TOWN OF BARNSTEAD

ZONING ORDINANCE

AS PROPOSED MARCH 10, 2015

"When men enter into a state of society, they surrender up some of their natural rights to that society in order to ensure the protection of others; and, without such equivalent, the surrender is void."

From the Constitution of New Hampshire (Art. 3-d)

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TOWN OF BARNSTEAD ZONING ORDINANCE
AS PROPOSED MARCH 10, 2015

ARTICLE 1
PREAMBLE
(Amended 3/12/91 and 3/9/04)

Section 1-1: Authority

Pursuant to the authority vested in the Barnstead Planning Board by the voters of the Town of Barnstead by a vote of the Town Meeting on March 9, 1971, and in accordance with the provisions of the New Hampshire Planning & Land Use Regulations, Chapter 674, Sections 16-23 and Sections 35-42, as amended, this proposed Planning & Land Use Ordinance has been prepared.

Section 1-2: Purpose

The purpose of this Ordinance is to retain Barnstead's beauty, its rural charm, its freedom of movement and its good will; and further to:

(1) Promote the health, safety, and general welfare of the community;
(2) Encourage the most appropriate use of land throughout the Town;
(3) Help conserve the value of buildings;
(4) Lessen congestion on the streets, prevent overcrowding of land, and avoid undue concentration of population;
(5) Secure safety from fires, panic and other dangers;
(6) Provide adequate light and air;
(7) Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
(8) Conserve natural resources;
(9) Protect groundwater resources from adverse development or land use practices (such as, but not limited to, the disposal or storage of solid wastes, sludge, subsurface waste disposal, road salting materials, gas or other petroleum products) that might reduce the quality and quantity of water that is now and will be, in the future, available for use by the municipality, individuals and industries;

This Ordinance will help enable the citizens of Barnstead in preserving their community as a wholesome and healthy place for their children and future generations to live, work and to play.

Section 1-3: Conflicting Provisions

Whenever the Regulations made under the authority hereof differ from those prescribed by any Statute, Ordinance, or other Regulation, that provision which imposes the greater restriction or the higher standard shall govern.

Section 1-4: Amendments (Amended 3/12/91)

This Ordinance may be amended by a majority vote of any legal Town Meeting when such amendment has received at least one (1) public hearing by the legislative body. Each hearing having been advertised and given a legal ten (10) day notice, and has the question printed on the official ballot of the Town Meeting, to be answered "yes" or "no", as required by RSA 675:3 as amended.

Section 1-5: Saving Clause

If any section, clause, provision, portion or phrase of this Ordinance shall be held to be invalid or unconstitutional by any Court or competent authority, such holding shall not affect, impair, or invalidate any other section, clause, provision, portion, or phrase of this Ordinance.

Section 1-6: Effective Date

This Ordinance shall take effect on the date of passage. Original "Planning & Land Use Ordinance" was enacted on March 9, 1971.

ARTICLE 2
DEFINITIONS
(Amended 3/11/14)

a. Section 2-1: Definitions

Words used in the present tense include the future; the singular includes the plural, and the plural the singular; the word "lot" includes the word "plot" or "plat"; and the word "building" includes the word "structure".

Abutter: Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Barnstead Planning Board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by the Barnstead Planning Board of a public hearing in the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B:3, XXIII.

Accessory dwelling unit: A one-bedroom secondary dwelling unit constructed either within an existing building or within a building constructed for that purpose, which is subordinate to the primary dwelling. (Added 3/9/10)

Accessory structure: A structure detached from the primary building on the same lot which is customarily incidental and subordinate to the primary building or use, such as a pump house, gazebo or woodshed.

Accessory use: A use or structure naturally and normally incidental and subordinate to the main use of the premises.

Agricultural use: Any land, buildings or structures on or in which agriculture and farming operations are carried on and shall include the residence of the owner, occupants, or employees located on such land. The words "agriculture" and "farming" shall mean all operations of a farm such as the cultivation, conserving, and tillage of the soil; dairying; greenhouse operations; the production, cultivation, growing of agricultural, floricultural, sod or horticultural commodities; forestry or lumbering operations; the raising of livestock, bees, fur-bearing animals, fresh water fish or poultry; or any practices on the farm which are incidental to or in conjunction with such farming operations, including the marketing and selling of what is grown or harvested on the property.

Animal feedlot: A plot of land on which twenty-five (25) livestock or more per acre are kept for the purpose of feeding.

Aquifer: Geologic formation composed of rock or sand gravel that contains significant amounts of potentially producible potable water.

Aquifer Recharge Areas: Porous permeable geologic deposits that can absorb precipitation and allow it to percolate down to the water table and flow into the aquifer.

Applicant: The owner or agent of the owner of record of the land to be subdivided, including any subsequent owner of record who makes application to the Planning Board for the subdivision of land pursuant to these subdivision regulations.

Application, Complete: Shall mean the application form and all supporting documents, as specified in these regulations, that contains all the information the Planning Board requires or needs to review a subdivision proposal and make an informed decision.

Application, Accepted: An application, which is considered complete and ready for review and consideration by the Board. A majority vote by the Board shall indicate formal acceptance.

Approval: Recognition by the Board certified by written endorsement on the plat, that the final plat submission meets the requirements of these Regulations and satisfies, in the judgment of the Board, all criteria of good planning and design.

Basal Area: The cross sectional area of a tree measured at a height of four and one-half (4-1/2) feet above the ground, usually expressed in square feet per acre for a stand of trees.

Base map: Any map drawn to scale which is public record i.e., A USGS topographic map, the Town Zoning Map, or the Town Tax Map.

Board: Shall mean the Planning Board of the Town of Barnstead.

