

Chapter 150

ZONING ORDINANCE

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Chapter 150

ZONING ORDINANCE

[HISTORY: Adopted by the Town Meeting of the Town of Sandwich 3-11-1969, as last amended 3-12-2002. Subsequent amendments noted where applicable.]

ARTICLE I General Provisions

§ 150-1. Authority.

Pursuant to the authority vested in the voters of Sandwich by provisions of Section 674:16, New Hampshire Revised Statutes Annotated (RSA), 1983 Recodification, the Town of Sandwich adopts by ballot on March 12, 1996, the following Zoning and Land Use Regulations for the Town of Sandwich.

§ 150-2. Title.

This ordinance shall be known and cited as the "Zoning Ordinance of the Town of Sandwich, NH," and it includes the following previously enacted ordinances and regulations: Zoning Ordinance, Districting Ordinance, Wetlands Conservation District Ordinance, Steep Slopes Regulations and the Building Code Ordinance.

§ 150-3. Applicability; when effective.

This ordinance shall pertain to all land within the boundaries of the Town of Sandwich and shall be in effect from the time of adoption by the voters of Sandwich.

§ 150-4. Purpose.

It is the purpose of this ordinance to establish regulations for the Town of Sandwich, as designated by RSA 674:17:

- A. To lessen congestion in the streets;
- B. To secure safety from fires, panic and other dangers;
- C. To promote health and the general welfare;
- D. To provide adequate light and air;
- E. To prevent the overcrowding of land;
- F. To avoid undue concentration of population;
- G. To facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, child day care;

- H. To assure proper use of natural resources and other public requirements; and as granted by RSA 674:21 through 674:22:
 - (1) To provide innovative land use controls; and
 - (2) To regulate and control the timing of development at an orderly and reasonable rate. This ordinance reflects the wishes of the citizenry as expressed through the ballot and through the comprehensive Master Plan. A principal ingredient of this ordinance is the effort to preserve the scenic beauty and healthfulness of the Town through particular attention to land use in the vicinity of lakes, ponds, streams, wetlands and steep slopes, to preserve the natural beauty of the land within view of the lakes and ponds, and to preserve for recreation and wildlife habitat forests, wetlands and wild lands. Because of the uniqueness of some wetlands, and the importance of water sources and quality to the well-being of the Town, the minimum distances specified in this ordinance may exceed the minimum distances specified in state statutes.
- I. To encourage the preservation of agricultural lands and buildings; and [Added 3-9-2004]
- J. To encourage the installation and use of solar, wind, or other renewable energy systems and protect access to energy sources by the regulation of orientation of streets, lots, and buildings; establishment of maximum building height, minimum setback requirements, and limitations on type, height, and placement of vegetation; and encouragement of the use of solar skyspace easements under RSA Chapter 477. This ordinance may establish buffer zones or additional districts which overlap existing districts and may further regulate the planting and trimming of vegetation on public and private property to protect access to renewable energy systems. [Added 3-9-2004]

§ 150-5. Definitions.

As used in this ordinance, the following terms shall have the meanings indicated:

ACCESSORY APARTMENT -- An accessory apartment is a complete dwelling unit that is contained within and/or attached to a single-family dwelling in which the title is inseparable from the primary dwelling. An accessory apartment shall have a maximum of 1,000 square feet of floor space. [Added 03-10-15]

ACCESSORY DWELLING — [Deleted 03-10-15]

ACCESSORY STRUCTURE — A structure subordinate and customarily incidental to the principal building on, or principal use of, the same lot. [Amended 3-11-08]

ADDITION — A structure added to the original structure at some time after the completion of the original, which creates an extension or increase in floor area or height of a building or structure. Access to the addition must be directly through a wall common to both the original structure and the addition. Multiple access points are permitted.

ANTENNA — The surface from which wireless radio signals are sent and/or received by a personal wireless service facility.

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 above ground level (AGL) of all trees over 20 feet in height for a defined area, such as the area delineated in § 150-81F.

BUILDABLE AREA — The net area after excluding wetlands, rights-of-way and areas with slopes exceeding 25%.

BUILDING INSPECTOR — The individual selected and compensated by the Board of Selectmen of the Town of Sandwich.

BUNKHOUSE / SLEEPING CABIN — An Accessory structure subordinate to the primary structure containing sleeping facilities which may be accompanied by sanitary facilities but does not contain cooking facilities. [Added 03-10-15]

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

CARRIER — A company that provides personal wireless services, also sometimes referred to as a "provider."

CLASS I HIGHWAY — As defined in RSA 229:5I. [Added 3-9-2004]

CLASS II HIGHWAY — As defined in RSA 229:5II. [Added 3-9-2004]

CLASS III HIGHWAY — As defined in RSA 229:5III. [Added 3-9-2004]

CLUSTER RESIDENTIAL DEVELOPMENT — A form of residential subdivision that permits single-unit housing units to be grouped on sites or lots with dimensions reduced from conventional sizes, provided the density of the tract as a whole shall not be greater than the density allowed by single-unit zoning under existing regulations, and the remaining land area is devoted to common open space.

CO-LOCATION — The use of a single mount on the ground by more than one carrier (vertical co-location) or 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.

COMMON OPEN SPACE — Land within or related to a cluster or multiple-unit residential development, not individually owned, which is designed and intended for the common use or enjoyment of the residents, or the public. Common open space may not be further subdivided.

COMPOSITE LAND AREA — A land area or lot which is comprised of both unrestricted land and slopes from 15% to 25%.

CONDOMINIUM — Any development of real property, or interest therein, that comes under the requirements of RSA Chapter 356-B, and which includes the vesting of

individual interests in common areas in unit owners. A condominium development shall be considered a subdivision of land.

DRIVEWAY — An area located on a lot, tract or parcel of land built for access to a garage or off-street parking space, serving not more than two lots or sites.

DWELLING — Any structure with kitchen and sanitary facilities whose interior spaces are designed, adapted or used to accommodate residential overnight habitation on an ongoing, seasonal or occasional basis. The term “dwelling” includes but is not limited to any building, structure, trailer, mobile home, manufactured house or part thereof that is used residentially or intended for residential use and occupancy. [Amended 03-10-15]

EASEMENT — A grant or reservation by the owner of land for the use of all or a portion of such by others, including the public, for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement. The usage of the word "easement" for land platting purposes in these regulations means that such easement area is included within the dimensions and areas of the lots or parcels through which the easement may run, and is not to be separated therefrom as in the case of a right-of-way. [Added 3-9-2004]

ENVIRONMENTAL ASSESSMENT (EA) — 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 designated areas.

ENVIRONMENTAL IMPACT STUDY — A formal investigation of effects that might result from a proposed utilization of designated steep slopes for permitted uses, to be made by qualified professionals acceptable to the Planning Board.

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

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 radius equal to the height of the facility, including any antennas or other appurtenances, as set forth in Figure 1. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.



FLOOD-PRONE AREAS — The areas designated as Zone A on the Flood Insurance Rate Map of Sandwich, issued January 17, 1986, by the Federal Emergency Management Agency.

FOOTPRINT — The exterior dimensions of a structure, including any permanent extensions such as balconies, decks (attached or unattached), steps, overhangs and chimneys.

GUYED TOWER — A 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.

HOMEOWNERS ASSOCIATION — A private nonprofit association which is organized by the developer, in which individual owners share common interests in open space and/or facilities, and are in charge of preserving, maintaining and managing the common property. The association is responsible for enforcing certain covenants and restrictions.

KITCHEN - A space designed or equipped for the purpose of cooking and preparation of food. [Added 3-8-2005]

LATTICE TOWER — A type of mount with multiple legs and structural cross-bracing between the legs that is self-supporting and freestanding.

MANUFACTURED HOUSING — Any and all forms of modular, unitized or prefabricated housing, as well as mobile homes, which are brought to and assembled on a building site, placed on a foundation and tied into all conventional and necessary utility systems and which are intended to be used as permanent dwelling units. Manufactured housing does not include housing which is fully constructed on the site.

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

METEOROLOGICAL TOWER (commonly referred to as a met tower) — A tower used to hold devices (anemometers) for measuring wind attributes. [Added 03-10-15]

MOBILE HOME — A vehicle other than a camping vehicle, designed for residential occupancy and capable of movement on highways as a trailer or self-propelled vehicle when properly assembled and arranged for this purpose. A mobile home shall continue to be considered as such even if partially disassembled, enlarged, mounted on foundations, permanently attached to service facilities, or attached to a permanent structure.

MONOPOLE — A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel, 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 five types of mounts:

A. Roof-mounted: mounted on the roof of a building.

- B. Side-mounted: mounted on the side of a building.
- C. Ground-mounted: mounted on the ground.
- D. Structure-mounted: mounted on a structure other than a building.
- E. Tree-mounted: mounted on a tree. Tree mounts are limited to wireless fidelity and commercial mobile radio services. [Added 3-11-08]

MULTIPLE-UNIT STRUCTURES OR NONRESIDENTIAL DEVELOPMENTS — Residential apartment buildings or complexes, condominium units or complexes and nonresidential multiple-unit developments.

NAVIGABLE STREAM — A stream or river into which a canoe can be launched.

NEW CONSTRUCTION — Any new building or addition whose fair market value equals or exceeds the sum of \$2,000.

PERFORMANCE SECURITY — The term “Performance Security” shall mean any of the following:

- I. A performance bond issued by an insurance or surety company admitted in the State of New Hampshire (“bond”);
 - II. An irrevocable letter of credit with an automatic call provision issued by the state or national bank with banking offices located within the State of New Hampshire (“LOC”); or
 - III. Cash in United States currency held in by escrow by a financial institution approved by the Planning Board (“cash bond”);
- provided, further, whenever a Performance Bond is required pursuant to this Zoning Code or any regulations promulgated thereunder, the Performance Bond must be in such form, substance, and content as is expressly approved by the Planning Board and its attorney. [Added 3-13-12]

PERSONAL WIRELESS SERVICE FACILITY (PWSF) — A 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 four types of services regulated by Article XIII of this ordinance: commercial mobile radio services, unlicensed wireless services, wireless fidelity and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended. [Amended 3-11-08]

PLANNING BOARD — The Planning Board of the Town of Sandwich, established under the provisions of RSA Chapter 673.

PRINCIPAL STRUCTURE — Any structure which is not an accessory structure. This includes dwellings, churches, schools and buildings for professional, commercial, industrial or municipal uses.

PROFESSIONAL OFFICE — A building or portion of a building wherein services are performed involving administrative, professional, or clerical services, or offering services

to the general public. Examples of such uses could include, but are not limited to, real estate office, doctor's office, hairdresser, surveyor. [Added 03-10-15]

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.

RESPITE CENTER – A building, consisting primarily of dwelling units, or sleeping rooms with common sanitary facilities and common dining facilities, and including offices, meeting rooms, or other such spaces necessary for group activities that are provided exclusively for the residents of the center, who need assistance to recover from physical and emotional conditions. [Added 3-11-08]

RETAIL BUSINESS —A shop or store which offers the sale of goods and / or services and may include activities to produce those products sold in the retail business. [Added 03-10-15]

RIGHT-OF-WAY — A strip of land used for a street, road, crosswalk, water main, sanitary or storm sewer main, or for other special use, including public use. The usage of the term "right-of-way" for land platting purposes in this ordinance shall mean that every right-of-way hereafter established and shown on a record plat is to be separate and distinct from the lots and parcels adjoining such right-of-way and not to be included within the dimensions of other such lots or parcels. No subdivision or subdivided lots shall be approved unless access is provided by street rights-of-way having, as a minimum, the dimensions referred to in § 170-25 of the Subdivision Regulations of these regulations. [Added 3-9-2004]

ROAD – Includes street, avenue, boulevard, road, land, alley, viaduct, highway, freeway, and other ways. Road shall mean all town Class VI & VI roads and private roads. [Added 3-11-2014]

ROADWAY — The finished road surface in the right-of-way. [Added 3-9-2004]

SANITARY FACILITY –Any one or combination of toilets, urinals, sinks, bathtubs or showers together with the room(s) or space(s) in which they are contained. [Added 3-11-08]

SECURITY BARRIER — A wall, fence, or berm sufficient to restrict an area from unauthorized entry or trespass.

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

STEEP SLOPES — Any area where the slope of the terrain exceeds 15%. Slopes in excess of 25% may not be included in the area used to satisfy the minimum lot size requirement. Isolated occurrences of steep slopes totaling less than 15,000 square feet in area may be disregarded in determining lot area. [Amended 3-9-2004, 3-14-2006]

STREET — Relates to and includes "street," "avenue," "boulevard," "road," "lane," "alley," "viaduct," "highway," "freeway," public or other ways, including access to subdivisions and subdivided lots. [Added 3-9-2004]

STRUCTURE — An assemblage of elements made of wood, steel, concrete or other building materials, affixed to a permanent site and designed to support, enclose or protect humans, livestock, machinery or materials.

STUDIO — Spaces used by artists and artisans such as photographers, painters, sculptors, or jewelers for the creation of their products or the teaching of their skills. Studios may also contain a small area devoted to the display and sale of the products produced. [Added 03-10-15]

SUBSTANTIAL IMPROVEMENT — Any improvement or repair (of a structure), whose fair market value equals or exceeds the sum of \$3,000.

UNLICENSED VEHICLES — Vehicles that are not registered or inspected or fit for use on a public way.

UNRESTRICTED AREA — The net area after excluding wetlands, rights-of-way and areas with slopes of 15% or greater.

WETLANDS — Defined in § 150-47. Soil series and land types are defined in Table 1.¹

WIRELESS FIDELITY – All wireless communication equipment operating under IEEE 802.11 standards (Wi-Fi). [Added 3-11-08]

1. **Editor's Note: Table 1 is included at the end of this chapter.**

ARTICLE II

Districts and District Regulations

§ 150-6. Districts.

