to issue a Conditional Use Permit to modify the requirements of this section as follows:

- 1) such modifications shall be consistent with the purposes and objectives of this section;
  - 2) all lots comply with the NH Department of Environmental Services for subsurface wastewater management;
  - 3) fall within the standards contained herein, and
  - 4) shall not be detrimental to public health, safety or welfare.
- c. Sequential Subdivisions: The provisions of this ordinance shall apply to the sequenced development of a parent parcel over time through separate successive applications. When a subdivision is proposed that involves part of a larger parcel or includes lots that are capable of further subdivision, the Planning Board may require that a site inventory and a conceptual (non-binding) long-range plan be submitted for the entire parcel and used to evaluate the proposed subdivision.
- d. Review Process: A subdivision application under this section shall comply with the application and review process specified in the Subdivision Regulations. If there are any conflicts, the provisions of this article shall apply.
- e. Legal Review: Prior to final approval by the planning board, the applicant shall submit for review by the town counsel any deeds, restrictive covenants, condominium or cooperative agreements, conservation easement, deed restrictions, or other legal agreements proposed for use in the open space subdivision. The town counsel shall advise the Planning Board of the adequacy of such legal provisions. The applicant shall pay all associated costs of the legal review.

## 6. Permitted Uses

Land within an OSD subdivision may be used for the following purposes:

- a. Single family and duplex residential dwellings, accessory uses and buildings, and minor home occupations as permitted in the zoning district in which the parcel lies.
- b. Uses permitted within the Designated Open Space as described in Section 10 of this Article.

## 7. Development Density

The total number of dwelling units allowed in an Open Space Subdivision shall not exceed the number of dwellings that would be allowed under a conventional subdivision for the zoning district in which the site is located. In no case shall the density exceed the soils carrying capacity to accommodate a septic system for each dwelling unit as required by the NH DES consistent with RSA 485A:38.

The allowable number of units will be derived from a submission by the applicant of a yield plan. A Yield Plan is a plan for a conventional subdivision for the subject property which complies with the requirements for a conventional subdivision.

## 8. Procedural Requirements

- a. Except as expressly modified by this section, an Open Space Development Subdivision application under this section shall comply with applicable provisions and the application and review process specified in the Subdivision Regulations.

- b. Prior to the granting of any approval the applicant shall show to the satisfaction of the Planning Board that the proposed development pursuant to this Article X:
  - Meets one or more of the objectives set forth under subsection 3. Of this Article X;
  - That the proposal provides a benefit to both the prospective homeowners and the general public of the Town of Salisbury; and
  - That the benefit of the proposal outweigh any detriments and that the latter, if any, shall not have a negative impact on the community.

9. Lot and Dimensional Requirements

- a. Open Space Developments are subject to the following lot, dimensional and building separation requirements.

Dimension	Residential & Agricultural District
Minimum Lot Area	30,000
Maximum Lot Area	150% <sup>1</sup>
Frontage	100 ft
Front Yard	35 ft
Side Yard	25 ft
Rear Yard	25 ft
Height	35 ft
Minimum Separation Between Buildings--Existing	50 ft
Minimum Separation Between Buildings—New Lots	40 ft

Note: Unless otherwise required by NH DES for the OSD minimum lot size.

- b. Alternative Lot Sizing: The Planning Board may authorize variations from the minimum lot sizes specified above by Conditional Use Permit, provided the Planning Board determines that the following conditions are met:
  - All lots comply with the New Hampshire Department of Environmental Services requirements for subsurface wastewater management (developments may utilize individual or community wells and/or septic systems); and
  - The objectives and design standards of this article and the Subdivision Regulations are otherwise achieved.
- c. Applicants are encouraged to vary lot sizes, lot dimensions, and the location of building envelopes and structures from the access road and from lot to lot within the subdivision to retain significant, natural vegetation along the access road or existing adjacent public road; provide increased privacy for residents on adjacent lots; and increase the visual variety provided by the arrangement of homes within the subdivision.
- d. Lots may be irregular in size and shape provided they conform to the natural topography and features of the parcel (e.g., the lot lines follow an existing stone wall, stream, or other natural dividing feature).
- e. The Planning Board may authorize variations from the above standards, except for any requirement provided by state regulation or mandated elsewhere in this ordinance, by up to

25 percent by a Conditional Use Permit issued pursuant to Section 5 for the purpose of providing flexibility in the design of the subdivision to meet the objectives of this section.