Boat slip: An area of water twenty (20) feet long and at least two (2) feet deep and six (6) feet in width, measured at and located adjacent to a structure to which a watercraft may be secured.

Building: Any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind and which is constructed and permanently affixed on the land. Such "building" includes open porches, open breezeways, and any other roofed areas. The term "building" shall not be applied to a travel trailer or motor home.

Building Line: An imaginary line running across the width or length of a lot beyond which no portion of the building or associated improvements may project except for chimneys, stairs, bulkheads, ramps and the eaves of the building. The building line shall coincide with the required yard setbacks.

Building Permit: Written permission issued by the proper Town Official authorizing the construction, repair, alteration or addition to a structure.

Business: Activities of buying and selling; trade; commercial dealings, commercial enterprise, industrial establishments. (Added 3/11/08)

Commercial: As defined in the Town of Barnstead Zoning Ordinance.

Commercial towers: Any towers that are used for commercial purposes:

Wireless Telecommunication Facilities – any structure that is designed and constructed primarily for the purpose of supporting one or more antennas constructed from grade, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and alternative tower structures used for similar purposes.

Solar Power Facilities- any structure that is designed and constructed primarily for the support of any solar array for the purpose of generating power for commercial sale.

Wind Power Facilities- any structure that is designed and constructed primarily for the support of any wind powered generator for the purpose of generating power for commercial sale.

All towers must be located as permitted in Article 14, Table 1 of this Ordinance.
All towers must be permitted by the Site Plan Review process. (Added 3/13/12)

Common Open Space: Specifically designated areas of land within an Open Space Preservation Development (OSPD), not individually owned, which is designed and intended for the common use and enjoyment of the residents of the development of the public.

Community Waste Water System: A non-municipal waste water system that serves at least twenty-five (25) individuals daily, year-round or that has at least fifteen (15) service connections.

Condominium: A building or group of buildings in which units are owned individually, and the land on which the structure sits, the common areas within the building and without, and all facilities are owned by all owners on a proportional, undivided basis. Condominiums shall be considered a subdivision under the requirements of RSA 356-B and reviewed accordingly.

Conforming Lot: Any lot meeting the area requirements, wastewater system site requirements, soil classification requirements defined in Section 4-1 and meeting the frontage, setback and shoreland setback and shoreland frontage requirements defined in Section 4-2 shall be considered a conforming lot. (Added 3/9/10)

Construction and Demolition Debris: (Amended 3/14/06*)* Non-putrescible waste building materials and rubble, which is solid waste resulting from the construction, remodeling, repair or demolition of structures or roads. The term includes but is not limited to, bricks, concrete and other masonry materials, wood, wall coverings, plaster, dry wall, plumbing, fixtures, non-asbestos insulation or roofing shingles, asphalted pavement, glass, plastics that are not sealed in a manner that conceals other wastes and electrical wiring and components, incidental to any of the above and containing no hazardous liquid or metals. The term does not include asbestos waste, garbage, corrugated containerboard, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, furniture, appliances, tires, drums and containers, and fuel tanks.

Controlling Road: The road adjacent to a lot that is the most heavily traveled by vehicles. (Added 3/9/10)

Cul-De-Sac: A short, minor local street, having only one end open for vehicular traffic and the other permanently terminated by a turnaround for vehicles. [See Appendix A in the Subdivision Regulations]

Deck: An open area, usually attached to or part of and with direct access to or from a building.

Developer: The owner of land proposed to be subdivided or his representative. For a person other than the owner, proof of consent from the owner is required.

Disturbed Area: An area in which natural vegetation is removed, exposing the underlying soil.

Driveway: A private road which is intended to provide vehicular access from a public or private way to a parking space, garage, dwelling or other structure. A driveway shall provide access to no more than two (2) lots. A driveway shall exit onto an approved street.

Dwelling Unit: A residential unit intended for use by one household or family consisting of dedicated facilities for sleeping cooking and sanitation. (Amended 3/9/10)

Easement: A permanent right of use or access that a person, public utility, or public authority has in or over another person's property, or part thereof.

Engineer: A person licensed in accordance with the RSA 310-A, Sections 2-27, 1955, as amended.

Engineer - Town: The duly designated individual of the Town of Barnstead, if there is no such person, the consultant or official assigned by the Board.

Flood Hazard Area: That portion of land as designated on the most current Flood Insurance Rate Maps or which, on the average, is likely to be flooded once every one hundred (100) years.

Frontage, Shoreline: The width of that portion of a lot which abuts a waterway shall be measured either from side boundary to side boundary along a straight line or in a series of fifty (50) foot lines measured along the high water line.

Frontage, Street: The width of a lot as measured along the line of a street where the lot meets the street.

Ground Cover: Any herbaceous plant, which normally grows to a mature height of four (4) feet or less.

Ground Water: All water found beneath the surface of the ground. In this Ordinance, the term refers to the slowly moving subsurface water present in aquifer recharge areas.

Health Officer: The duly appointed person in the Town of Barnstead who represents the Director of Public Health Service, State of New Hampshire.

Homeowners Association: A private, non-profit corporation, association, or other non-profit legal entity established by the developer to manage and maintain the common property.

Immediate Family: The parent, child, or sibling of a property owner. (Added 3/9/10)

Improvement: Within this Ordinance it shall refer to all work affecting the proposed site including, but not limited to, site grading, streets, drainage, fire protection and public utilities which are required to be installed as part of the approved site subdivision plan.

Lot: A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose of transfer of ownership or for building development. Each individual lot shall be capable of being occupied by only one principal structure or use and its accessory use, and shall conform to dimensions and area requirements in the Barnstead Zoning Ordinance.