- A. For the purposes of this ordinance, the area of the Town of Sandwich is hereby divided into the following districts:

District Designation	Title
RR	Rural/Residential Zoning District
VD	Village Zoning District
CD	Commercial Zoning District
SH	Shoreland Overlay District
SK	Skyline Overlay District
HD	Historic Overlay District
GP	Groundwater Protection Overlay District

- B. The boundaries of these districts are established as shown on the Zoning Map of the Town of Sandwich, except District SK, which map is hereby declared to be a part of this ordinance.² The Skyline District, District SK, is shown on the Town of Sandwich Steep Slopes Map, which map is hereby declared to be a part of this ordinance.

§ 150-7. Permitted structures and uses.

The following structures and uses and no other, except as provided elsewhere in this ordinance, shall be permitted in the designated districts. For special exceptions to permitted structures and uses in all districts see § 150-102.

- A. Rural/Residential-District RR.
- (1) Single-family unit, cluster single-unit, residential multiple-unit, mobile homes and manufactured housing dwellings.
 - (2) Rural/Residential accessory structures such as private garages, bunkhouse / sleeping cabins, enclosures or partial enclosures for the housing or storage of farm equipment, pets, livestock, merchandise, property or firewood. Bunkhouse / sleeping cabins must comply with the setback regulations for principal structures. [Amended 03-10-15]
 - (3) Home occupations: Home occupations shall be permitted on residential premises provided they do not materially harm or affect the residential or rural quality of the area and which do not involve commercial impacts detectable at the property boundary. The following criteria shall apply:
 - (a) There shall be no more than two non-resident employees; and

2. Editor's Note: The zoning and steep slopes maps are on file in the Selectmen's office.

- (b) There shall be no more than an average of two customer/client visits per day; and
 - (c) There shall be no more than an average of two deliveries/pick-ups per day; and
 - (d) There shall be adequate off-street parking for customers, owners, and employees; and
 - (e) There shall be no visible changes to the property and buildings other than a sign which complies with the requirements of Article IV of the Zoning Ordinance; and
 - (f) The business shall not use outside business related lighting or produce odors, refuse, or waste which could be construed as offensive to abutters; and
 - (g) The business shall be conducted on the applicant's home premises. [Amended 3-11-2014]
- (4) Home-Based Business: A Home Occupation which does not comply with §150-7, A (3) shall be considered a Home-Based Business which shall be permitted upon site plan application review and approval by the Planning Board. [Added 3-11-2014]
 - (5) Day care within the home of a child-care provider; up to six full-time preschool children and three part-time school-age children.
 - (6) Agriculture uses, including all recognized forms of farming, truck gardening, silviculture, livestock raising, tree, shrub, plant or flower nurseries and roadside stands for the sale of produce grown primarily on the premises.
 - (7) Recreational uses consistent with the preservation of open spaces and natural resources, and which do not materially harm or affect the residential or rural quality of the area.
 - (8) Gravel pits complying with the Sandwich Excavation Regulations.
 - (9) Churches, parks, playgrounds, public and private schools, non-home-based child day care, respite center, and municipal buildings. [Amended 3-9-2004 & 3-11-08]
 - (10) Commercial cable TV reception equipment for Town franchised cable television systems, including necessary tower(s), antenna, associated reception equipment, transmission lines and building(s).
 - (11) Accessory Apartments [Added 03-10-15] - The purpose and intent is to provide expanded and alternative housing opportunities and flexibility in household arrangements while maintaining aesthetics and residential use compatible with homes in the neighborhood, subject to the following conditions:

- (a) The property and proposed use must conform to the dimensional requirements of the minimum lot size.
- (b) No more than one accessory apartment containing a complete dwelling unit will be allowed in, or attached to, a principal dwelling.
- (c) The accessory apartment is limited to 1,000 square feet.
- (d) The title of the principal dwelling and the accessory apartment shall be inseparable.
- (e) The existing, replacement, or proposed septic system must be certified by a licensed septic designer or engineer as adequate to support the accessory apartment. Connection to the Sewer System in the Sewer District must be approved by the Sewer Commissioners.
- (f) Adequate off-street parking shall be provided for the accessory apartment.

B. Village Zoning District - District VD [Added 03-10-15]

- (1) Permitted uses.
 - (a) All uses permitted in District RR except gravel pits, mobile homes, and commercial cable TV towers / antennae
 - (b) Respite Centers may be permitted by Special Exception.

C. Commercial Zoning District - District CD

- (1) Permitted uses.
 - (a) All uses permitted in District RR. [Amended 3-9-2004]
 - (b) Retail stores, sales rooms and stands, multiple-unit nonresidential developments.
 - (c) Light industry such as mail order houses, electronics/electrical assembly, automobile/truck dealerships, machine tool operations, etc.
 - (d) Retail service establishments such as restaurants, laundries, cleaners, car washes, etc.
 - (e) Professional offices, studios, banks, motels, rooming houses, etc.
- (2) District regulations.
 - (a) All uses within the district shall have a wooded buffer zone of not less than 200 feet between the center line of the public way and the business buildings, parking lot or storage area.
 - (b) The coverage of each lot used for commercial purposes, including buildings, parking areas, driveways, and any other impervious surfaces, shall not exceed 50% of the lot.

D. Shoreland Overlay District - District SH

(1) Permitted uses.

- (a) Residential single-family dwelling units.
- (b) Residential accessory structures such as private garages, bunkhouse / sleeping cabins, enclosures or partial enclosures for the housing or storage of pets, merchandise, property or firewood. Bunkhouse / sleeping cabins must comply with the setback regulations for principle structures. [Amended 03-10-15]
- (c) Beaches, parks and boat access areas owned by the Town of Sandwich or which otherwise provide legally guaranteed, noncommercial access and use by the residents and taxpayers of the Town of Sandwich or the general public. Privately owned, noncommercial beaches, parks and boat access shall be permitted.
- (d) Home occupations or professional practices carried on by a resident of the premises, entirely on the premises, employing not more than the equivalent of four full-time employees (exclusive of the residents), provided such use is secondary to the use of the premises for dwelling purposes, and provided such use does not materially harm or affect the residential or rural quality of the area.

(2) District regulations.

- (a) Lakefront lots within the Shoreland District, used for the purpose of granting deeded rights or access to a lake for residential dwellings, regardless of the location of such dwellings, shall have not less than 320 feet of shore frontage, measured on a straight line, for the first dwelling having the right of access, and 50 feet of additional shore frontage for each additional dwelling. Also, for each dwelling having a right of access, and located more than one-half mile from the shoreline, one parking space shall be provided.
- (b) No more than 50% of the basal area of trees shall be cut or otherwise felled, within a twenty-year period, leaving a well distributed stand within 150 feet of a great pond, or within 50 feet of a navigable river or a public highway right-of-way. Stumps and their root systems which are located within 50 feet of a great pond or navigable river shall be left intact in the ground.
- (c) New structures within the protected shoreland shall be designed and constructed to prevent the release of surface run-off across exposed soils. All new driveways and parking lots shall be constructed of natural porous materials.
- (d) Dug-in boathouses and dug-in boat slips are not permitted in these districts. Existing boathouses may not be converted to use as dwellings.

- (e) No herbicides, pesticides or fertilizer (except lime and wood ash) shall be used within 250 feet of the high-water mark.
- (f) The establishment or expansion of salt storage yards, automobile junkyards and solid or hazardous waste facilities shall be prohibited. Installation of underground fuel storage tanks is prohibited.

E. Skyline Overlay District - District SK.

- (1) Agriculture and silviculture as permitted in § 150-56B.
- (2) Recreation as permitted in § 150-56C.
- (3) No structures permitted including wireless communication towers.

F. Historic Overlay District-District HD

- (1) All uses permitted in District RR except mobile homes, manufactured housing, commercial cable TV tower(s)/antenna(e) and gravel pits.
- (2) The uses permitted in an Historic District will be such as to preserve and safeguard the historic heritage of the Town of Sandwich. Primary consideration shall be given to those buildings and features that reflect elements of the Town's cultural, social, economic, political and architectural history. Similar consideration shall be given to the conservation of property values, the fostering of civic beauty, strengthening of the local economy (including the establishment of retail businesses, professional offices, craft shops, and the like) and to the promotion of the district for the education, pleasure and welfare of the community. It shall be the function of the Town's Historic District Commission to develop a policy for the achievement of the district's purposes in accordance with applicable state laws and through the authority vested by the Town of Sandwich.
- (3) Within the Historic District overlay area, the Historic District Commission shall have the power to accept, review and act upon all applications for building permits within its boundaries. Such power of review and approval or disapproval shall be limited to those considerations which affect the relationship of the applicant's proposal to its surroundings, to the location and arrangement of structures, to the architectural treatment of the exterior features and finish of structures, and the compatibility of land uses within the districts as they may be deemed to affect the character and integrity of said districts to achieve the purposes of the Historic District. In carrying out the foregoing duties, and in its relations with other Town authorities, the Historic District Commission shall act in consonance with the provisions of RSA 674:45 through 674:50. [Amended 3-9-2004 and relocated from § 150-102 D 03-10-15]

G. Groundwater Protection Overlay District - District GP.

- (1) Permitted Uses: Refer to Zoning Ordinance § 150-114
- (2) Prohibited Uses: Refer to Zoning Ordinance § 150-115

(2) Conditional Uses: Refer to Zoning Ordinance § 150-116

§ 150-8. Nonconforming uses.

The following shall apply to nonconforming uses with reference to the establishment of the above districts. These provisions shall not apply elsewhere in this ordinance unless specifically cited.

- A. Continuance of nonconforming uses. Any ongoing use of land or buildings which constituted a legal or grandfathered use on March 13, 1990, shall be allowed to continue.
- B. Change. Any nonconforming use shall not be enlarged or changed to another nonconforming use.
- C. Discontinuance. When any nonconforming use of land or buildings has been discontinued for one year, the land and buildings shall thereafter be used only in conformity with this ordinance.

§ 150-9. Zoning Map.

The districts are shown on the Zoning Map of the Town of Sandwich³ as follows:

- A. Rural\Residential Zoning District (RR). All lands other than those lying within Village and Commercial Districts. [Amended 03-10-15]
- B. Village Zoning District (VD). All lands within 500 feet on either side of the center line of these roads: Wentworth Hill Road northerly from Wentworth Hill Cemetery to Squam Lake Road; Squam Lake Road northeasterly from Great Rock Road to Grove Street; Grove Street easterly from Mt. Israel Road to Church Street; Church Street easterly from Grove Street to Maple Street; Maple Street northeasterly from Main Street to Elm Hill Road; Skinner Street westerly from Grove Street to Burleigh Brook (Creamery Brook). The above points of intersection closest to the center of the village will mark the outside boundary of the village district. [Added 03-10-15]
- C. Commercial Zoning District (CD). All lands lying easterly within 2,000 feet of the center line of Whittier Highway (Route 25) from the Moultonboro-Sandwich boundary to Weed Brook; all of Lot #36, Property Tax Map R-2 on the old Whittier Highway and new Whittier Highway; and all lands lying northerly within 2,000 feet of the center line of Whittier Highway from the Tamworth-Sandwich boundary to Meadow Brook.
- D. Shoreland Overlay District (SH). All land within 600 feet of these lakes and ponds: Squam, Red Hill, Bearcamp, Little's, Dinsmore, Kusumpe, Intervale and Barville.
- E. Skyline Overlay District (SK). All land delineated on the Town Skyline District Map located at the Town Hall.

3. Editor's Note: The Zoning Map is on file in the Selectmen's office.

- F. Historic Overlay District (HD). All lands within 200 feet on either side of the center line of these roads: Main Street northerly from Red Hill River to Squam Lake Road; Squam Lake Road northeasterly from Creamery Brook to Grove Street; Grove Street easterly from Mt. Israel Road to Church Street; Church Street easterly from Grove Street to Maple Street; Maple Street northeasterly from Main Street to Stanton Brook; Skinner Street westerly from Grove Street to Burleigh Brook (Creamery Brook).
- G. Groundwater Protection Overlay District (GP): An overlay district which is superimposed over the existing underlying zoning and includes within its boundaries the Stratified-drift Aquifers in Sandwich as defined in the Geohydrology and Water Quality of Stratified-Drift Aquifers in the Saco and Ossipee River Basins, east-central New Hampshire (USGS 1995). Also to include the most current Wellhead Protection Areas approved by NH Department of Environmental Services or Sandwich Planning Board. [Added 03-10-15]

ARTICLE III

General Provisions Applicable To the Rural/Residential and Commercial Zoning Districts

Please refer to Article XVII for General Provisions applicable specifically to the Village Zoning District. [Added 03-10-15]

§ 150-10. Lot area.

- A. The minimum lot size permitted shall be 100,000 square feet of unrestricted area or, if the slope of the terrain is 15% or greater, 260,000 square feet of buildable area contiguous to, and including the site of the structure.
- (1) In the case of multiple-unit structures, the minimum lot size permitted shall be 175,000 square feet of unrestricted area or, if the slope of the terrain is 15% or greater, 455,000 square feet of buildable area.
 - (2) No more than one principal structure shall be allowed on any existing or newly subdivided lot regardless of the size of the lot. Minimum lot sizes for cluster developments are specified in Article IV.
 - (3) No more than one dwelling is permitted on a lot unless specifically permitted pursuant to this ordinance. [Added 3-11-08]
- B. Exceptions to permitted lot size and road frontage on a public or private way. Lots of record March 11, 1969, which do not meet the minimum lot size requirements and/or frontage requirement on a public or private way, may not be built on until given a special exception by the Board of Adjustment. See also § 150-102. The Board of Adjustment shall determine that all structures, septic systems, etc. will conform to current setback requirements and that building on the lot will not be detrimental to public health or in violation of the purpose of this ordinance as expressed in § 150-4.