- f. Driveways—Common driveway providing access to two residential lots shall be allowed.
- g. Landscape Buffer—An Open Space Development shall have a buffer of no less than 100 feet between abutting land uses and the development and a buffer up to 150 feet but no less than 100 feet between any new structure and an existing public road to retain the community’s rural character. The buffer area shall remain free of buildings and whenever possible, the natural vegetation shall remain. The Board may require vegetative plantings to supplement or replace inadequate natural buffers. Only the primary access road may be permitted in the landscape buffer.
- h. Design Standards for Developed Areas--Subdivision plans shall comply with any additional applicable standards governing the location and layout of lots and structures found elsewhere in this ordinance and as set forth in the Subdivision Regulations.

#### 10. Permissible Uses of Open Space

- a. The total area of Designated Open Space shall equal at least 50 percent of the Open Space Development’s gross tract area. Not more than 50 percent of the Designated Open Space may consist of non-buildable areas. Such Designated Open Space shall consist of as much contiguous area as possible.
- b. The following shall not count toward the calculation of the Designated Open Space. Portions of the parcel that comprise part of:
  - an individual house lot,
  - roadway,
  - driveway,
  - access road,
  - roadway right-of-way,
  - other new or existing right-of-way,
  - utility easement,
  - private or community leach fields or
  - other components of a wastewater management system,
  - storm water management structures,
  - or parts of a required buffer between any new structure and an existing right-of-way
- c. The following uses generally are permitted in the Designated Open Space, unless specifically prohibited or restricted as a condition of subdivision approval for the purposes of protecting important natural features or characteristics of the parcel:
  - 1) Forest management activities and agricultural cultivation and pastures provided that all applicable best management practices are employed.
  - 2) Passive (non-motorized) trails and recreational uses such as walking, hiking, bird watching, skiing and snow shoeing.
  - 3) Snowmobile trails.
  - 4) Horseback Riding and Cycling.



- d. Up to 50 percent of the Designated Open Space may be considered the Common Area and may be permitted by Conditional Use Permit to be used for the following. The Planning Board may impose specific criteria or restrictions on such uses as deemed necessary to support the goals of this section:
  - 1) Agriculture involving animal husbandry and/or boarding.
  - 2) Active outdoor recreation uses, including formal playgrounds and fields.
  - 3) Parking areas for access to the designated open space.
  - 4) Individual or community wells provided that this use was approved as part of the subdivision plan and that appropriate legal arrangements are established and approved by the Planning Board for the maintenance and operation of these facilities.
- e. The removal of soil, trees and other natural features from the designated open space is prohibited, except as consistent with conservation objectives or permitted uses as provided above.
- f. The Designated Open Space shall be retained in a natural, undisturbed state, except for those activities permitted and approved as provided above, or as required for active management according to a conservation agreement and management plan written by a qualified natural resource professional.

## 11. Protection and Management of Open Space

At the developer's option and subject to approval by the Planning Board, all areas to be protected as open space shall be:

- a. Conveyed to the town to be placed under the care, custody and control of the Conservation Commission, and be accepted by it for a park or open space use. Land conveyed to the town shall be open for public use; and/or
- b. Conveyed to a non-profit organization, the principal purpose of which is the conservation or preservation of open space, with a conservation restriction as specified in §3 below. Such organization shall be acceptable to the town as a bona fide conservation organization; and/or
- c. Conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development (i.e. "homeowners association") and placed under conservation restriction. If such a corporation or trust is used, as indicated herein, ownership thereof shall pass with conveyance of the lots or residential units. The developer is responsible for the maintenance of the open space and other facilities to be held in common until such time as the homeowners association is capable of assuming such responsibility. Thereafter, the members of the association shall share the cost of maintaining the open space. The Planning Board shall require the applicant to provide documentation that the homeowner's association is an automatic (mandatory) association that has been established prior to the conveyance of any lots within the subdivision.
- d. Design Guidelines for Designated Open Space. The location and layout of the open space shall conform to the standards and process set forth in the Subdivision Regulations.