Lot Line Adjustment: Shall mean the exchange of abutting land among two or more owners which does not increase the number of owners or number of lots. A lot line adjustment shall not be permitted if by so doing, it creates, worsens or increases a nonconformity in any of the lots affected, e.g., decreases the lot frontage or the lot area beyond what is currently legal; creates a non-conforming yard setback from an existing structure; etc.

Lot of Record: A parcel, the plat or description of which has been recorded at the registry of deeds for the county in which it is located.

Manufactured Housing: Any structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site, is 320 square feet or more, and which is build on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating, and electrical heating systems contained therein (RSA 674:31).

Marina: A waterfront facility whose principal use is the provision of publicly available services for the securing, launching, storing, servicing or repairing of water craft. A marina is a specialized type of commercial use.

Master Plan: Shall mean a plan for development of the Town of Barnstead developed in accordance with the provisions of RSA 674:2.

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

Municipality: The Town of Barnstead.

Natural Woodland Buffer: A forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth.

Non-Conforming Lot: Any lot that does not meet even one of the area requirements, wastewater system site requirements, soil classification requirements defined in the Barnstead Zoning Ordinance, Article 4, Section 4-1 or the frontage, setback and shoreland setback and shoreland frontage requirements defined in the Barnstead Zoning Ordinance, Article 4, Section 4-2 shall be considered a non-conforming lot. All lots in the Suburban District are considered non-conforming lots.

Non-Conforming Use: Any building or land lawfully occupied by a use at the time of passage of this Ordinance, or amendment thereto, which does not conform after the passage of this Ordinance or amendment thereto with the Regulations of the District in which it is situated. A use of land that is non-conforming but which was lawful when established. (Amended 3/9/10)

Open Space Preservation Development (OSPD): A form of residential development that permits housing units to be grouped on sites or lots with dimensions, frontages, and setbacks reduced from the existing Barnstead Zoning Ordinance, providing the density of the tract as a whole shall not be greater than the density allowed by the zoning district under the existing Barnstead Zoning Ordinance.

Ordinary High Water Mark: The line on the shore, running parallel to the main stem of the river, established by the fluctuations, of water indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernible, the Department of Environmental Services may determine the ordinary high water mark.

Patio: See Terrace.

Permitted Septic Designer - Certified: Shall mean a person who has been permitted by the State of New Hampshire for designing septic or sewage disposal systems. (RSA 485-A:35,I)

Person: A corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, a state, and any political subdivision of a state or any agency or instrumentality thereof.

Plat: The map or drawing prepared by a licensed surveyor, depicting the applicant's plan for a subdivision. A legally accepted plat is one that has been approved by the Board and recorded by the Register of Deeds of Belknap County.

Porch: A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building.

Primary Building Line: A setback from the public boundary line.

Primary Roads: Roads, which move traffic to and through the development.

Primary Structure: A structure other than one, which is used for purposes wholly incidental or accessory to the use of another structure on the same premises.

Protective Open Space: Undevelopable land and agricultural land held in common ownership. This land shall not be considered as common open space.

Protected Shoreland: For natural fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies and for coastal water and rivers, all land located within two hundred fifty (250) feet of the public boundary line of public waters.

Public Hearing: A meeting announced and advertised in advance and open to the public. The public is given an opportunity to talk and participate. [RSA 676:4-I (d) (e)].

Public Meeting: Any scheduled meeting of the Planning Board.

Public Waters: Shall include:

A. The following fresh water bodies:

(1) Upper Suncook Lake
(2) Lower Suncook Lake
(3) Huntress Pond a/k/a Pinkham Pond
(4) Lougee Pond a/k/a Skunk Pond
(5) Locke Lake
(6) Lily Lake
(7) Half Moon Pond
(8) Brindle Pond
(9) Adams Pond

B. The Suncook River from the outlet of the Suncook Lakes to the Pittsfield Town Line.

Reference Line: (Amended 3/11/08)

A. For natural fresh water bodies without artificial impoundments, the natural mean high water level as determined by the Water Division of the Department of Environmental Services.

B. For artificially impounded fresh water bodies, the waterline at full pond as determined by the elevation of the top of the impoundment structure.

Rivers, the ordinary high water mark.

Removal or Removed: Cut, sawed, pruned, girdled, felled, pushed over, buried, burned, killed, or otherwise destructively altered.

Residential: As defined by the Town of Barnstead Zoning Ordinance.

Residential Unit: A structure, or portion thereof, providing complete and independent living facilities including permanent facilities for living, sleeping, eating, cooking, and sanitation, which are used in common by one or more persons.

Right of Way: The full width of a strip of land deeded to the Town for highway purposes, or dedicated to public use as a highway, or laid out or established as an access to other parcels of land.

Road Agent: The individual designated by the Town as being in charge of, and responsible for, maintenance and construction of all Town roads and bridges.

Sapling: Any woody plant which normally grows to a mature height greater than twenty (20) feet and has a diameter less than six (6) inches at a point four and one-half (4-1/2) feet above the ground.

Secondary Roads: Roads, which move traffic within the development.

Setback, Building: The shortest distance between a structure and a lot line.

Selectmen: Shall mean the Board of Selectmen of the Town of Barnstead.

Setback, Building: The shortest distance between a structure and a lot line.

Shoreland Protection District: The Shoreland Protection District is an overlay, which is superimposed over the conventional existing zoning and includes within its boundary the protected shore lands adjacent to all public waters within the municipality.

Shoreline Lot: is any lot adjacent to any public waters as defined by the Barnstead Zoning Ordinance and subject to RSA: 483B The Comprehensive Shoreland Protection Act. (Added 3/10/09)

Shrub: Any multi-stemmed woody plant, which normally grows to a mature height of less than twenty (20) feet.