§ 150-11. Lot frontage.

When any boundary of a lot is the shore of a lake or pond, or the shore of a navigable stream, the minimum frontage on the water of that boundary shall be not less than 320 feet measured on a straight line. Lots which front on a public or private way shall be required to have not less than 160 feet of frontage. This does not apply to a lot which is the only lot at the end of a street or right-of-way. Existing land-locked lots or lots with limited or road access less than 160' shall be allowed to have not less than 50 feet of frontage. Minimum frontage for multiple-unit property containing multiple-unit structures or nonresidential developments may be required by the Planning Board to exceed 160 feet, depending upon the number of units and individual building layouts and configurations. [Amended 03-10-15]

§ 150-12. Building height.

No building shall be constructed with an overall height exceeding 32 feet above the average ground level at the building foundations. This provision shall not apply to church steeples, chimneys, cupolas, silos, barns and home antennas or similar slender, normally unoccupied, structures.

§ 150-13. Setbacks.

A. Septic tanks and leach fields.

- (1) Setback from high-water mark of any lake, pond, stream or wetland: 125 feet. (A holding tank may replace an existing septic system which is not in compliance with this setback.)
- (2) Setback from side or back lines: 25 feet.
- (3) Setback from edge of right-of-way: 25 feet.
- (4) The toe of a leach field slope shall not be less than 10 feet from the property line or right-of-way. (See special provisions in § 150-51.)

B. Private water wells. Water wells serving individual residences shall be located a minimum of 75 feet from septic system leach fields, septic tanks, and property lines. However, protective well radii may be reduced to a minimum of 50 feet where conditions comply with NH Code of Administrative Rules, Part We 602 and Env-ws 1008.

C. Principal structures and Bunkhouse / Sleeping Cabin [Amended 03-10-15]

- (1) Setback from center line of any road or street: 75 feet.
- (2) Setback from any lot side or back lines or edge of right-of-way: 50 feet.
- (3) Setback from high-water mark of any lake, pond, stream or wetland: 100 feet.

D. Accessory structures.

- (1) Setback from high-water mark of any lake, pond, stream or wetland:
 - (a) If structure is waste-producing: 100 feet.
 - (b) If structure is not waste-producing: 50 feet.
- (2) Setback from any side or back lines: 25 feet.
- (3) Setback from any road center line: 40 feet.
- (4) Setback from the edge of any right-of-way: 15 feet.

- E. Expansion/Creation of nonconforming structures.
- (1) Structures legally established, but not conforming to present setback requirements, may be expanded in size, provided the setbacks to the expanded structure are not less than the nonconforming setbacks to the original structure. Such expansion is not allowed in Shoreland Districts except by special exception in § 150-102F.
 - (2) Nonconforming dwellings as of March 5, 1974, may be demolished and reconstructed on the same footprint. There is an exception in the Shoreland District, where buildings within 100 feet of reference line (high-water mark) may not be intentionally demolished and reconstructed. Such dwellings may be expanded in size with the conditions specified in Subsection E(1). (See § 150-102F.)
 - (3) When handicapped access ramps are required they are exempt from setback requirements.
- F. Attached garages. A garage may be attached to a dwelling which existed prior to March 12, 1997, as long as the garage meets the requirements for an accessory structure and is not used to expand the dwelling space.

§ 150-14. Multiple-unit structures and commercial building location.

Building locations shall meet all standards established in § 150-13, preceding. Additional standards are set forth in § 150-7C.

§ 150-15. Site plan requirements.

Site plans must be submitted for development, change or expansion of all nonresidential uses, for all residential cluster development, and for multiple-unit residential development of more than two units. See §§ 150-28 and 150-32 following. The Planning Board shall, as established by the Site Plan Review Regulations of Sandwich,⁴ assure that the site usage is compatible with the objectives of the Town as expressed in its Master Plan.

§ 150-16. Damage.

Any building suffering extensive and obvious structural damage by fire, wind, collapse or other casualty, or neglect, shall be repaired or completely removed within one year of notice. Removal shall include removal of all debris, and either the filling of excavations to ground level, or guarding them in a manner satisfactory to the Selectmen by covers, fences or other means.

4. Editor's Note: See Ch. 160, Site Plan Review Regulations.

§ 150-17. Use of vehicles as dwellings.

No bus, truck, trailer, or any other vehicle, or the body thereof, not originally designed and built for use as a dwelling or camp shall be used for such purposes.

§ 150-18. Parking facilities.

Parking facilities shall be provided for all permitted uses, and in all instances, off the street and outside of the public right-of-way.

- A. Residential parking. Each residential dwelling unit or manufactured home shall be provided with at least two indoor or outdoor parking spaces of at least 200 square feet each.
- B. Other parking. Commercial and industrial uses shall be provided with parking space as established in the Site Plan Review Regulations of the Town of Sandwich.⁵

§ 150-19. Parking and storage of unlicensed vehicles.

On any lot, in any district, no more than two unlicensed motor vehicles shall be parked or stored except in authorized auto sales areas, enclosed buildings or approved junkyards unless, however, the unlicensed motor vehicles are special, such as homemade or factory customized competition machines, in which case no more than two such unlicensed special motor vehicles shall be parked or stored except out of sight from adjacent property or from a public or private way, and may be subject to RSA 236:91-III. This does not pertain to farm vehicles or other vehicles which are in active use that do not require license plates.

§ 150-20. Approval for driveway or street access.

Driveway or street access onto any roadway will have a maximum width of 50 feet and a minimum width of 18 feet for street access and 10 feet for driveway access. Street and driveway access widths will be measured at their intersection with the roadway traveled way. A street access or driveway may be flared beyond a width of 50 feet at its junction with a roadway to accommodate the turning radius of vehicles using the access. All access points will comply with the provisions of the Sandwich Subdivision Regulations.⁶

- A. NHDOT approval. Access proposed within the limits of Class I or III highways or a state-maintained portion of a Class II highway requires conceptual approval from the NHDOT.
- B. Road Agent approval. Access proposed within the limits of a Town or private road requires a permit approved by the Road Agent of the Town of Sandwich and signed by the Selectmen or the Building Inspector.
- C. Lots Served by Roads, Streets, and Driveways: A road or street may serve more than one lot; a driveway may serve no more than two lots. [Added 03-11-2014]

5. Editor's Note: See Ch. 160, Site Plan Review, § 160-7A(3).

6. Editor's Note: See Ch. 170, Subdivision Regulations.

§ 150-21. Compliance with state law.

All buildings, structures and uses shall comply in all respects with pertinent state laws.

§ 150-22. Boundary line adjustments.

Boundary line adjustments are considered to be subdivisions and applications must be in compliance with the Subdivision Regulations of Sandwich.⁷

7. Editor's Note: See Ch. 170, Subdivision Regulations.

ARTICLE IV

Cluster Residential Development

§ 150-23. Purpose.

Cluster development is an option which: permits greater flexibility in design; discourages development sprawls; provides a more efficient use of land in harmony with the land's natural characteristics; and preserves more usable open space, agricultural land, tree cover, recreational areas or scenic vistas.

§ 150-24. Permitted uses.

Cluster residential development shall consist of single-unit dwellings, accessory uses and home occupations as established in § 150-7A preceding.

§ 150-25. Permitted density.

The maximum number of single-unit dwellings permitted in a cluster development shall be determined by dividing the total area of buildable land in the tract by the minimum lot size established for a single-family dwelling in § 150-10 preceding.

§ 150-26. Lot size.

The minimum lot area for individual building lots within the cluster development shall be determined by the Planning Board based on the circumstances of the development proposal, and in the interest of encouraging flexibility in site design and the preservation of open space.

§ 150-27. Common open space.

- A. The amount of common space in cluster developments is the amount saved by reduction in lot sizes, i.e. the difference between the minimum lot size for a single-family dwelling (§ 150-10 preceding) and the lot area negotiated in § 150-26 preceding. At least 25% of the cluster development shall be designated as permanent common open space exclusive of road rights-of-way and common parking areas.
- B. When the common open space is set aside for recreational purposes it must be usable and accessible. When open space is designated for preservation or conservation necessary covenants, deeds or other legal arrangements must be filed to ensure that the land will remain unimproved.

§ 150-28. Design criteria.

Cluster residential developments, for the purposes of this ordinance, are to be considered subdivisions, and the Subdivision Regulations of Sandwich⁸ and the following special

8. Editor's Note: See Ch. 170, Subdivision Regulations.

provisions shall apply:

- A. General. Approval of the Planning Board is required before any construction or site development can be undertaken on property intended for cluster development.
- B. Steep slopes. Cluster development where steep slopes are involved shall be allowed only after a formal environmental impact study, made by qualified professionals, has been found acceptable by the Planning Board.
- C. Site plan review. Pursuant to RSA 674:43, the Planning Board is empowered to review and approve or disapprove site plans for the development of tracts for cluster development. Applications must be in compliance with the Site Plan Review Regulations of the Town of Sandwich.⁹

§ 150-29. Open space ownership.

The type of ownership of land dedicated for open space purposes shall be selected by the owner, developer or subdivider, subject to the approval of the Planning Board. Type of ownership may include, but is not necessarily limited to the following:

- A. Homeowner or cooperative associations or organizations. Under this form of ownership all common open space, common areas or facilities within the development shall be permanently protected by covenants and restrictions and shall be conveyed by the property owner(s) to a homeowner's association or other legal entity under the laws of the State of New Hampshire.
- B. Shared, undivided interest by all property owners in the subdivision.
- C. Municipal ownership: subject to acceptance by the governing body of the municipality, based on a deed of conservation restrictions granted by the developer.

§ 150-30. Maintenance of open space.

The person(s) or entity identified in § 150-29 as having the right to ownership or control over open space shall be responsible for its continuing upkeep and proper maintenance.

⁹ Editor's Note: See Ch. 160, Site Plan Review Regulations.

ARTICLE V

Multiple-Unit Structures

§ 150-31. Special provisions.

Multiple-unit structures or nonresidential developments, for the purposes of this ordinance, are considered to be subdivisions, and the Subdivision Regulations of Sandwich¹⁰ and the following special provisions shall apply:

- A. General. Approval of the Planning Board is required before any construction, remodeling or site development can be undertaken on property intended for multiple-unit structures.
- B. Land ownership. All buildings, improvements and other structures, built or to be built in connection with multiple-unit structures, shall be located on and owned by one owner or held in common by unit owners.
- C. Lot size. The minimum lot size shall be established in § 150-10 preceding.
- D. Unit density. The minimum area per unit shall be specified in § 150-10.
- E. Units per building. No multiple-unit building will contain more than five units. [Amended 3-9-10]
- F. Steep slopes. Multiple-unit structures where steep slopes are involved shall be considered only after a formal environmental impact study, made by a qualified soil technician, has been found acceptable by the Planning Board.

§ 150-32. Site plan review for multiple-unit structures.

Pursuant to RSA 674:43, the Planning Board is empowered to review and approve or disapprove site plans for the development of tracts for multiple-unit structures of more than two units. Applications must be in compliance with the Site Plan Review Regulations of the Town of Sandwich.¹¹

10. Editor's Note: See Ch. 170, Subdivision Regulations.

11. Editor's Note: See Ch. 160, Site Plan Review Regulations.

ARTICLE VI
Sign Regulations

§ 150-33. General Regulation Apply to all Signs

- A. Height. No part of a sign shall be installed at a height greater than 20 feet from the crown of the adjacent roadway. A sign shall be placed at least 25 feet from property sidelines. [Added 3-8-2005]
- B. Out-of-town Businesses. No signs shall be permitted advertising any business not located in the Town of Sandwich.

§ 150-34. Temporary signs.

- A. Temporary signs advertising special events conducted for educational, charitable or nonprofit purposes shall be permitted for not more than 45 consecutive days for each event. Temporary signs advertising auctions not conducted for educational, charitable or nonprofit purposes shall be permitted for no more than 15 days before each event, and shall be removed within seven days after the auction. The person or organization erecting such signs shall be responsible for their removal.
- B. Temporary signs, not to exceed six square feet in area, advertising the premises for sale or rent shall be permitted, but shall be limited to one sign for each agent per frontage property on a public way. Such signs shall be removed within 21 days upon sale or rental of the property.
- C. Two temporary construction signs may be erected or posted on the site of any construction project. Each sign may be no larger than 16 square feet, and such signs shall be removed within 21 days upon completion of the project.
- D. Temporary political signs shall be permitted during political campaigns, but such signs shall be removed within 21 days after the election or referendum concerned. The political party or organization responsible for erecting such signs, and the candidate or candidates advertised thereon, shall each be responsible for the removal of such signs.

§ 150-35. Business signs.

Each business establishment, including home occupations and roadside stands, may exhibit no more than two main signs, each no larger than 32 square feet in area, and no more than three subsidiary signs, each no larger than six square feet in area. All business signs shall be located on the same premises as the business itself. Any business establishment selling gasoline may display the standard sign provided by its oil company, in addition to the other permitted signs.

§ 150-36. Identification and direction signs.

Each non-business property shall be permitted one sign not larger than six square feet in area per public way frontage, or at each entrance to the property. Identification and direction signs made up of individual panels, each panel no larger than six inches by 48 inches, may be erected at street or road intersections to direct the public to any property or business. No single property or business may erect more than one such panel at any single corner of an intersection. If such signs are erected on public property, permission must be obtained from the appropriate authority.

§ 150-37. Trespassing signs. [Amended 3-9-2004]

Trespassing signs are all signs indicating the existence of private property. These include but are not limited to those forbidding, regulating or guiding, trespassing, hunting or other activities on the property. Signs allowed under this section shall be no larger than six square feet in area.

§ 150-38. Flashing or moving signs; illumination.