(Adopted at Town Meeting 3/9/2010)

## ARTICLE XXI. FLOODPLAIN DEVELOPMENT REGULATIONS (Amended 3/11/2008)

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 Merrimack, N.H." dated **(Insert Final Map/Study Effective Date)** or as amended, together with the associated Flood Insurance Rate Maps (FIRM) dated **(Insert Final May/Study Effective Date)** or as amended, which are declared to be part of this Ordinance and hereby incorporated by reference.

### A. DEFINITIONS.

1. Area of Special Flood Hazard. The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area is designated as Zone A on the FIRM.
2. Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.
3. Basement. Any area of the building having its floor sub grade (below ground level) on all sides.
4. Building. See Structure.
5. 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.
6. Flood Elevation Study. 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.
7. Flood Insurance Rate Map (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.
8. Flood Insurance Study. See Flood Elevation Study.
9. Flood Plain/Flood-Prone Area. Any land area susceptible to being inundated by water from any source.
10. 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 sanitary facilities, structures and their contents.
11. Floodway. See Regulatory Floodway.
12. Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

13. Historic Structure.

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of State of the Interior as meeting the requirements for individual listing on the National Register;
  2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or;
  4. Individually listed on a local inventory of historic places in communities with historic preservation programs which have been certified either:
    - a. By an approved State program as determined by the Secretary of the Interior, or;
    - b. Directly by the Secretary of the Interior in States without approved programs.
14. 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 enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
15. Mean Sea Level. For purposes of the National Flood Insurance Program, 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.
16. 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 flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. The term "manufactured homes" does not include a "recreational vehicle". This includes manufactured homes located in a manufactures home park or subdivision.
17. Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
18. New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For flood

plain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a flood plain management regulation adopted by a community and includes any subsequent improvements to such structures.

19. 100 Year Flood. See Base Flood.
20. Recreational Vehicle. A vehicle which is:
  1. built on a single chassis;
  2. 400 square feet or less when measured at the largest horizontal projections;
  3. designed to be self-propelled or permanently towable by a light duty truck; and
  4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
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 one foot at any point.
22. Riverine. Related to, formed by, or resembling a river (including tributaries), stream, brook, etc.
23. See Area of Special Flood Hazard.
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.
25. Start of Construction. The date the building permit was issued, (including substantial improvement) provided the actual start of construction, repair, reconstruction, rehabilitation, addition, 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 a 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 excavation for a basement, footings, piers, or foundations or the erection of temporary forms; not does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
26. 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.

27. Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvements of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or, (2) any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.
  28. Violation. The failure of a structure or other development to be fully compliant with the community’ flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in sections F or J(2) is presumed to be in violation until such time as that documentation is provided.
  29. 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 flood plains of coastal or riverine areas.
- B. All proposed development in any special flood hazard areas shall require a permit.
  - C. The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall (1) be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - D. The Building Inspector shall require that recreational vehicles placed on sites within Zone A on the community’s FIRM either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permanent requirements of Section B of this section and the elevation and anchoring requirements for “manufactured homes” in Section J(3) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
  - E. Where new and replacement water and sewer systems (including on-site systems) are proposed in floodprone areas the applicant shall provide the Building Inspector with assurance that new and replacement sanitary sewage systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems

into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

- F. The Building Inspector shall maintain for public inspection, and furnish upon request, any certification of flood-proofing and the as-built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement. If the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed. This information must be furnished by the applicant.
- G. The Building Inspector shall review proposed developments to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. It shall be the responsibility of the applicant to certify these assurances to the Building Inspector.
- H. In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.

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

In Zone A the Building Inspector shall obtain, review, and reasonably utilize any floodway data available from a Federal, State, or other source as criteria for requiring that development meet the following floodway requirements:

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

- I. In special flood hazard areas the Building Inspector shall determine the 100 year flood elevation in the following manner:

In Zone A, the Building Inspector shall obtain, review, and reasonably utilize the 100 year flood elevation data available from Federal, State, or other source including data submitted for development proposals to the community (example: sub-divisions, site approvals, etc.)

- J. The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in Zone A that:

- 1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level).

2. That all new construction and substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:
  - a. be floodproofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a 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 action.
3. All manufactured homes be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
4. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided the enclosed areas meet the following requirements: (1) the enclosed area is unfinished or flood resistant, usable solely for parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

#### K. VARIANCES AND APPEALS

1. Any order, requirement, decision or determination of the Building Inspector made under this code may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law that:
  - a. the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
  - b. if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result: and
  - c. the variance is the minimum necessary, considering the flood hazard, to afford relief.