Sign: Any display of lettering, logos, colors, lights, or illuminated neon tubes visible to the public from outside of a building or from a traveled way, which either conveys a message to the public, or intends to advertise, direct, invite, announce, or draw attention to, directly or indirectly, a use conducted, goods, products, services or facilities available, either on the lot or on any other premises.

Site Walk: In which the Board (having a quorum present and having proper notification) visits the site of a proposed project as a public meeting. (See Appendix F in the Subdivision Regulations)

Slope: The average steepness of the land surface under consideration. For the purpose of determining lot size categories, slope shall be determined by slope factors used by the National Cooperative Soil Survey Soil Classification where B=0-8%; C=8-15%; D=15-25%; E=>25%.

Sludge: Residual materials produced by water and wastewater treatment processes and domestic septic tanks.

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

Soil Scientist - Certified: Shall mean a person who has been duly certified by the Board of Natural Scientists under RSA 310-A: 75.

Streams: A defined channel where water flows year round.

Street: Shall mean a public or private avenue, boulevard, roadway, lane, alley, viaduct, highway, or other ways, shown or designated on the Town Map or on a Board approved subdivision plat, and which is intended to accommodate vehicular traffic.

Street, Approved: A Class V or better road or a street on a subdivision plat approved by the Planning Board.

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

Subdivision: As defined in RSA 672:14The division of the lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and when appropriate to the context relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision.

If any of the land indicated on the plat of a proposed subdivision has been part of any previous subdivision, approved, constructed, or created by conveyance no more than twenty (20) years prior to the new proposal, then any such previous subdivision will be treated as part of the new proposal for purposes of analyzing its effect and apply all review criteria.

A. **Major Subdivision:** The subdivision of land into four (4) or more lots; or the subdivision of land into three (3) or fewer lots, with potential for re-subdivision and/or requiring new roads, utilities, or other municipal improvement.

B. **Minor Subdivision:** The subdivision of land into three (3) or fewer lots, with no potential for re-subdivision, and requiring no new roads, utilities or other municipal improvements.

Surveyor: A person licensed in accordance with RSA 310-A, Sections 53-75, 1955, as amended.

Terrace: A level landscaped and/or surfaced area, also referred to as a patio, directly adjacent to a principal building, at or within three (3) feet of a finished grade and not covered with a permanent roof.

Trailer -a manufactured structure that sits on a steel frame chassis with transverse axles that move the structure or that can be easily removed.

Tree: Any woody plant which normally grows to a mature height greater than twenty (20) feet and which has a diameter of six (6) inches or more at a point four and one-half (4-1/2) feet above the ground.

Urbanization: The concentrated development found in the sections of towns or cities where there has been a historic pattern of intensive building for commercial or industrial use, or mixed residential, commercial, and industrial use.

Water dependent structure: A dock, wharf, pier, breakwater, or other similar structure or any part thereof, builds over, on or in the waters of the State.

Wetlands: Shall mean an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas. And as defined by the Department of Environmental Services. (Amended 3/13/07)

Work Force Housing: The Barnstead Planning Board of the Town of Barnstead, New Hampshire, will follow the guidelines for Work Force Housing as set forth in RSA 674:58 paragraphs I through IV in its entirety.

ARTICLE 3
GENERAL PROVISIONS
(Amended 3/9/94)

Section 3-1: Sanitary Systems

Wastewater Treatment Systems shall comply with the requirements of Chapter 149-E, New Hampshire Code of Administration rules Env-WS 1000 Revised Statutes, and with such Rules and Regulations that may be promulgated by the New Hampshire Department of Environmental Services. Existing undersized lots not meeting the Zoning Regulations of the Town, which are to be developed near populated or wetland areas in the Town of Barnstead, will be required to have a holding tank or chemical toilet with gray water leaching field, meeting the required specifications of the Department of Environmental Services Regulations of the State of New Hampshire. This new ordinance is intended to prevent land saturation of septic system effluent in these areas.

Section 3-2: Hazardous Waste

3-2.01 No privately owned or privately operated dump, storage place, or other facility primarily used for the collecting, receiving, processing, reprocessing, treatment, recovery, storage, disposal or burying of hazardous waste shall be maintained within the Town of Barnstead, except by prior permission of the voters of the town obtained at an Annual or Special Town Meeting.

3-2.02 Any individual, partnership, corporation, or entity located in the Town of Barnstead, which produces hazardous waste shall provide for the effective and expeditious removal of such waste from its premises.

3-2.03 No building shall be erected nor any land used for the primary purpose of collecting, receiving, processing, reprocessing, treatment, recovering, or separating of hazardous waste, except by prior permission of the voters of the Town obtained at an Annual or Special Town Meeting.

Section 3-3: Permitted Encroachments (Adopted 3/10/92)

3-3.01 On lots forty thousand (40,000) square feet or less where the width of the lot is less than two hundred (200) feet, the required side yard setbacks may be reduced six (6) inches for every two (2) feet of width that is less than the required two hundred (200) feet, with the limitation that a minimum of fifteen (15) feet shall not be exceeded.

3-3.02 On lots of forty thousand (40,000) square feet or less where the depth of the lot is less than two hundred (200) feet, the required front yard setback and the rear yard setback may be reduced six (6) inches for every two (2) feet of depth that is less than two hundred (200) feet, with the limitation that is minimum front yard of twenty-five (25) feet and a minimum rear yard of twenty (20) feet is not exceeded. However if the houses on the abutting lots observe a front yard of more than twenty-five (25) feet, then the average depth of front yard setback of all such houses, but no greater than fifty (50) feet, shall be the observed minimum.