Flashing, moving or mechanical objects or signs shall not be permitted for advertising purposes, except at fairs. Permitted signs may be lighted by continuous illumination only, and shall be so erected that the source of light is not visible outside the premises. For this purpose, the source of light shall include all transparent or translucent surfaces of arc lights, incandescent and fluorescent lamps, and lights producing illumination by electrical discharge in gases or vapors.

§ 150-39. Determination of sign area.

The area of all signs shall be measured within the maximum dimensions of the signs and shall include any air space included within such dimensions.

§ 150-40. Signs within Historic District.

Within District HD, Historic District Commission sign rules, where more restrictive, will supersede this ordinance.

ARTICLE VII
Camping and Camping Area Regulations

§ 150-41. Permissible locations; use of camping vehicles or tents as dwellings.

No camping vehicles shall be occupied and no camps using such vehicles, tents or improvised shelters shall be permitted outside of organized camping areas except individual temporary camps located on private land, provided that such camps are located so as not to be visible from any public way, or from any adjacent dwellings except those of the person granting permission. The provisions of this section do not apply to camping by the Boy Scouts of America, the Girl Scouts of the U.S.A., or an organized camp for boys or girls; or to temporary camps for people who are related to, or guests of, the owner or tenant of the property. The use of a camping vehicle, tent or improvised shelter as a permanent dwelling is not permitted. A camping vehicle, trailer or mobile home may be used as a temporary dwelling during the construction of a permanent dwelling. Prior to such use, permission shall be obtained from the Board of Selectmen, who shall ensure that adequate sanitary facilities exist on the site. Permission for use of such temporary dwelling shall be limited to a period of six months. Extensions may be granted only by the Board of Selectmen.

§ 150-42. At-large campsites.

Individual campsites on public land shall be situated to protect all waterways and wetlands, and deposition of human waste shall be 200 feet from all waterways and wetlands.

§ 150-43. Organized camping areas.

An organized camping area is defined for the purpose of this ordinance as an area of land containing not less than 15 prepared campsites, and having an agent of the management on the premises not less than eight hours each day any campsite is occupied. Organized camping areas shall be permitted only if all the following conditions are satisfied:

- A. The area is to be located so that no individual campsite is visible from any existing adjacent dwelling, or from the surface of any pond or lake.
- B. No individual campsite within the area shall be located within 200 feet of any existing public way, or within 200 feet of any land boundary of the area on a stream or the shore of a pond or lake.
- C. The management of the area shall make adequate provision for safe drinking water, for the control of outdoor fires, and for the disposal of sewage and solid wastes in accordance with Town and state laws and regulations.

ARTICLE VIII
Mobile Home Regulations

§ 150-44. Mobile homes on individual lots.

No mobile homes shall be located for use as dwellings within the Village Zoning District, the Historic Overlay, or Shoreland Overlay Districts of Sandwich. Mobile homes may be located for such use in the Rural/Residential and Commercial Zoning Districts of Sandwich if located in an organized mobile home park, or on individual lots if the general provisions outlined in Article III are satisfied, together with these additional conditions: [Amended 03-10-15]

- A. Foundations. A mobile home, when placed on an individual lot, shall be permanently mounted on an enclosed cinder block foundation or on a poured cement slab, in which case the area under the home shall not be open to view.
- B. Flood areas. In flood-prone areas, mobile homes shall be anchored as specified in Article XII.

§ 150-45. Mobile home parks.

Mobile home parks shall be permitted in the Rural/Residential and Commercial Districts if the following provisions are satisfied:

- A. The mobile home park shall consist of not less than four sites for mobile homes.
- B. The park shall have a wooded buffer zone of not less than 200 feet between the center line of the public way and the location of any mobile home, parking or storage area. No mobile home shall be located within 50 feet of the property side or back lines.
- C. The park entrance street, and the driveway to each site shall be designed to assure adequate access for fire apparatus and other emergency equipment.
- D. Each home site shall be provided with a hard surface platform for the foundation of the home, and an indoor or outdoor parking area of 400 square feet for parking two automobiles.
- E. Suitable provision shall be made at each site for connecting the home to electric, water and sewer facilities.
- F. Community water and sewerage systems that satisfy all state and Town laws and regulations shall be provided and operated by the management of the park.
- G. Minimum lot size and unit density for a mobile home park shall be as specified for multiple-unit developments in § 150-10. The common open space shall be designed as an integral part of the development and used for recreation, conservation or park purposes for the owners and the occupants of the lots in the park.
- H. Grading within the park shall be limited to that required for proper drainage, streets and driveways, home and facility sites.
- I. In flood-prone areas mobile homes shall be anchored as specified in Article XII.

ARTICLE IX
Wetland Protection

§ 150-46. Purpose.

In keeping with the purpose stated in Article I, these provisions are to protect the public health, safety and general welfare by guiding and controlling the use of land areas that have been found to be subjected to high water tables for extended periods of time. More specifically, this article is to:

- A. Prevent the development on naturally occurring wetlands of structures and land uses that will contribute to pollution of surface and ground waters by sewage or toxic substances.
- B. Prevent the destruction or significant change of natural wetlands that provide flood protection.
- C. Protect unique and unusual natural areas.
- D. Protect wildlife habitats and maintain ecological balances.
- E. Ensure potential water supplies by protecting existing water-bearing strata (aquifers) and their recharge areas.
- F. Forestall expenditure of municipal funds for purposes of providing and/or maintaining essential services and utilities that might be required as a result of misuse or abuse of wetlands.

§ 150-47. Wetlands and Water Bodies defined. [Amended 3-11-08]

A. Wetlands: Those areas that are inundated or saturated by surface or ground water at a frequency and duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. [Amended 3-11-08]

B. Water Bodies: All land areas that are seasonally or permanently inundated with water, specifically, the deepwater part of lakes and ponds below the "Reference Line" as defined by RSA 483-B:4 XVII, and the area of channelized, flowing water below the 'Ordinary High Water Mark' (OHWM) of rivers and streams, as defined by RSA 483-B:4 XI-a. [Amended 3-11-08]

§ 150-48. Permitted uses.

- A. Permitted uses are those that:
 - (1) Do not require the erection or construction of any structures or buildings;
 - (2) Will not alter the natural surface configuration by the addition of fill or by dredging; and

- (3) Are otherwise permitted by this Sandwich Zoning Ordinance.
- B. Regardless of the criteria set forth in paragraph A, the following uses are specifically permitted: [Amended 3-08-11]
- (1) Forestry or tree farming, using the best management practices to protect streams and standing water from pollution and sedimentation.
 - (2) Agriculture according to recommended soil conservation practices, including protection of wetlands from pollution by fertilizers, pesticides and herbicides.
 - (3) Wildlife refuges.
 - (4) Parks, conservation areas, and nature trails.
 - (5) Recreational pursuits consistent with the intents of this ordinance.
 - (6) Open spaces as permitted or required by the Subdivision Regulations¹² and this ordinance of the Town of Sandwich.
 - (7) Streets, roads, rights-of-way, driveways or easements, including power lines and pipe lines and water impoundments, when approved by the NHDES Wetlands Bureau. [Added 3-9-2004]

§ 150-49. Determination of applicability.

Where on-site inspection by the Planning Board, or by the Selectmen, indicates that an area not designated as a wetland meets the criteria of § 150-47, or that an area has been incorrectly designated as a wetland, the Planning Board or Selectmen shall make a final determination only after an on-site examination or other suitable research by the Sandwich Conservation Commission or by a certified soil or wetland scientist, paid for by the landowner or developer. Evidence for this determination shall be accepted only in written form from said technicians to the Planning Board or Selectmen. [Amended 3-11-08]

§ 150-50. Compliance with state and federal laws.

All uses, practices, or activities relating to the lands herein described, whether specified or not, shall comply in all respects with applicable state and/or federal laws pertaining thereto, including regulations of governing or advisory agencies relating to agriculture, conservation, environmental protection, forestry, mining, public health, recreation, utilities, and water resources. State dredge and fill permits are required for all dredge and/or fill operations, and for the erection or floating of all docks, floats and rafts. Such permits, as determined by state law, shall be filed with the Town Clerk. Where any provision of this ordinance is in conflict with state law or other local ordinance, the more stringent provision shall apply. [Amended 3-11-08]

§ 150-51. Special provisions.

12. Editor's Note: See Ch. 170, Subdivision Regulations.

- A. Sewage systems proximity to wetlands and water bodies. [Amended 3-11-08]
 - (1) No septic tank or leach field may be constructed or enlarged to be within 125 feet of any wetland or water body. [Amended 03-10-15]
 - (2) A sealed septic tank may replace an existing septic tank, provided that an alarm shall be installed if the system uses a pumping station.
 - (3) Note that no NH DES permit is required to replace a septic tank of the same size or larger in the same location as long as the existing leach field is operational. [Amended 03-10-15]

- B. Dwelling proximity to wetlands and water bodies. No dwelling or other structures of a waste-generating nature may be constructed or enlarged to be within 100 feet of any wetland or water body, except as defined in § 150-13 and Subsection C following. [Amended 3-11-08]

- C. Replacement of nonconforming septic systems. When new septic systems are installed on properties where there is a dwelling to be served existent prior to March 14, 2000, and the existing dwelling is less than the required one-hundred-foot setback from the high-water mark of any water body or wetland, the following provision is allowed: [Amended 3-11-08]
 - (1) The septic tank may be installed with less than the required one-hundred-twenty-five-foot setback, but not less than 75 feet from the high-water mark of any water body or wetland, under the following conditions:
 - (a) A pump, if used, is contained in a sealed tank.
 - (b) An alarm is used if the system uses a pump tank.
 - (c) The leach field is 125 feet from the high-water mark of any water body or wetland.

- D. Limitation. Occurrences of wetlands totaling less than 15,000 square feet in area, not in direct surface contact with water bodies may be disregarded in computing unrestricted and buildable areas and in determining setback requirements, except for leach fields, if the ruling Board determines that such areas do not interfere with the health and safety of the community. However, such areas must be shown on plats.

- E. Appraisal of wetlands for tax purposes. All wetlands shall be appraised for tax purposes at their full and true value in money, based on their market value as undevelopable land required to remain in open space.

§ 150-52. Special Exceptions. [Amended 3-9-2004 & 3-11-08]

Special exceptions to the restrictions of permitted uses of wetlands and water bodies may be granted by the Board of Adjustment after proper public notice and public hearing(s), for purposes hereinafter described:

- A. In cases of dwellings which have no sewage system and which existed prior to

January 1, 1997, and if no new system can be constructed that meets the Town of Sandwich setback requirements, the State of New Hampshire setback standards may be substituted for those of the Town of Sandwich.

§ 150-53. Prime wetlands.

Specific wetlands evaluated by the Sandwich Conservation Commission according to the provisions of RSA 482-A:15 and accepted by the Sandwich Planning Board and the voters of the Town of Sandwich shall be designated as prime wetlands. [Amended 3-11-08]

- A. Definition. Prime wetlands must have at least 50 percent very poorly drained soils, unique or outstanding flora and fauna, and a significant role hydrologically in the watershed. They may also have historical, archeological, scientific, educational, recreational, geological or aesthetic significance, unusual size, unspoiled character and unusual fragility. [Amended 3-11-08]
- B. Prime wetlands, as identified on the 1985 Prime Wetlands Maps of Sandwich, NH, and as described in the 1985 Prime Wetlands Evaluation, Sandwich, NH are:

Name	Lot Numbers	Number of Acres
Metcalf Road/Squam Lake Wetlands	Nos. 4, 8 and 14	18
Red Hill River Wetland Complex	Nos. 38 -- 42 and 44	160
Miles, Bragg and Taylor Pond Bogs	Nos. 99 — 101	32.5
Atwood Brook	No. 102	103.5
Bearcamp Pond Wetland	No. 105	89
Bearcamp River, east of Bearcamp Pond	No. 106	36
Red Hill Pond Wetland	No. 107	355
Meadow Brook	No. 115	66.5

ARTICLE X
Steep Slope Protection

§ 150-54. Purpose.

In keeping with the purpose stated in Article I and inasmuch as a great portion of the Town of Sandwich occupies land that slopes in excess of 15%, and the nature of the soils is such that these slopes render the land exceptionally vulnerable to erosion and attendant problems of water pollution and sedimentation, potentially affecting not only an individual landowner's property but that of abutters and ultimately the community, the Town of Sandwich deems it necessary and proper to regulate certain practices upon, and uses of, such lands to preserve our common heritage and protect the health and well-being of all the inhabitants.

§ 150-55. Steep slopes defined.

Steep slopes are defined as those areas having slopes of 15% or greater, as delineated by the U.S. Department of Agriculture Soil Conservation Service in the Soil Survey of Carroll County, New Hampshire, issued December 1977, as revised. These areas are shown on the Sandwich Steep Slopes Map on file at the Town Hall in Center Sandwich, NH. which shall be determinative of whether or not land is in a Steep Slope Area. [Amended 3-14-2006]

§ 150-56. Permitted uses.