3. The Zoning Board of Adjustment shall notify the applicant in writing that:
  - a. the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage: and
  - b. such construction below the base flood level increases risks to life and property.

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

4. The community shall:
  - a. maintain a record of all variance actions, including their justification for their issuance: and
  - b. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

(Moved from Building Codes by Town Meeting vote 3/10/2020)



# REGULATIONS GOVERNING

## *DRIVEWAYS AND OTHER ACCESSES TO TOWN (CLASS V) ROADS*

### ARTICLE I. SCOPE AND AUTHORITY.

- A. These regulations are promulgated under authority vested in the Planning Board by RSA 236:13 and by Article IX of the Zoning Ordinance of the Town of Salisbury.
- B. It shall be unlawful to construct a driveway or other access to a Town (Class V) road, or to alter in any way the size or grade of any driveway, entrance, exit or approach within the limits of the right-of-way of any Town (Class V) road to the extent that the new construction or alteration fails to conform to the terms and specification of a written permit to be issued by the Planning Board in accordance with these regulations.

### ARTICLE II: STANDARDS

- A. For the purpose of these regulations, all-season safe sight distance is defined as a line located so as to represent the critical line of sight between the operator of a vehicle using the access and the operator of a vehicle approaching from either the access and the operator of a vehicle approaching from either direction, which encounters no visual obstruction between two points, each at a distance of three feet nine inches above the road surface.
- B. For residential use, the safe sight distance shall be 200 feet in either direction. For commercial use or new subdivision streets, the safe sight distance shall be 400 feet in either direction.
- C. All locations shall be selected to most adequately protect the safety of the traveling public.
- D. No residential driveway shall be constructed which allows a safe sight distance of less than 200 feet, unless it is approved by the Planning Board and is located at the point determined by the Planning Board to be the safest.
- E. No more than one driveway, entrance, exit or approach shall be constructed for any one road to any one parcel of land unless the frontage along that road exceeds 200 feet. The Planning Board shall not give approval for any additional accesses unless the all-season safe sight distance is obtainable.
- F. No driveway, entrance, exit or approach shall be constructed to exceed 20 feet in width for residential use or 50 feet in width for commercial use, except that such accesses may be flared beyond such widths at their junctions with the road to accommodate the turning radius of any vehicle expected to use the accesses.

### ARTICLE III. APPLICATIONS

- A. A written permit application must be filed with the Planning Board and a permit issued prior to the commencement of any construction.
- B. A fee of \$20.00 for residential access and \_\_\_\_ commercial access shall accompany the application.
- C. It shall be the responsibility of the applicant to present the application form and plans to the Road Agent for review prior to submission of the form to the Planning Board.

- D. The \_\_\_\_ shall \_\_\_\_ be any drainage \_\_\_\_ traffic control \_\_\_\_ and channelization islands to be \_\_\_\_ by the applicant.
- E. The application shall describe \_\_\_\_ which \_\_\_\_ and protect and \_\_\_\_ and which will permit safe and controlled approach to the road in all seasons.
- F. For commercial use of or for new subdivision \_\_\_\_ engineering drawings shall be submitted with the application.

**ARTICLE IV. EFFECTIVE DATE.**

These regulations shall take effect immediately upon passage.

*EFFECTIVE 11/3/86*

## APPENDIX A

There shall be two levels of Home Occupations: Minor & Major.