Section 3-4: Non-Conforming Uses (Adopted 3/9/10)

3-4.01 Existing uses, which are non-conforming under this ordinance, may continue until the use ceases to be active or is discontinued for a period of one year. An existing non-conforming use may not be changed to another non-conforming use; existing non-conforming uses shall be required to meet the shoreland natural buffer, drainage, and related water quality protection requirements of this ordinance to the maximum extent feasible.

Section 3-5: Minimum Housing Standards (Adopted 3/8/11)

3-5.01 The standards set forth in RSA 48-A: 14 are the minimum standards for housing and maintenance of rented or leased premises in the Town of Barnstead.

ARTICLE 4
LOT REQUIREMENTS
(Amended 3/11/08)

Section 4-1: Lot Size

Without regard to size, each building lot in the Town of Barnstead shall be capable of siting an on-lot sewage disposal system that meets the approval of the Water Division as found in New Hampshire Code of Administrative Rules Env-Ws 1000 (Env-Ws1000). The minimum lot size for a single-family unit shall be two acres, eighty-seven thousand and one hundred and twenty (87,120) square feet.

4-1.01 One single-family dwelling unit or one single-family dwelling unit and one one-bedroom accessory dwelling unit shall be allowed on a conforming lot. If required, the capacity of the on-lot septic system shall be increased to accommodate the addition of the accessory dwelling unit. (Added 3/9/10)

4-1.02 An additional twenty thousand (20,000) square feet shall be added to the minimum conforming lot size for each additional single-family dwelling unit under a common roof (i.e. duplex dwelling unit). If required, the capacity of the on-lot septic system shall be increased to accommodate the addition of the second dwelling unit.

4-1.03 All building lots shall have a minimum of twenty thousand (20,000) square feet of soil suitable for receiving layer, as defined by the Water Division in Env-Ws 1002.27. At least four thousand (4,000) square feet of this contiguous area shall be suitable for the sitting of an individual wastewater disposal system.

4-1.04 Group six soils as classified by the Water Division in Env-Ws 1000 and identified in Appendix A of the Town of Barnstead Zoning Ordinance shall not be included in calculating the minimum lot size.

4-1.05 If the building lot is to be serviced by off-lot wastewater and off-lot municipal or approved community water system, the applicant may petition the Planning Board to approve a lot size less than the minimum, but would still be capable of accommodating a single family dwelling unit that meets all the setback requirements contained in section 4-2.03, 4-2.04, 4-2.05 and 4-2.06 of the Town of Barnstead Zoning Ordinance.

4-1.06 No part of a leach field shall be sited less than ten feet from the property boundary of a minimum sized lot.

Section 4-2: Other Lot Requirements

4-2.01 Building

No residential building may be more than two and one-half (2-1/2) stories or thirty-five (35) feet high except farm outbuildings or industrial buildings or office buildings. Any residential structure may house not more than two (2) dwelling units.

4-2.02 Lot Accommodations

Any lot conforming to the requirements of Section 4-1.01 may accommodate either one primary single-family dwelling structure or one single-family primary dwelling structure and one one-bedroom accessory dwelling unit, and any lot conforming to the requirements of Section 4-1.02 may accommodate either one primary single-family dwelling structure or one single-family primary dwelling structure and one one-bedroom accessory dwelling unit or one duplex dwelling unit with two single-family dwelling units under one roof. All lots shall conform to Section 4-1.03. All dwelling units will conform to applicable building and life safety codes. Any lot may accommodate farm outbuildings, garages, sheds or other accessory buildings. These accessory buildings must conform to Regulations set down by this Zoning Ordinance. (Amended 3/9/10)

4-2.03 Frontage

Every building lot shall have a minimum lot frontage of two hundred (200) contiguous feet on a road. (Amended 3/13/07 added contiguous)

4-2.04 Front Yard

Buildings must set back fifty (50) feet from a right-of-way.

4-2.05 Side Line

Building must set back a minimum of thirty (30) feet from the sideline.

4-2.06 Rear Set Back

Building must be a minimum of thirty (30) feet from the rear lot line. (Amended 3/11/08)

4-2.07 Shoreline Lots

There must be fifty (50) feet between the nearest edge of any building and the high water line. There must be at least two hundred (200) feet of shoreline frontage for each dwelling unit. Shoreline frontage shall be measured from side boundary to side boundary along a straight line or a series of fifty (50) foot lines where the lot meets a body of water at the high water line. To allow as a matter of right an open deck up to 8 feet wide from all shoreline lots. (Amended 3/10/09)

Section 4-3: Accessory Dwelling Units (Added 3/9/10)

4-3.01 **A**. Accessory Dwelling Units shall be limited to one bedroom with a minimum of 500 square feet and a maximum of 750 square feet.

B. Adequate septic accommodations shall be provided in accordance with State regulations, either by individual or combined septic systems.

C. Adequate off-street parking shall be provided for the Accessory Dwelling Unit.

D. A second driveway for the Accessory Dwelling Unit shall not be permitted unless it meets the requirements of any Barnstead Driveway Regulations.

E. The accessory dwelling unit shall have an independent address designation from the primary dwelling for the purpose of locating the unit for emergency response purposes.

F. All criteria of the Zoning Ordinance shall be met including, but not limited to, lot sizes, frontages, yard requirements, height requirements, wetlands setbacks and shoreland protection requirements.

G. The requirements of Article 12 **Growth Management Regulations** will apply to any new one-bedroom dwelling unit being added under this Section to a lot with an existing primary dwelling.