The following are permitted uses in steep slope areas:

- A. Residences. Single-family and multiple-unit residences are permitted on lots as specified in § 150-10. Regarding lot size, isolated occurrences of steep slopes totaling less than 15,000 square feet in area may be disregarded when computing the unrestricted and buildable areas if it is the determination of the Planning Board that such areas do not interfere with the health and welfare of the community. However, such areas must be shown on plats. Residential and related construction in steep slope areas covered by the provisions of Article X, whether in a subdivision development or not, which would cause a disturbance to the natural terrain or vegetative cover, or erosion or sedimentation, must make application to the Planning Board for a steep slopes permit before undertaking such construction. See § 150-59. No dwelling or structure of a waste-generating nature may be erected on a slope that exceeds 25% based on 5 foot contours, and that exceeds 25% slope over any 100 ft. horizontal segment measured perpendicular to contour prior to cut or fill. [Amended 3-14-2006]
- B. Agriculture and silviculture and logging. Agriculture and silviculture may be practiced on designated steep slopes if conducted in manners consistent with optimum soil conservation practices, as determined by the Carroll County Conservation Service, the County Forester, or other interested state or federal agencies. Logging will be permitted, subject to the provisions of RSA 485-A:12 through 15 and RSA Chapter 483, or other applicable statutes, to control soil

erosion, water pollution, or other long-term damage to the area operated or downhill from it, including recommended practices such as filter strips, removal of slash from stream beds, proper skid and truck roads, proper closure of unmaintained roads and the like. [Amended 3-9-2004]

- C. Recreation. Recreational pursuits, such as hiking, hunting, skiing, and others that do not tend to alter the natural surface configuration or vegetative cover, shall be permitted at the pleasure of the landowner or his agent. Off-the-road recreational wheeled vehicle courses may be permitted, provided an environmental impact study report is furnished and is deemed favorable by the Planning Board, with interim and final soil and water control and stabilization plans that are acceptable to the Board.
- D. Mining and excavation. Surface and tunnel mining, including excavation of sand and gravel and rock quarrying, shall be permitted, provided such proposed operations receive an environmental impact study report that is deemed favorable by the Planning Board. Such operations must also apply for and be issued an excavation permit from the Town. In the case of disturbance, removal or relocation of large quantities of earth or rock as in mining, sand/gravel/rock quarrying or the like, a plan for runoff, erosion, water pollution and sedimentation control and soil reclamation and stabilization must be submitted to and approved by the Planning Board as specified in the Excavation Regulations of the Town of Sandwich. Other requirements, inspection and compliance as established in RSA Chapter 155-E are specified in the Excavation Regulations of the Town of Sandwich.

§ 150-57. Determination of applicability.

Where it is alleged that an area in question has been incorrectly delineated on the aforementioned map or in the soil survey, the Planning Board shall determine whether the regulations apply. The Planning Board shall make its judgment that applicable slopes extend over any 100 foot horizontal segment measured perpendicular to contour prior to cut or fill only after the slopes have been determined based on 5 foot contours by a licensed land surveyor or other qualified person designated by the Carroll County Conservation District. [Amended March, 2007]

§ 150-58. Compliance with state and federal laws.

All uses described and permitted herein shall be subject to applicable Town, state, or federal laws or regulations in effect at the time official approval by the Board unless a stricter regulation is stated in these regulations.

§ 150-59. Permitting process for use of steep slopes.

In addition to such other permits as may be required in § 150-56, work on steep slopes requires issuance of a steep slopes permit by the Planning Board, as detailed in this section.

- A. Application for steep slopes permit. Whenever the owner or lessee of land designated as a steep slope proposes to alter the nature of that land by building thereon, excavating, or establishing temporary or permanent roads (excepting roads

created for the sole purpose of harvesting timber, creating wastewater or sewage disposal systems, installing utilities, creating ponds, diverting watercourses or the like) the person or corporate representative shall make application in writing to the Planning Board for a steep slopes permit, outlining the proposal, including plans for interim protection and ultimate reclamation of land where this is deemed necessary, for stabilization to protect soil and water resources on all affected lands whether of the applicant or others. The written application, together with an operation plan and layout, conforming to the specifications hereinafter described, shall be filed with either the Secretary or Chairman of the Planning Board or the Clerk of the Board of Selectmen at the Town office 15 days prior to the regular monthly meeting of the Planning Board. The application shall be accompanied by a fee established by the Board. [Amended 3-14-2006]

- B. Operation plan. A written plan must be submitted describing the operation, construction details and procedures for interim protection measures and final reclamation of disturbed areas. It shall include the following:
- (1) Project description.
 - (2) Existing site conditions (current use, topography, stormwater patterns, soils and wetlands).
 - (3) Proposed development.
 - (4) Critical areas.
 - (5) Structural measures for erosion and sedimentation control (silt fences, rip-rap, culverts, drainage ditches, drainage aprons, drainage sumps, erosion control fabric, mulch and netting, treatment aprons, storm water diversion, dust control and slope stability).
 - (6) Temporary nonstructural measures.
 - (7) Permanent nonstructural measures (seed mixture).
 - (8) Schedule, including expected terminal date and, if it is to be undertaken in stages, the time limits of each stage; including also an outline of winter and spring measures.
 - (9) Maintenance (silt fences, slope stability, hay bale dams, mulch and netting, dust control, ditch and slope protection, temporary seeding, permanent grassed areas, removal of temporary measures).
 - (10) If deemed necessary, the Planning Board may require an environmental impact study as defined in § 150-5 and other professional reports addressing specific issues.
- C. Layout requirements. The layout submitted with the permit application shall comply with the plat requirements specified by the Subdivision Regulations of

Sandwich.¹³ In addition, the layout shall show the boundaries of the proposed operation within the property lines, the location and size of proposed buildings and other areas where the existing vegetative cover would be disturbed. It shall also show the location of all measures taken by the operation plan.

- D. Requirement of Performance Security. (See Chapter §150-5 Definitions)
Performance Security may be required in an amount sufficient to ensure no cost to the Town for stabilization measures to prevent water or soil damage, including inspection or consultation fees, in the event of abandonment or deferment of the project. In addition, a deed restriction may be attached to the property requiring proper yearly maintenance of changes to the steep slopes area. Work shall be completed within two years of approval of the plan and this Performance Security shall not be discharged before one year following completion. [Amended 3-13-12]
- E. Board action. The Board shall begin formal consideration of the proposal within 30 days after formal acceptance of the completed application and shall act to approve, conditionally approve or disapprove within 90 days of formal acceptance. The Board will not grant final approval until all required permits by other governmental agencies have been obtained by the applicant.
- F. Costs. All costs pertaining to the consideration of an application, including consultants' fees, on-site inspections, environmental impact studies, notification of interested persons and other costs, shall be borne by the applicant and paid prior to the Board's final action.

§ 150-60. Additional application requirements for subdivisions.

Applicants for subdivision of lands designated as steep slopes are subject to all sections of Article X, Steep Slope Protection. In addition, they shall file with the Planning Board pursuant to the current Subdivision Regulations¹⁴ an environmental impact study when deemed necessary by the Planning Board. It is further required that the plat submitted shall delineate topography with contour intervals of five feet as determined from actual field survey or air photographic survey with ground control.

§ 150-61. Town liability.

In any case where changes in topography alter the course of water flow, normal or excessive, so as to cause damage to the neighboring properties or those downstream, the petitioner for use of steep slopes shall assume all liability for such damage, even though his plan has been approved by the Sandwich Planning Board, and the Town of Sandwich shall be held harmless from any claims from any claims for damage resulting from his actions.

13. Editor's Note: See Ch. 170, Subdivision Regulations.

14. Editor's Note: See Ch. 170, Subdivision Regulations, Article VII, Steep Slope Areas.

ARTICLE XI

Building Code Provisions

§ 150-62. General provisions.

- A. Jurisdiction. This ordinance shall pertain to all areas within the boundaries of the Town of Sandwich except that certain provisions shall be confined to those areas designated as being flood-prone in accordance with the provisions of the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1975.
- B. Administration. The Planning Board and Selectmen of the Town of Sandwich shall administer this portion of the ordinance with the assistance of a Building Inspector, appointed by the Board of Selectmen.
- C. Building permits. A building permit shall be required when:
 - (1) Any new building footprint is to be created, or there is to be expansion of an existing building footprint, or when an existing structure is to be moved; or
 - (2) Repairs or renovations to an existing structure exceed the fair market value of \$3,000. Replacement in kind of building components does not require a building permit; or
 - (3) Any addition, replacement move or improvement to a septic system is involved, regardless of the amount of the cost thereof; or
 - (4) A new well is to be created; or
 - (5) There is development in a flood hazard area, in accordance with § 150-68.
- D. Penalties. In addition to those penalties cited in the Subdivision Regulations¹⁵ and the Site Plan Review Regulations¹⁶ of the Town of Sandwich, the following penalties may be imposed:
 - (1) General. Failure to obtain a building permit will result in a fine as designated in § 150-100 following.
 - (2) Flood-prone areas. In those areas designated as being flood-prone the building of any new structure, or the substantial improvement of an existing structure, prior to obtaining a building permit and specific approval of the Building Inspector and the Planning Board, shall be cause for the imposition of a fine of \$1,000 and enjoinder or removal of such construction by the Town's Board of Selectmen.

§ 150-63. Building Inspector.

- A. Qualifications. The Building Inspector shall be qualified to review and judge the adequacy of building plans submitted in applications for building or improvement

15. Editor's Note: See Ch. 170, Subdivision Regulations.

16. Editor's Note: See Ch. 160, Site Plan Review Regulations.

permits, including those in areas designated as being flood-prone.

- B. Selection. The Building Inspector shall be selected by the Board of Selectmen. This selection may be made on a case basis or on a calendar basis as appropriate and as determined by the Board of Selectmen.
- C. Compensation. Compensation of the Building Inspector shall be as agreed upon by the Board of Selectmen and the Building Inspector.
- D. Duties. When designated by the Selectman as their agent, a Building Inspector shall perform review and inspection duties for all new construction outlined in Articles XI and XII.

§ 150-64. Procedures.

Application for building permits shall be made as follows:

- A. Non-flood areas: Applications shall be made directly to the Board of Selectmen.
- B. Flood-prone areas: Applications shall be accompanied by sufficiently detailed plans to permit adequate review by the Building Inspector and the Planning Board. These plans and applications are submitted to the Board of Selectmen, who, in turn, will forward them to the Building Inspector and the Planning Board for review and decision. Decisions are provided by the Planning Board at regularly scheduled meetings of this Board.

§ 150-65. Fees.

- A. Non-flood areas. The applicant shall pay to the Selectmen, with the application for such building permit or notice of intent, such fee as the Selectmen shall determine.
- B. Flood-prone areas. There is a minimum fee of \$25 payable by the applicant for the review and issuance of building permits for construction or improvements in areas designated as being flood-prone. This fee will be increased as necessary to meet any additional expenses required by complexity or the use of expert consultants. Fees are payable to the Town of Sandwich and collected by the Board of Selectmen.

ARTICLE XII

Floodplain Management

[Amended 3-12-2013]

§ 150-66. Application.

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

If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

The following regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency in its "Flood Insurance Study for the County of Carroll, NH" dated March 19, 2013 together with the associated Flood Insurance Rate Maps dated March 19, 2013, which are declared to be part of this ordinance and are hereby incorporated by reference.

§ 150-67. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within the Town of Sandwich subject to a one percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A and AE.

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT — Any area of the building having its floor sub-grade (below ground level) on all sides.

BUILDING — See "structure."

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

FEMA – The Federal Emergency Management Agency.

FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters, or
- b. the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) — The official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Sandwich.

FLOOD INSURANCE STUDY — (FIS) An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

FLOODPLAIN or FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source (see definition of “Flooding”).

FLOOD-PROOFING — Any combination of structural and nonstructural 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.

FLOODWAY — See "regulatory floodway."

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE: Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;
or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (i) by an approved state program as determined by the Secretary of the Interior, or
- (ii) directly by the Secretary of the Interior in states without approved programs.

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

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

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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

ONE-HUNDRED-YEAR (100-YEAR) FLOOD — See "base flood."

RECREATIONAL VEHICLE — A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projection;
- C. Designed to be self propelled or permanently towable by a light-duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

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

RIVERINE — Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA — See "area of special flood hazard."

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.

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

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

SUBSTANTIAL IMPROVEMENT — Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds 50% of the market value of the structure. The market value of the structure should be (a) the appraised value of the structure prior to the start of the initial repair or improvement, or (b) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

VIOLATION - The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under this ordinance is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION — The height, in relation to the National Geodetic

Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

§ 150-68. Permits required.

All proposed development in any special flood hazard areas shall require the Building Inspector to certify that all permits required by state or federal agencies having jurisdiction have been secured and to issue town building permits as appropriate and required.

A. **Presentation of permits.** The Building Inspector shall review proposed developments to verify 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. The applicant shall certify to the Building Inspector that all applicable permits have been secured.

B. **Building Inspector duties.** 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.

C. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be:

- (1) Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) Constructed with materials resistant to flood damage;
- (3) Constructed by methods and practices that minimize flood damages, and
- (4) 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.

§ 150-69. (Reserved for future use.)

§ 150-70. Water and sewerage requirements.

Where new and replacement water and sewer systems (including on-site systems) are proposed in flood-prone 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.

§ 150-71. Certification of flood-proofing.

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 located in Zones A or AE, and include whether or not such structures contain a basement. If the structure has been flood-proofed, the as-built elevation (in relation to mean sea level) to which the structure was flood-proofed must be included. This information must be furnished by the applicant.

§ 150-72. (Reserved for future use.)

§ 150-73. Riverine and floodway situations.

- A. 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.
- B. Within the altered or relocated portion or 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 has been maintained.
- C. Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.
- D. Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- E. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:
 - “No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.”

§ 150-74. Determination of 100-year flood elevation.

- A. In special flood hazard areas the Building Inspector shall determine the 100-year flood elevation in the following order of precedence according to the data available.
- (1) In Zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
 - (2) In Zone A the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).
- B. 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) All new construction and substantial improvements of nonresidential 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 flood-proofed 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 section.
 - (3) All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is 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, providing the enclosed areas meet the following requirements:
 - (a) The enclosed area is unfinished or flood-resistant, usable solely for parking of vehicles, building access or storage;
 - (b) The area is not a basement;

- (c) The area 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:

- [1] 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.
- [2] The bottom of all openings shall be no higher than one foot above grade.
- [3] Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

- (5) Recreational vehicles placed on sites within Zones A and AE shall either:

- (a) Be on the site for fewer than 180 consecutive days;
- (b) Be fully licensed and ready for highway use; or
- (c) Meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c)(6) of Section 60.3.