### SECTION 1 MINOR HOME OCCUPATIONS

- A. A Minor Home Occupation shall be allowed as a permitted use, so long as it meets all of the standards and criteria listed below. All requests for minor home occupations: Shall be made on registration forms provided by the Town and submitted to the Town Office for Planning Board review.
- B. The registration form shall include documentation to address all of the standards and criteria set forth below.
- C. The documentation shall include; a plan of the property, drawn to scale, showing, at a minimum, the location of all structures and improvements, points of ingress and egress, vegetation, fencing and other relevant details of the site.
- D. If a proposed Minor Home Occupation shall be deemed not to comply with the standards and criteria as set forth below, the PB shall forthwith notify the property owner in question of the non-conformity with specificity and further advise such property owner of the right to request a public hearing for the granting of a Conditional Use Permit (CUP) for such use to be heard by the Planning Board as a Major Home Occupation.
- E. Standards and Criteria for a Minor Home Occupation:
1. There shall be a single use conducted entirely within the principal residential dwelling.
  2. No retail or wholesale sale of goods is permitted except agricultural food products for human consumption which are grown on-site or the subsidiary and irregular incidental sale of such goods as are derived from the proposed Minor Home Occupation use.
  3. The use creates no nuisance such as lights, noise, odors, smoke, dust, vibration, glare, fire hazard, heat, hazardous or toxic chemical, or interference with radio or television reception.
  4. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive or other such materials shall be used or stored on-site, other than those associated with common household use.
  5. The use does not change or alter the character or appearance of the principal residential dwelling and shall result in no external evidence of the business.
  6. The use shall be conducted solely by occupants of the residence and no more than one non-occupant of same.
  7. The use shall not utilize an area of more than 25% of the total floor area of the principal residential dwelling or 500 square feet, whichever is the lesser.

8. The use shall have one sign only which shall be not be greater than two square feet and not be illuminated. The use of two sides is permitted.
9. The total number of daily motor vehicle trips to and from the property shall not exceed twelve (12).
10. No commercial vehicle used in connection with the use shall be parked on the property except within a fully enclosed structure normally associated with a residential property.
11. No external mechanical equipment shall be installed as a result of the proposed Minor Home Occupation use.

## **SECTION 2 MAJOR HOME OCCUPATIONS**

- A. The process for obtaining a Conditional Use Permit (CUP) can be found under the Town's Zoning Ordinance's Article VII, Section E.
- B. To qualify and be approved as a Major Home Occupation an accessory business must meet all of the requirements for a Conditional Use Permit, which shall follow the same procedures as Site Plan Review consistent with RSA 674:43.
- C. Requirements for granting a Conditional Use Permit for a Major Home Occupation:
  1. The area proposed for the use is appropriate and capable of supporting the use.
  2. The proposed use will not adversely affect abutters and others in the vicinity, including property values.
  3. There shall be a single use conducted within the principal residential dwelling or an accessory building, or both.
  4. The floor area within the principal residential dwelling and accessory structure shall not exceed 50% of the total dwelling floor area.
  5. No retail or wholesale sale of goods is permitted except agricultural food products for human consumption which are grown on-site or the subsidiary and irregular incidental sale of such goods as are derived from the proposed Major Home Occupation use.
  6. Outside storage of goods and materials, parking and work areas shall be permitted but shall be rendered as unobtrusive as possible by appropriate fencing and landscape buffering and screening. If such outside use shall be proposed, the Applicant shall submit a detailed plan showing the proposed buffering with the application. Such buffering plan shall be subject to the approval of the Planning Board.
  7. The Major Home Occupation shall be operated by resident(s) of the property and no more than three non-resident persons at any one time.

8. A singular freestanding sign of a maximum of six square feet shall be permitted on the property and its location shall be shown on the Applicant's site plan. A two sided sign is permitted. The sign shall not be illuminated.
9. Off-site directional signs for the Major Home Occupation use shall be allowed in all districts. No more than one sign shall be permitted in any one mile length of roadway, not including those showing a change of direction. No such sign shall exceed two square feet. The placement of any directional sign shall be subject to the approval of the Board of Selectmen and the property owner, if not located on the Town of Salisbury's property, and such other governmental body as shall be required by law.
10. Adequate off street parking shall be provided for the Major Home Occupation as determined by the Planning Board. As a guideline no more than four parking spaces should be needed in addition to those for the residential use.
11. The number of motor vehicle trips per day incident to the major home occupation use shall be established by the Planning Board taking into consideration the normal amount of traffic for the road or roads providing access to the property in question and the condition of such road and roads.
12. If there is a change of ownership of the property in question and the new owner proposes to continue the Major Home Occupation in the same manner and under the same conditions as originally approved, such shall be a permitted continuance of the use – otherwise, a new property owner proposing modifications and changes to the original approval shall reapply to the Planning Board for approval of such proposed modifications and changes.

Adopted 3/10/15  
Controlled Growth Ordinance Repealed 3/18/17