H. The requirements of Article 13 **Impact Fees** will not apply to any new one-bedroom dwelling unit being added under this Section to a lot with an existing primary dwelling unit.

ARTICLE 5
NEW HOMES
(Amended 3/9/93)

Section 5-1: Manufactured Housing

5-1.01 Manufactured housing units may be located anywhere in the Town of Barnstead provided they meet all the requirements of the Barnstead Zoning Ordinance.

5-1.02 Each manufactured housing unit shall be constructed to meet or exceed the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401, et seq.).

5-1.03 Each permanently located manufactured housing unit shall be fully skirted and located on a concrete foundation.

5-1.04 No lot shall contain more than one (1) manufactured housing unit.

5-1.05 Anyone intending to locate a manufactured housing unit in the Town of Barnstead shall obtain a permit from the Barnstead Building Inspector.

5-1.06 Manufactured housing units may be located in the Town of Barnstead for a period of not more than one (1) year for the purpose of temporary housing during the construction of a home. Before a temporary use permit may be issued, a septic system approved by the New Hampshire Department of Environmental Services must be in existence and be capable of being hooked up to the manufactured housing unit.

5-1.07 The utility hookup of a temporary residential manufactured housing unit to a permanent structure's wastewater, lights, and water supply for the sole purpose of supporting said property owner's immediate family members, guardians, or other family members upon an approved variance by the Zoning Board of Adjustment, consisting of no more than two adults is permissible. The existing septic system shall be of adequate capacity as determined by the New Hampshire Department of Environmental Services. Minimum lot size must be sixty thousand (60,000) square feet and the temporary manufactured housing unit may not be closer than thirty (30) feet to an abutter's property line and fifty (50) feet from the nearest abutter's buildings. Temporary residential manufactured housing units no longer needed for the original purpose of supporting said resident's immediate family members or guardians shall be removed within six months after the temporary housing unit is vacated. Approval of any and all utility hookups must be obtained from the Selectmen at their regular meeting. All requests for this temporary hookup must be presented in writing to the Board of Selectmen for approval or denial of request. (Amended 3/9/10)

ARTICLE 6
OPEN SPACE PRESERVATION DEVELOPMENT (OSPD)

(Amended 3/8/94)

Section 6-1: Authority

This Section is enacted in accordance with the provisions of RSA 674:21 and RSA 675:3

Section 6-2: Purpose

The purpose of these provisions is to encourage better site planning than would normally occur by the lot-by-lot method under conventional subdivision procedures, including the preservation of open space and natural features unique to the particular parcel of land.

Section 6-3: Objectives

The objectives of this Section, to which any such development must adhere, are as follows:

6-3.01 To improve residential subdivision design and to increase flexibility in subdivision design with consideration given to:

A. Preservation of the natural and scenic qualities of the land being subdivided;

B. To reduce the visibility of the development from adjacent roads and abutting land by buffers and natural characteristics of the land.

6-3.02 Conservation

To preserve open space, wetland, agricultural land, tree and other vegetative cover, scenic vistas, and wildlife habitat. Avoid development of portions of sites, which have poor soil conditions, high water tables, are subject to flooding, or have excessive steep slopes.

6-3.03 Efficiency

Promote a layout, which will shorten the network of streets and utilities, lessen the need for grading and tree removal, and reduce potential problems of drainage and erosion.

Section 6-4: Review Criteria

An OSPD shall be treated as a subdivision for review and public hearing purposes before the Planning Board and shall follow the standard procedures of said Board for application and review. The following will be complied with:

6-4.01 The proposed development will be consistent with the general purpose, goals, objectives and standards of Barnstead's Master Plan, Zoning Ordinance, Subdivision Regulations, and Site Plan Review Regulations.

6-4.02 The proposed development will comply with all applicable provisions of the Barnstead Zoning Ordinance, Subdivision Regulations, and Site Plan Review Regulations unless otherwise specifically permitted by this section, in which case the provisions of this section shall control.

6-4.03 Individual lots, buildings, streets, and parking areas shall be designed and situated to minimize alteration of the natural site features.

6-4.04 The proposed development will not have an undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, utility facilities, and other areas related to public health, safety, and general welfare.

6-4.05 After an OSPD application has been submitted, no tree removal, utility installation, ditching, grading, construction of roads, or structures shall be done on any part of the tract until the application has been reviewed and approved in accordance with this ordinance by the Planning Board, except for the removal of vegetation and excavation necessary for soil testing and/or test pits.

Section 6-5: Environmental Impact Assessment

The applicant shall perform an environmental assessment survey and submit a report, which evaluates the impact on social, economic and physical environments. The report must address techniques to mitigate harm to the environment and caused by the proposal. If the Board determines that the proposal will cause significant harm to the social, economic and physical environments, and it is impossible to mitigate that harm, the Board may reject the proposal in its entirety or a portion thereof. The impact statement shall include, but not be limited to the following:

6-5.01 Statement of adequacy of the proposed parking for the use intended.

6-5.02 Statement of effect on pedestrian and vehicular traffic on abutting street.

6-5.03 Statement of adequacy of utility systems for the provision of water service, fire protection, sewer service, and storm drainage where applicable.

6-5.04 Statement of suitability of proposed drainage system and effects on abutters.

6-5.05 Statement of noise control methods and procedures.

6-5.06 Statement of effect on the public school system.

6-5.07 Statement of effect on the public recreation and park systems.

6-5.08 Statement of effect on the neighborhood and the community human services and social systems.

6-5.09 Statement of effect on the area wildlife.

6-5.10 Statement of effect on the area's ground and surface water systems.

6-5.11 Statement of the tract's archaeological resource.