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.

§ 150-75. Variances and Appeals.

A. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5, or in communities with no comprehensive zoning a special Board of Adjustment appointed by the Board of Selectmen.

B. 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:

- (1) the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
- (2) if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.

(3) the variance is the minimum necessary, considering the flood hazard, to afford relief.

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

(1) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(2) 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.

D. The community shall:

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

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

ARTICLE XIII
Personal Wireless Service Facilities
(For definitions, see § 150-5.)

§ 150-75. Purpose and intent.

It is the express purpose of this article to permit carriers to locate personal wireless service facilities (PWSF's) within particular areas of the Town of Sandwich consistent with appropriate land use regulations designed to ensure compatibility with the visual and environmental features of the Town. Compatibility with the visual features of Sandwich is measured based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed PWSF. This article enables the review of the locating and siting of PWSF's by the Town of Sandwich so as to eliminate or mitigate the visual and environmental impacts of PWSF's. This article is structured to encourage carriers to locate on existing buildings and structures whenever possible. New ground-mounted PWSF's are permitted, but only when the use of existing structures and buildings is found to be impracticable. Co-location is encouraged for all PWSF applications, and the review of a PWSF shall be on the basis of the site being built using all positions on the mount.

§ 150-76. Applicability.

The terms of this article and the Site Plan Review Regulations¹⁷ shall apply to PWSF's proposed to be located on property owned by the Town of Sandwich, 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. Common carrier wireless exchange access facilities are only permitted in the Rural/Residential District pursuant to issuance of a special exception prior to site plan review approval. [Amended 3-08-11]

§ 150-77. District regulations.

- A. Location. Personal wireless service facilities shall be permitted in all zoning districts, with the exception of the Skyline District. Applicants seeking approval for PWSF's shall first evaluate existing structures for the siting of PWSF's. Only after finding that there are no suitable existing structures pursuant to Subsection C herein, shall a provider propose a new ground-mounted facility.
- B. Existing structures: policy. PWSF's shall 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.
- C. Existing structures: burden of proof. The applicant shall bear the burden of proving that there are no existing structures which are suitable to locate its PWSF and/or transmit or receive radio signals. To meet that burden, the applicant shall take all

17. Editor's Note: See Ch. 160, Site Plan Review Regulations.

the following actions to the extent applicable:

- D. Subsection “C” above does not apply to applicants seeking approval for wireless fidelity and commercial mobile radio services. [Added 3-11-08]
- (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 PWSF. If the Planning Board informs the applicant that additional existing structures may prove 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 US Postal Service shall be provided for each owner of existing structures that was contacted.
 - (3) If the applicant claims that a structure is not capable of physically supporting a PWSF, this claim must be certified by an independent 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.

§ 150-78. Ground-mounted facilities: policy.

If the applicant demonstrates that it is not feasible to locate on an existing structure, ground-mounted PWSF's 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.

§ 150-79. Use regulations.

A PWSF shall require a building permit in all cases and may be permitted as follows:

- A. 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 PWSF on any guyed tower, lattice tower, mast or monopole in existence prior to the adoption of this ordinance, or on any PWSF previously approved under the provisions of this ordinance so long as the co-location complies with the approved site plan. All the performance standards from this ordinance shall be met.¹⁸ This provision shall apply only so long as 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.¹⁹

18. Editor's Note: See § 150-80.

19. Editor's Note: See Ch. 160, Site Plan Review Regulations.

- B. Reconstruction of existing tower structures. An existing guyed tower, lattice tower, monopole or mast in existence prior to the adoption of this ordinance may be reconstructed with a maximum twenty-foot increase in height so as to maximize co-location so long as the standards of this ordinance are met and so long as this twenty-foot increase in height does not cause a facility previously existing at less than 175 feet to exceed 175 feet in height. The mount shall be replaced with a similar mount that does not significantly increase the visual impact on the community. Site plan review is required.²⁰
- C. Existing structures: Subject to the provisions of this ordinance and minor site plan review under RSA 674:43III and except as otherwise permitted under Subsection A, a carrier may locate a PWSF 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 district zoning requirements shall be considered as existing structures.
- D. Ground-mounted facility. A PWSF involving the construction of a ground mount shall require site plan review²¹ and be subject to the provisions of this ordinance.

§ 150-80. Dimensional requirements.

- A. Personal wireless service facilities shall comply with the following requirements:
 - (1) a. Maximum height: In no case shall a PWSF exceed 175 feet in height, unless the mount for the facility was greater than 175 feet in height prior to the adoption of this ordinance.
 - b. In no case shall wireless fidelity or commercial mobile radio services structures, including antennas, be greater than 10 feet above the average tree canopy height, unless the mount for these structures was greater than the 10-foot height restriction prior to the adoption of this ordinance. [Added 3-11-08]
 - (2) Height of existing structures and utility poles: Carriers that locate new PWSF's on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts, and monopoles may be permitted to increase the height of those structures no more than 15 feet at the discretion of the Planning Board, if the additional height will not materially impair the visual impacts of the site. This increase in height shall only be permitted once for each structure.
 - (3) Height of other existing structures: The height of a PWSF shall not increase the height of a structure by more than 15 feet, unless the facility is completely camouflaged; for example, a facility completely within a pre-existing

21-21. Editor's Note: See Ch. 160, Site Plan Review Regulations.

flagpole, steeple or chimney. The increase in height of the structure shall be in scale and proportion to the structure as originally configured. A carrier may locate a PWSF on a building that is legally nonconforming with respect to height, provided that the provisions of this ordinance are met.

- (4) Height of ground-mounted facilities: Ground-mounted PWSF's shall not project higher than 10 feet above the average tree canopy height within a one-hundred-fifty-foot radius of the mount, security barrier or designated clear area for access to equipment, whichever is greater.
 - (5) Setbacks: All PWSF's and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. Fences shall comply with setback provisions of the zoning district in which the facility is located if the fence is six feet or more in height.
 - (6) Fall zone for ground mounts: In order to ensure public safety, the minimum distance from the base of any ground-mount of a PWSF 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 § 150-5. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The areas 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.²²
 - (7) Fall zone for non-ground mounts: In the event that an existing structure is proposed as a mount for a PWSF, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing nonconforming structures, PWSF's and their equipment shelters shall not increase any nonconformities.
- B. Planning Board flexibility: heights. In reviewing a site plan application for a PWSF, the Planning Board may permit an increase in the height of a ground-mounted facility up to 40 feet above the average tree canopy height, if no material increase in visual or environmental impacts will result. The visual and environmental criteria of this ordinance and the Site Plan Review Regulations²³ shall be the guidelines in making this determination.

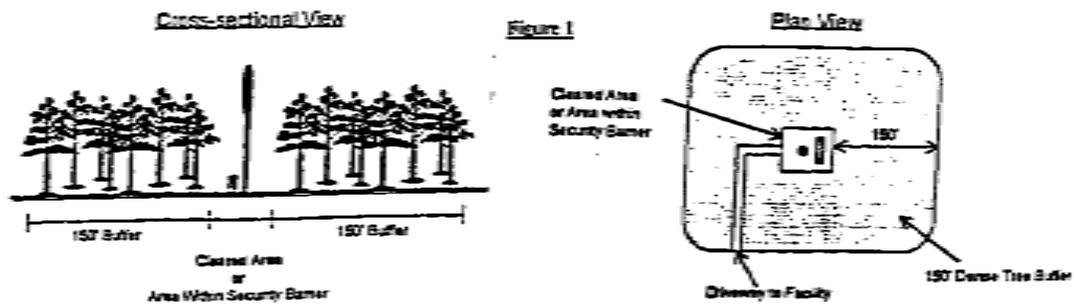
§ 150-81. Visibility.

- A. Visual impacts are measured on the basis of:
- (1) Change in community scale, as exhibited in relative height, mass and/or proportion of the PWSF's within their proposed surroundings.
 - (2) New visible elements proposed on a contrasting background.

22. Editor's Note: See Ch. 160, Site Plan Review Regulations.

23. Editor's Note: See Ch. 160, Site Plan Review Regulations.

- (3) Different colors and textures proposed against a contrasting background.
 - (4) Use of materials that are foreign to the existing built environment.
- B. 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.
- D. D. Camouflage for facilities on existing buildings or structures—roof mounts: When a PWSF 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 facade in order to limit their impact on the building’s silhouette.
- E. Camouflage for facilities on existing buildings or structures—side mounts: PWSF's which are side-mounted shall blend with the existing building's architecture and, if individual antenna panels are over five square feet, the panels shall be painted or shielded with material consistent with the design features and materials of the building.
- F. Camouflage for ground-mounted facilities: All ground-mounted PWSF's shall be surrounded by a buffer of dense tree-growth that extends continuously for a minimum distance of 150 feet from the mount, security barrier or designated clear area for access to equipment, whichever is greatest, and screens views of the facility in all directions, as set forth in Figure 1. These trees must be existing on the subject property, planted on site or be within a landscape easement on an adjoining site. The Planning Board shall have the authority to decrease, relocate or alter the required buffer based on site locations. The one-hundred-fifty-foot vegetative buffer area shall be protected by a landscape easement 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.



§ 150-82. Color.

To the extent that any PWSF extend above the height of the vegetation immediately surrounding them, they shall be of a color which blends with the background or surroundings.

§ 150-83. Equipment shelters.

Equipment shelters for PWSF's shall be designed consistent with one of the following design standards:

- A. Equipment shelters shall be located in underground vaults; or
- B. 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 PWSF; or
- C. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
- D. If mounted on a rooftop, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.

§ 150-84. Lighting, signage, and security.

- A. Lighting: The mounts of PWSF's 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. Footcandle measurements at the property line shall be 0.0 initial footcandle.
- B. Signage: Signs shall be limited to those needed to identify the property and the owner and to warn of any danger. All signs shall comply with the requirements of Article VI of the Sandwich Zoning Ordinance.

- C. Security barrier: The Planning Board shall have final authority on whether a security barrier should surround a ground-mounted PWSF.

§ 150-85. Historic buildings and districts.

- A. Any PWSF located on or within an historic structure shall not alter the character-defining features, distinctive construction methods or original historic materials of the building.
- B. Any alteration made to an historic structure to accommodate a PWSF shall be fully reversible.
- C. PWSF's authorized by this section shall be concealed within or behind existing architectural features or shall be located so that they are not visible from public roads and viewing areas.
- D. PWSF's located in the Town of Sandwich Historic District shall comply with the provisions of the Historic District Commission.

§ 150-86. 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. A buffer of dense tree growth, as per § 150-81F shall surround all ground-mounted PWSF's.

§ 150-87. Driveways.

If available, existing entrances and driveways to serve a PWSF 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 PWSF shall not exceed 12 feet in width. A gravel or crushed stone surface is encouraged.

§ 150-88. 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 feet, exclusive of the diameter of the mount. A larger diameter antenna array may be permitted after a finding by the Planning Board that the visual impacts of a larger antenna array are negligible.

§ 150-89. 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 apart of a reconstruction project permitted under § 150-79B.

§ 150-90. Hazardous waste.

No hazardous waste shall be discharged on the site of any PWSF. If any hazardous materials are to be used on site, there shall be provisions for full containment of such

materials. An enclosed containment area shall be provided, with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.

§ 150-91. Radio frequency radiation (RFR) standards.

All equipment proposed for a PWSF shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation (FCC Guidelines), under Report and Order, FCC 96-326, published August 1, 1996, and all subsequent amendments.

§ 150-92. Maintenance, monitoring and security for removal.

- A. Maintenance. The owner of the facility shall maintain the PWSF in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier and the 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 Sandwich may enter the subject property to obtain RFR measurements at the expense of the carrier. The Town shall provide reasonable written notice to the carrier and landowner and provides them the opportunity to accompany the Town representatives when the measurements are conducted.
- C. Security for removal. Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall require the applicant to post a Performance Security (See Chapter §150-5 Definitions), 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 §150-93B (See Performance Security in §150-5 Definitions). Additionally, the amount of the Performance Security shall be based upon the removal cost plus 15%, provided by the applicant and certified by an independent 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 an independent professional structural engineer licensed in New Hampshire every five years from the date of the site plan approval by the Planning Board. If the cost has increased more than 15%, the owner of the facility shall be required to increase the amount of the Performance Security pro rata. [Amended 3-13-12]

§ 150-93. Abandonment or discontinuation of use.

- A. Notification. At such time that a carrier plans to abandon or discontinue operation of a PWSF, such carrier will notify the Town of Sandwich by certified US mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 60 days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the PWSF shall be

considered abandoned upon such discontinuation of operations.

- B. Removal. Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the PWSF within 90 days of 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 PWSF 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 order of the Chairman of the Planning Board, then the Board of Selectmen shall, after holding a public hearing with notice to the owners 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 90 days, the Town of Sandwich may execute the security to pay for this action.

ARTICLE XIV
Administration, Amendment, Enforcement and Penalty

§ 150-94. Administration.

This Zoning Ordinance shall be administered by the Board of Selectmen. Where additions, replacements or improvements to septic systems are involved, permits shall be required from both WSPCD and the Town, regardless of the cost thereof. The Selectmen shall also be notified of the change in use of any building or premises.

§ 150-95. Inspection.

The Board of Selectmen or Building Inspector shall have freedom of access at reasonable hours for inspection purposes.

§ 150-96. Permit period.

Work must commence no later than six months from the time of issuance of the permit.

§ 150-97. Amendment.

This ordinance, in accordance with RSA 675:3 and 675:4, may be amended only by majority vote of the voters of the Town of Sandwich on an official ballot. Such amendment may be proposed by the Planning Board, the Board of Selectmen, or may be initiated by petition of not less than 25 voters. However proposed, at least two public hearings must be held on each amendment before submission to the decision of the voters.