Section 6-6: Approval

An OSPD shall be subject to approval by the Planning Board and shall be subject to the following guidelines:

6-6.01 In the design review process for an OSPD the applicant(s) and the Planning Board shall recognize the special nature of this form of development. Because of the nature of the areas in which Planned Unit Developments may be built, the development should be integrated into the surrounding neighborhood in such a way that several visual qualities between old and new are complimentary.

6-6.02 In the preparation of the site plan for OSPD it is recommended that the applicant secure the service of a professional landscape architect, architect, or land planner to assist in development of the plan. The Planning Board should secure similar consulting services to advise the Board in its evaluation of OSPD proposals. It is to the advantage of both parties that a proposed OSPD plan represents the highest quality at the time of its submission.

6-6.03 In evaluating the data submitted under this Article, the Board shall follow these general design guidelines insofar as is practical:

A. The scale and size of buildings proposed to be placed along existing street frontage shall be related to, and harmonize with, existing buildings in the immediate street vicinity of the tract proposed for an OSPD.

B. The design of the OSPD shall be directed toward establishing a sense of place. Inward-oriented placement of buildings, well-defined public and private spaces, sidewalks and resting sites are desired.

C. Materials, colors and buildings should be compatible with existing landscape of the tract and with surrounding buildings.

D. Prominent landscape features should be respected in the plan. Viewsheds, ecologically sensitive areas, ridgelines, and wet areas should remain vacant. A topographic map shall be prepared and existing landscape features and planned landscaping shown. If steep slopes are considered for development, engineering detail must be submitted for review.

E. The plan of OSPD shall provide continuity of open space throughout and around the tract. Trails and bicycle paths are desired.

F. Streets within the OSPD should be related to project overall town plans for vehicular circulation improvement.

G. The Planning Board shall consider for approval both the submitted proposal and the "As Builts". If changes are considered during the process between the two approvals, the Planning Board must be informed. The Planning Board shall determine if a new application is necessary.

Section 6-7: General Requirements

An application to the Planning Board for approval of an OSPD shall comply with the following:

6-7.01 Minimum Tract Area

The minimum tract for an OSPD shall be at least fifteen (15) acres.

6-7.02 Density

The maximum number of dwelling units permitted in an OSPD shall be determined by the following formula:

$$\text{Number of dwelling units} = \frac{\text{Total Tract Area - Undevelopable Land}}{\text{Minimum Lot Size as Required by the Zoning Ordinance}}$$

6-7.03 Lot Size

The minimum lot size for individual building lots within clusters shall be determined by the Planning Board to meet the objectives of this ordinance.

6-7.04 Frontage

A cluster subdivision shall have a minimum of two (2) fifty (50) foot rights-of-way exiting on a Class V or better road, serving as access to the subdivision. Road frontage for individual building lots within clusters shall be determined by the Planning Board to meet the objectives of this ordinance.

6-7.05 Setbacks

No structure or parking area shall be within one hundred (100) feet of a public way or right-of-way in existence prior to the development's approval. No structure, road, or parking area shall be within one hundred (100) feet of an abutting property line. The setbacks for individual dwelling units shall be determined by the Planning Board to meet the objectives of this ordinance.

6-7.06 Buffers

A buffer area having a minimum depth of one hundred (100) feet shall be provided between any proposed structure, road, or parking area within the subdivision and the perimeter of the tract. Whenever possible, the natural vegetation and characteristics of the land shall be retained. If required, vegetation of sufficient size to shield the development from abutting properties and roads shall be planted by the developer and maintained by the developments homeowners' association or other legal entity. No structure, parking area, or road shall be permitted within the designated buffer area; however, primary access roads are permitted to cross the buffer.

6-7.07 Common Open Space

At least fifteen (15) percent of the tract's developable land shall be set aside as common open space. Common open space will not include: undevelopable land, roads, parking areas, or any structures. A condition of the cluster development approval shall be that common open space may not be further subdivided or utilized for expanded residential construction. The area, configuration, and location of designated common open space shall be subject to approval by the Planning Board.

6-7.08 Roads

All roads shall be designated and constructed in accordance with town road standards.

6-7.09 Parking

A minimum of two (2) off-street parking spaces shall be provided for each dwelling unit, and may include garages.

6-7.10 Prior to the final approval, the Planning Board shall ascertain that adequate provisions have been made by the applicant including but not limited to the following:

A. Storm water drainage based upon a minimum of fifty (50) year storm frequency, utilizing on-site absorption and/or temporary detention.

B. Snow storage and trash disposal areas.

C. Recreational facilities.

D. Adequate water and wastewater provisions designed by a septic designer licensed or approved by the New Hampshire Department of Environmental Services in accordance with the rules and regulations of said division, without waivers of any such rules and regulations despite the foregoing. The requirements of placement and design of wastewater disposal systems within such proposed development shall comply with all more restrictive design and placement requirements of the Town of Barnstead's other applicable Zoning Ordinances.

Section 6-8: Common Open Space Ownership and Management

6-8.01 Common Open Space Ownership

The type of ownership of land dedicated to common open space purposes shall be subject to approval by the Planning Board.