§ 150-98. Appeal.

Appeals by any person affected by a decision of an administrative officer involving the construction, interpretation or application of the terms of the Zoning Ordinance shall be made to the Board of Adjustment. An administrative officer includes any official or board who has responsibility for issuing permits or certificates under the ordinance, or for enforcing the ordinance, and may include a building inspector, board of selectmen, or other official or board with such responsibility. Appeals must be filed within 30 days of the date of the decision. [Amended 03-10-15]

§ 150-99. Enforcement.

- A. Upon a determination by the Board of Selectmen that a violation of these regulations has occurred, the Selectmen may institute appropriate action or proceedings to prevent, restrain, abate, or correct such unlawful action.
[Amended 03-10-15]

B. PERFORMANCE SECURITY (See Chapter §150-5 Definitions)

The Planning Board may require the applicant to post a Performance Security (§150-5 Definitions). The Planning Board may require, at the applicant's expense, a review of the submitted plans by an independent State of NH Registered

Professional Engineer to develop a cost estimate for the Performance Security. The purpose(s) of such review will be to assist the Planning Board in setting the amount of the Performance Security, and to insure that the Application adequately addresses all issues related to the Town's interests (as defined by Town of Sandwich Ordinances and Regulations). The Planning Board, with advice from Town's Counsel, shall work with Engineer to reach approval of the Engineer's cost estimate before the Applicant obtains the Performance Security. The Performance Security shall not be released until the Planning Board is satisfied that the project plan has been accomplished and is satisfied that all conditions of the site plan approval and any other pertinent zoning ordinance, subdivision regulation and building regulation requirements have been met, except that the Board of Selectmen shall have the authority to release Performance Security posted for road improvements, after review and comment by the Planning Board. [Added 3-13-12]

§ 150-100. Penalties. [Amended 3-9-2004]

Any person, firm, or corporation that violates any of the provisions of these regulations shall be punishable by a fine of not more than \$275 for each day that such violation continues, in accordance with the provisions of RSA 676:17.

ARTICLE XV
Variations and Special Exceptions

§ 150-101. Variations.

The Board of Adjustment may, upon appeal in specific cases, authorize a variation from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. The granting of such a variation will conform with the requirements stipulated in RSA 674:33 as amended or revised. Pursuant to RSA 674:33 I-a, variations approved by the Board of Adjustment shall be valid if exercised within two (2) years of the date of final approval. [Amended 03-11-2014]

§ 150-102. Special exceptions.

- A. The Board of Adjustment shall hear and decide special exceptions to the terms of the ordinance regarding permitted uses in the Rural/Residential, Village, Historic, and Shoreland Districts pursuant to RSA 674:33, provided special exceptions as permitted uses are in conformity with the standards specified herein. The proposed use shall not cause any hazard to health, property, or property values through fire, traffic, unsanitary conditions, or through excessive noise, vibration, odor, glare or other nuisances. In acting on such exceptions, the Board [of Adjustment] shall take into account the general purpose and intent of this ordinance to preserve community values.

Before granting a special exception, the Board of Adjustment shall determine that the foregoing requirements are met. Additionally the Board shall determine:

- (a) A letter of denial or cease and desist order was issued with respect to the requested special exception by any other Town authority of competent jurisdiction;
- (b) The site is appropriate for the proposed use or structure;
- (c) The proposal is not injurious or detrimental to the neighborhood;
- (d) There will not be undue nuisance or serious hazard to pedestrian or vehicular traffic; and
- (e) Adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use or structure.

The Board may approve or deny, for reason, a special exception application. In approving a special exception, the Board may impose such additional conditions as it finds reasonable and appropriate to safeguard the neighborhood or otherwise serve the purpose of the Ordinance. [Amended 3-08-11]

- B. Application. Applications for such a special exception shall be accompanied by

duplicate plans showing the location of all buildings, parking areas, traffic access, and circulation drives, open spaces, landscaping, lighting, and other pertinent information that may be necessary to determine that the proposed use meets the requirements, spirit and intent of this ordinance.

- C. Expiration of permit. A permit for a special exception to permitted uses shall expire if such use shall cease for more than one year.
- D. Village Zoning District [Added 03-10-15]. Within the Village Zoning District, which includes the Historic Overlay District, special exceptions may be granted for the following uses: inns, retail stores, restaurants, professional offices, studios, respite centers, banks, auto repair shops, nursing homes, and conversions of an existing structure to mixed or multi-use and / or commercial use. The Board of Adjustment shall hear and decide special exceptions within all districts.

Special exceptions within the Village Zoning District may be granted for additions or expansions to nonconforming structures when the additions or expansions comply with current setback requirements, or:

- (a) Are no taller than the highest roofline of the existing structure; and
 - (b) Involve no more than a fifty-percent increase in the square foot area of the first floor of the existing structure, not including porches, decks, chimneys, etc. within any ten-year period; and
 - (c) Meet all other setback requirements.
 - (d) The property must be served by a state and Town approved septic system or the Town Sewer System and not be in conflict with § 150-127 A or § 150-46 of this ordinance.
- E. Rural/Residential Zoning District. Special exceptions may be granted for the following uses within the Rural/Residential District: auto service and repair shops, sawmills, inns, retail stores, restaurants, business and professional offices and studios. Common carrier wireless exchange access services are only permitted in the Rural/Residential District pursuant to issuance of a special exception and site plan review approval. [Amended 3-9-2004 & 3-11-08]
- F. Shoreland Overlay District.
 - (1) The Board of Adjustment shall hear and decide special exceptions to the terms of this ordinance regarding setbacks in the Shoreland District pursuant to RSA 674:33, provided special exceptions as to permitted setbacks are in conformity with the requirements listed herein.
 - (2) Special exceptions within the Shoreland District may be granted for additions or expansions to nonconforming structures when the additions or expansions comply with current setback requirements, or:
 - (a) Are no closer than the existing nonconforming structure to the high-water line; and

- (b) Are no taller than the highest roofline of the existing structure; and
- (c) Involve no more than a fifty-percent increase in the square foot area of the first floor of the existing structure, not including porches, decks, chimneys, etc. within any ten-year period; and
- (d) Meet all other setback requirements.
- (e) The property must be served by a state- and Town-approved septic system and not be in conflict with § 150-7D(2)(c) or 150-46 of this ordinance.

ARTICLE XVI
Small Wind Energy Systems
[Added 3-9-10]

§ 150-103. Purpose.

This small wind energy systems ordinance is enacted in accordance with RSA 674:672-66, and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to accommodate small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

§ 150-104. Definitions.

METEOROLOGICAL TOWER (met tower) - Includes the tower, base plate, anchors, guy wires and hardware, anemometers, wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this ordinance, met towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

MODIFICATION - Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

SHADOW FLICKER - The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

SMALL WIND ENERGY SYSTEM - A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

SYSTEM HEIGHT - The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.

TOWER - The monopole, guyed monopole or lattice structure that supports a wind generator.

TOWER HEIGHT - The height above grade of the fixed portion of the tower excluding the wind generator.

WIND GENERATOR - The blades and associated mechanical and electrical conversion components mounted on the top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

§ 150-105. Application and site plan requirements.

- A. Building Permit: Small wind energy systems and meteorological towers are an accessory use permitted in all zoning districts where structures of any sort are allowed, except within the Village Zoning District and the Historic Overlay District, where small wind energy systems and meteorological towers are hereby prohibited. No small wind energy system shall be erected, constructed, or installed without first undergoing a site plan review and receiving a building permit. A site plan review and building permit shall be required for any physical modification to an existing small wind energy system. Meteorological towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.
- B. Abutter and Regional Notification : In accordance with RSA674:66, the applicant shall notify all abutters by certified mail upon application for a site plan review. During the site plan review the application shall be reviewed for regional impacts per RSA 36:55. If the application is determined to have regional impacts, the Planning Board shall follow the procedures set forth in RSA 36:57, IV.

§ 150-106. Installation standards.

- A. Setbacks: Setbacks shall be measured from the center of the tower to property line, public roads, or nearest point on the foundation of an occupied building.
 - (1) Setback from occupied building on participating landowner property: none
 - (2) Setback from occupied building on abutting property: 150% times system height
 - (3) Setback from property lines of abutting property and utility lines: 120% times system height.
 - (4) Setback from public roads: 150% times system height.
 - (5) Guy wires used to support the tower are exempt from the small wind energy system setback requirements.
- B. Tower: The maximum allowed tower height is 150 feet.
- C. Sound Level: The small wind energy system shall not exceed 55 decibels using the A scale (dba), as measured at the site property line, except during short-term events such as severe wind storms and utility outages
- D. Shadow Flicker: Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts.
- E. Signs: All signs including flags, streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
- F. Aviation: The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.

- G. Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

§ 150-107. Abandonment.

At such time that a small wind energy system is scheduled to be abandoned or discontinued, the owner will notify the Selectmen by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from that date. The period may be extended at the request of the owner at the discretion of the Selectmen. "Physically remove" shall include, but not be limited to :

- a. Removal of the wind generator and tower and related above-grade structures.
- b. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading of below-grade foundation may remain in its same condition at the initiation of abandonment.

In the event that an owner fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12 month period. After the 12 months of inoperability, the selectmen may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from the Notice receipt date. After review of the information provided by the owner, the selectmen shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the selectmen shall withdraw the Notice of Abandonment and notify the owner of the withdrawal. If the owner fails to respond to the notice of Abandonment or if, after review by the selectmen, it is determined that the small wind energy system has been abandoned or discontinued, the owner shall remove the wind generator and tower at the owner's expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the selectmen may pursue legal action to have the small wind energy system removed at the owner's expense.

§ 150-108. Violation.

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt from this ordinance except when modifications are proposed to the small wind energy system.

Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by RSA 676:17.

ARTICLE XVII
Sandwich Groundwater Protection Ordinance
[Added 3-08-11]

§ 150-109. Authority.

The Town of Sandwich hereby adopts this ordinance pursuant to the authority granted under RSA 674:16, in particular RSA 674:16-II relative to innovative land use controls.

§ 150-110. Purpose.

The purpose of this ordinance is, in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas within the Groundwater Protection District.

The purpose is to be accomplished by regulating land uses which could contribute pollutants to aquifers that are identified as needed for present and/or future water supply.

See Article XVII. §150-113 for applicability to preexisting uses.

§ 150-111. Definitions.

1. **AQUIFER:** a geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.
2. **BIOSOLIDS:** organic solid, semi-solid, or liquid by-product of the wastewater treatment process that meet EPA standards for land application, which include reduction or elimination of pathogens and very low limits for heavy metals, are referred to as Biosolids.
3. **GASOLINE STATION:** that portion of a property where petroleum products are received by tank vessel, or tank vehicle and distributed for the purposes of retail sale of petroleum products including, but not limited to: gasoline, kerosene, and diesel fuel.
4. **GROUNDWATER:** subsurface water that occurs beneath the water table in soils and geologic formations.
5. **IMPERVIOUS:** not readily permitting the infiltration of water.
6. **IMPERVIOUS SURFACE:** a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt, earthen, wooden, or gravel surfaces, or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.
7. **JUNKYARD:** an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary landfills. The word does not include any motor vehicle dealers registered with the director of motor vehicles under

- RSA 261:104 and controlled under RSA 236:126.
8. **OVERLAY DISTRICT:** a district that is superimposed over one or more zoning districts or parts of districts and that imposes specified requirements that are in addition to those otherwise applicable for the underlying zone.
 9. **OUTDOOR STORAGE:** storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.
 10. **PETROLEUM BULK PLANT OR TERMINAL:** that portion of the property where petroleum products are received by tank vessel or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, tank vehicle, portable tank, or container.
 11. **PUBLIC WATER SYSTEM:** a system for the provision to the public of piped water for human consumption, if such system has at least 10 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.
 12. **REGULATED SUBSTANCE:** any of the following, with the exclusion of ammonia, sodium hypochlorite, sodium hydroxide, acetic acid, sulfuric acid, potassium hydroxide, and potassium permanganate: (1) Oil as defined in RSA 146-A:2, III; (2) Any substance that contains a regulated contaminant for which an ambient groundwater quality standard has been established pursuant to RSA 485-C:6; and (3) Any substance listed in 40 CFR 302, 7-1-05 edition.
 13. **SANITARY PROTECTIVE RADIUS:** the area around a public water supply well which must be maintained in its natural state as required by Env-Dw 301 or Env-Dw 302 (for community water systems); Env-Ws 373.12 and Env-Ws 372.14 (design standards for small community and non-community public water systems, respectively). The radius shall be 150 feet.
 14. **SEASONAL HIGH WATER TABLE:** elevation of the highest annual average groundwater table location and soils data.
 15. **SECONDARY CONTAINMENT:** a structure such as a berm or dike with an impervious surface which is adequate to hold at least 110% of the volume of the largest container holding regulated-substances. Secondary containment areas must be covered if regulated substances are stored outside.
 16. **SLUDGE:** sludge is an organic solid, semi-solid, or liquid by-product of the wastewater treatment process. Sludge characteristics vary depending on each treatment facility's waste stream and the processes that are used.
 17. **SLUDGE MONOFILL:** a landfill or trench in which sewage sludge and/or septage is the only type of solid waste placed.
 18. **SNOW DUMP:** for the purposes of this ordinance, a location where snow which is cleared from roadways and/or motor vehicle parking areas is placed for disposal.
 19. **STRATIFIED-DRIFT AQUIFER:** a geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated

- permeable material to yield significant quantities of water to wells.
20. SURFACE WATER: streams, lakes, and ponds, including marshes, water-courses and other bodies of water, natural or artificial.
 21. WELLHEAD PROTECTION AREA: the surface and subsurface area surrounding a water well or wellfield supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield; as defined in Env-Dw 301.07 and Env-Dw 302.08.

§ 150-112. Groundwater Protection District.

The Groundwater Protection District is an overlay district which is superimposed over the existing underlying zoning and includes within its boundaries the Stratified-drift Aquifers in Sandwich as defined in the Geohydrology and Water Quality of Stratified-Drift Aquifers in the Saco and Ossipee River Basins, east-central New Hampshire (USGS 1995). Also to include the most current Wellhead Protection Areas approved by NH Department of Environmental Services or Sandwich Planning Board.

District Boundary Disputes: If the location of the Groundwater Protection District in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through application for determination to the Planning Board. The burden of proof shall be upon the owner(s) of the land to demonstrate where the boundaries of the district with respect to their individual parcel(s) of land should be located. Upon application for determination, the Planning Board may engage a professional engineer or geologist as specified in NH RSA's Env-Dw 301 and 302, at the expense of the owner(s) for the cost of the investigation. Based on evidence and findings, the Planning Board may adjust the boundary of the Groundwater Protection District or reduce or expand the designation area to more correctly define the location and the extent of the aquifer on a site-specific, case by case basis.

§ 150-113. Applicability.

This Ordinance applies to all uses in the Groundwater Protection District, except for those uses exempt under Article XVII. §150-118 (Exemptions) of this Ordinance.

Preexisting uses not specifically exempt shall comply with Article XVII. §150-117, Performance Standards, 1 thru 7. In addition, preexisting Conditional Uses shall comply with Performance Standard 8.c.

§ 150-114. Permitted Uses.

All uses permitted by right or allowed by special exception in the underlying district that are also located within the Groundwater Protection District remain

permitted by right or special exception, as applicable, unless they are Prohibited Uses under this Ordinance.

Uses identified as Conditional Uses under this Ordinance also require a Conditional Use Permit. In the instance that both a Special Exception and a Conditional Use Permit are required, the Special Exception shall be approved prior to the Conditional Use Permit.

All uses must comply with the Performance Standards unless specifically exempt under Article XVII. §150-118.

See Article XVII. §150-113 for applicability to preexisting uses.

§ 150-115. Prohibited Uses.

The following uses are prohibited in the Groundwater Protection District:

1. The development or operation of a hazardous waste disposal facility as defined under RSA 147-A;
2. The development or operation of a solid waste landfill;
3. The outdoor storage of road salt or other deicing chemicals in bulk;
4. The development or operation of a junkyard;
5. The development or operation of a snow dump;
6. The development or operation of a wastewater or septage lagoon;
7. The development or operation of a petroleum bulk plant or terminal;
8. The development or operation of gasoline stations;
9. The development or operation of sludge monofills;
10. Storage of animal manure unless covered or contained in accordance with the specifications of the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 2005, and any subsequent revisions;
11. Facilities that generate, treat, store, or dispose of hazardous waste subject to Env-Hw 500-900 except for:
 - a. household hazardous waste centers and events regulated under Env-Hw 401.03(b)(1) and Env-Hw 501.01(b); and
 - b. water remediation treatment works approved by NH DES for the treatment of contaminated ground or surface waters.
12. Storage of regulated substances in greater than household quantities (> 5 gallons), unless in a free-standing container within a building or above ground with covered secondary containment adequate to contain 110% of the largest container's total storage capacity;
13. Storage of fertilizers, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff.

§ 150-116. Conditional Uses.

The Planning Board may grant a Conditional Use Permit for a use which is otherwise permitted within the underlying district, if the permitted use is involved in one or more of the following:

1. Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan, in accordance with Article XVII. §150-117 (8c), is approved by the Sandwich Board of Selectmen, or their designated agent;
2. Any use that will render impervious more than 15% of any lot.
3. In granting a Conditional Use Permit:
 - a. The Planning Board must determine that the proposed use is not a prohibited use;
 - b. The proposed Conditional Uses must comply with the Performance Standards in Article XVII. §150-117 as well as all applicable local, state and federal requirements; and
 - c. The Planning Board may, at its discretion, require a performance or other surety bond, in an amount and with conditions satisfactory to the Board, to ensure completion of construction of any facilities required for compliance with the Performance Standards.
4. The Planning Board may require that the applicant provide data or reports prepared by a NH licensed professional geologist or engineer to assess any potential damage to the aquifer that may result from the proposed use. The Planning Board shall engage such professional assistance as it requires at the expense of the applicant to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria.

§ 150-117. Performance Standards.

The following Performance Standards apply to all uses in the Groundwater Protection District unless exempt under Article XVII. §150-118:

1. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 2005, and any subsequent revisions;
2. All regulated substances stored in containers with a capacity of 5 gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;
3. Facilities where regulated substances are stored must be secured against unauthorized entry.
4. Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least 125 feet from surface water or storm drains, at least 75 feet from private wells, and outside the sanitary protective radius of wells used by public water systems;
5. Secondary containment with a cover must be provided for outdoor storage of regulated substances if an aggregate of regulated substances exceeding

- 5 gallons are stored outdoors on any particular property;
6. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another;
 7. Prior to any land disturbing activities, all inactive or abandoned wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with We 604 of the New Hampshire Water Well Board Rules.
 8. In addition, applicants for Conditional Uses shall:
 - a. Develop and submit a stormwater management and pollution prevention plan that shall include information consistent with Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators. (US EPA 2009) The plan shall demonstrate that the use will:
 - i. Minimize the release of regulated substances into stormwater through a source control plan that identifies pollution prevention measures;
 - ii. Demonstrate that stormwater systems are designed to treat expected contaminants sufficiently in order to ensure that groundwater quality will not be degraded and result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary;
 - iii. Stipulate that expansion or redevelopment activities may, at the discretion of the Planning Board, require an amended stormwater plan; and
 - iv. Not infiltrate stormwater through areas containing contaminated soils without completing a Phase I Assessment in conformance with ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI).
 - b. For any use that will render impervious more than 15% of any lot, a stormwater management plan shall also be consistent with the New Hampshire Stormwater Manual Volumes 1-3, December 2008, NH Department of Environmental Sciences. The Planning Board, at its discretion, may waive this requirement if it determines that there is no chance that stormwater from the proposed use and/or development will affect surface or groundwater on or off the property.
 - c. For any use of regulated substances, a spill control and countermeasure (SPCC) plan shall be submitted to the Board of Selectmen, or their designated agent, who shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods or fires that may cause large releases of regulated substances. The SPCC plan shall include:
 - i. A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas;
 - ii. Contact list and phone numbers for the facility response

coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment;

- iii. A list of all regulated substances in use and locations of use and storage;
- iv. A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure;
- v. A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.

§ 150-118. Exemptions.

The following uses are exempt from the specified provisions of this ordinance provided they comply with all other applicable local, state, and federal requirements:

- 1. Any private residence is exempt from the Performance Standards set forth in Article XVII;
- 2. A mobile fuel tank specifically manufactured for the purpose of being transported from site to site for the sole purpose of fueling motor vehicles and/or equipment, provided fuel transfers are conducted over an impervious area and utilize portable spill containment equipment with trained personnel present during transfers. Said tank, transportation and fueling shall comply with all other applicable Regulations.
- 3. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks (except for liquid propane) are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Performance Standard 3;
- 4. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards 3 through 6.
- 5. Storage and use of office supplies is exempt from Performance Standards 3 through 6;
- 6. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards 3 through 6 if the construction materials are incorporated within the site development project within twelve months of their deposit on the site;
- 7. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance;
- 8. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Hw 401.03(b)(1) and 501.01(b) are exempt from Performance Standards 3 through 6;
- 9. Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Article XVII. §150-120 of this ordinance.

§ 150-119. Relationship between State and Local Requirements.

Whenever a provision of this ordinance differs from any and all requirements imposed by the State of New Hampshire, or by some other town ordinance, the provision which imposes the greater restriction or higher standard shall govern.

§ 150-120. Maintenance and Inspection.

1. For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards, shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Carroll County. The description so prepared shall comply with the requirements of RSA 478:4-a.
2. Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Sandwich Board of Selectmen, or their designated agent at reasonable times with prior notice to the landowner.
3. All properties within the Groundwater Protection District known to the Sandwich Board of Selectmen, or their designated agent, as using or storing regulated substances in containers with a capacity of 5 gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance Under Article XVII. §150-118, shall be subject to inspections under this Article.
4. The Board of Selectmen may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided for in RSA 41-9:a.

§ 150-121. Saving Clause.

If any provision of this ordinance is found to be unenforceable, such provision shall be considered separable and shall not be construed to invalidate the remainder of the ordinance.

§ 150-122. Effective Date.

This ordinance shall be effective upon adoption by the voters of Sandwich, March 2011.

ARTICLE XVIII
Village Zoning District General Provisions
[Added 03-10-15]

150-123 Purpose – Center Sandwich Village Zoning District: Center Sandwich is located at the convergence of several primary roads that pass through Sandwich and represents the center of social and economic activity in town. Owing to its greater number and concentration of buildings and its mix of residential, retail, and government and institutional uses, Center Sandwich is generally regarded as the activity center of the entire community.

A viable village needs to have a concentration of buildings, contain a mix of land uses, and most importantly, serve as a focal point for the community. Village Zoning District requirements more accurately reflect the dimensional characteristics currently and historically found in the village center. They provide the detailed regulatory guidance needed to retain the compact character of the village. Valuing the unique circumstances of the village leads Sandwich to adopt a specific village zoning district.

150-124 Lot area

- A. The minimum lot size permitted shall be 43,560 square feet (one acre) of unrestricted area.
- (1) In the case of multiple-unit structures, the minimum lot size permitted shall be 100,000 square feet of unrestricted area.
 - (2) No more than one principal structure shall be allowed on any existing or newly subdivided lot regardless of the size of the lot. Minimum lot sizes for cluster developments are specified in Article IV.
 - (3) No more than one dwelling is permitted on a lot unless specifically permitted pursuant to this ordinance.
 - (4) Structures on a lot one acre or less shall have a footprint no greater than 4,000 square feet.
 - (5) Structures on a lot greater than one acre shall have a footprint no greater than 7,000 square feet.
 - (6) Lot coverage shall be no greater than 50% or 15,000 square feet of impervious surface including gravel driveways and parking areas, excepting wells and septic systems, whichever is smaller.
- B. Exceptions to permitted lot size and road frontage on a public or private way. Lots of record which do not meet the minimum lot size requirements and/or frontage requirement on a public or private way, may not be built on until given a special exception by the Board of Adjustment. See also § 150-102. The Board of Adjustment shall determine that all structures, septic systems, or development will

conform to current setback requirements and that building on the lot will not be detrimental to public health or in violation of the purpose of this ordinance as expressed in § 150-4.

§ 150-125. Lot frontage.

Lots which front on a public or private way shall be required to have not less than eighty (80) feet of frontage. This does not apply to a lot which is the only lot at the end of a street or right-of-way. Minimum frontage for multiple-unit property containing multiple-unit structures or nonresidential developments may be required by the Planning Board to exceed eighty (80) feet, to a maximum of one hundred sixty (160) feet depending upon the number of units and individual building layouts and configurations.

§ 150-126. Building height.

No building shall be constructed with an overall height exceeding 32 feet above the average ground level at the building foundations. This provision shall not apply to church steeples, chimneys, cupolas, silos, barns and home antennas or similar slender, normally unoccupied, structures.

§ 150-127. Setbacks.

A. Septic tanks and leach fields.

- (1) Setback from high-water mark of any lake, pond, stream or wetland: 125 feet.
- (2) Setback from side or back lines: 25 feet.
- (3) Setback from edge of right-of-way: 25 feet.
- (4) The toe of a leach field slope shall not be less than 10 feet from the property line or right-of-way. (See special provisions in § 150-51.)

B. Private water wells. Water wells serving individual residences shall be located a minimum of 75 feet from septic system leach fields, septic tanks, and property lines. However, protective well radii may be reduced to a minimum of 50 feet where conditions comply with NH Code of Administrative Rules, Part We 602 and Env-ws 1008.

C. Principal structures and Bunkhouses / Sleeping Cabins

- (1) Setback from center line of any road or street: 35 feet.
- (2) Setback from any lot side or back lines or edge of right-of-way: 15 feet.
- (3) Setback from high-water mark of any lake, pond, stream or wetland: 100 feet.

D. Accessory structures.

- (1) Setback from high-water mark of any lake, pond, stream or wetland:
 - (a) If structure is waste-producing: 100 feet.

- (b) If structure is not waste-producing: 50 feet.
 - (2) Setback from any side or back lines: 10 feet.
 - (3) Setback from any road center line: 35 feet.
 - (4) Setback from the edge of any right-of-way: 15 feet.
- E. Expansion/Creation of nonconforming structures.
- (1) Structures legally established, but not conforming to present setback requirements, may be expanded in size, provided the setbacks to the expanded structure are not less than the nonconforming setbacks to the original structure.
 - (2) Nonconforming dwellings as of March 5, 1974, may be demolished and reconstructed on the same footprint within one year.
 - (3) When handicapped access ramps are required they are exempt from setback requirements.
- F. Attached garages. A garage may be attached to a dwelling which existed prior to March 12, 1997, as long as the garage meets the requirements for an accessory structure and is not used to expand the dwelling space.

§ 150-128. Multiple-unit structures and commercial building location.

Building locations shall meet all standards established in § 150-127, preceding.

§ 150-129. Site plan requirements.

Site plans must be submitted for development, change or expansion of all nonresidential uses, for all residential cluster development, and for multiple-unit residential development of more than two units. See §§ 150-28 and 150-32 preceding. The Planning Board shall, as established by the Site Plan Review Regulations of Sandwich,²⁴ assure that the site usage is compatible with the objectives of the Town as expressed in its Master Plan.