6-8.02 Protection of Common Land

All common open space, any common areas, common facilities, and private roads within the cluster subdivision shall be permanently protected by covenants and restrictions running with the land and shall be conveyed by the property owner(s) to a homeowners' association or other legal entity under the laws of the

State of New Hampshire, or may, upon acceptance by the Selectmen, be deeded to the town with a trust clause insuring it be maintained as open space, or to a private, non-profit organization, the principal purpose of which shall be the conservation of open space. If common open space is not dedicated to the general public use, it shall be protected by legal arrangements, approved by the Planning Board after legal review by town counsel, sufficient to assure its preservation, maintenance, and management. Such approval shall take place prior to approval of the development. The cost of legal review shall be borne by the applicant or developer. Any proposed change in such articles of association or incorporation shall require the prior written approval of the Planning Board. Covenants or other legal arrangements shall specify ownership of the common open space, responsibility for maintenance, compulsory homeowners' association membership and tax assessment provisions, guarantees that any association formed to own and maintain common open space will not be dissolved without the consent of the Planning Board. All lands and improvements shall be described and identified as to location, size, use and control in the restrictive covenant. These restrictive covenants shall be written so as to run with the land and become a part of the deed of each lot or dwelling unit within the development. The person(s) or entity identified as having the right to ownership or control over common open space shall be responsible for its continuing upkeep and proper maintenance.

6-8.03 Current Use Limitation

The common land areas, open space areas, and natural areas in an approved development are considered to be part of the residential use of such development and do not qualify for "current use" under RSA 79-A.

Section 6-9: Administration

Each phase must be individually approved by the Planning Board.

6-9.01 Phase I: Conceptual Consideration

Includes: Site evaluation plan indicating house sites, natural features, proposed open space, developable and non-developable land.

6-9.02 Phase II: Design Information

Includes: Permanent structures, topographic data, and environmental impact assessment.

6-9.03 Phase III: Final Plan

Includes: Lot lines with bearings and distances.

ARTICLE 7
SHORELAND PROTECTION ORDINANCE
(Amended 3/10/09)

Section 7-1: Administration

Refer to RSA 483-B: 1-20, Comprehensive Shoreland Protection Act and Administrative Rules Env-Wq 1401-1414 as amended.

ARTICLE 8
BUSINESS
(Amended to accommodate Article 14, 3/9/04)

Section 8-1: Business

Any business may be located in Barnstead upon application and approval of the Planning Board, Selectmen and Health Officer; and provided that the business or industry or structure would not be seriously detrimental or offensive to the owners of adjoining property, or to the Town, or would tend to radically reduce property values of other property.

8-1.01 The business must locate thirty (30) feet back of a roadside stand that is movable and fifty (50) feet back of a permanent building from the right-of-way as not to be unsightly.

8-1.02 Any such business must provide off-road parking.

8-1.03 The Town will require notification of abutters of any significant change in the size and/or nature of a business operating in the Town, and a public hearing will be held for informing the abutters in order that approval may be received as specified in the Article.

8-1.04 Any business that has been inactive for five (5) years or more, at a specific location, will not be considered as a precedent for a new business at the same location.

8-1.05 Any business must additionally conform to the requirements of Article 14 of this Ordinance regarding Zoning Districts.

ARTICLE 9
BOARD OF ADJUSTMENT
(Amended 3/11/08)

Section 9-1: General

In accordance with New Hampshire Planning & Land Use Regulations, Chapter 673:1-22, as amended, the Board of Selectmen shall provide for the appointment of the Board of Adjustment.

9-1.01 Membership

A. The Zoning Board of Adjustment shall consist of five (5) members whose appointment and duties shall be in accordance with the New Hampshire Planning & Land Use Regulations, Chapter 674:33, as amended.

B. No more than two (2) Alternate Members shall be appointed in any year, except to fill vacancies. If a successor has yet to be appointed and qualified at the end of an Alternate Member's term, the Alternate Member may remain in office until such time as a successor is appointed. This will increase the number of Alternate Members for the Zoning Board of Adjustment and to provide for their terms in accordance with RSA: 673:6. (Added 3/13/12)

9-1.02 Notification of Other Town Boards

A. The Zoning Board of Adjustment shall inform the Selectmen before taking action on cases, which might involve a violation of existing Town Ordinances.

B. The Zoning Board of Adjustment shall notify the Planning Board of applications for Special Exceptions and Variances at least two weeks prior to the consideration of such applications, in order to permit review by the Planning Board.

Section 9-2: Special Exceptions

9-2.01 It shall be the duty of the Zoning Board of Adjustment in appropriate cases, and subject to appropriate conditions and safeguards, to take special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with its specific rules therein contained. Before reaching a decision under this Article, three (3) members of the Zoning Board shall have reviewed jointly the subject area. Said viewing shall be noted in their records. The Zoning Board, in acting on the application for a special exception must find that all the following conditions are met.

A. The specific site is an appropriate location for such a use.

B. No factual evidence is found that property values in the district will be reduced, due to incompatible land use, by such a use.

C. There is no valid objection from abutters based on demonstrable fact.

D. No nuisance or hazard is involved.

E. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

F. There is adequate area for safe and sanitary wastewater disposal.

9-2.02 Action by the Planning Board

In acting on such exceptions, the Planning Board shall take into account the general purpose and intent of this Ordinance to preserve community values and may impose conditions and safeguards in addition to those specified in this ordinance if the occurrence of certain characteristics of the use of site warrants such.

9-2.03 Two copies of plans for the proposed development of a site for special exception shall be submitted with an application for permit, and such plans shall show the location of all buildings, parking area, 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 and spirit and intent of this Ordinance. One copy of said plans shall be transmitted by the Zoning Board of Adjustment to the Planning Board for review.

9-2.04 A permit shall expire if such use shall cease for more than one (1) year.

9-2.05 The location and size of the use, the nature and intensity of the operation involved, the size of the site in relation to existing or future streets giving access to it, shall be such that it will be in harmony with the orderly development of the District and the location, nature and height of buildings, wall, and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof. In this regard the Zoning Board may impose the following safeguards in addition to the applicable requirements of this Ordinance including but not limited to the following:

A. Front, side or rear setbacks greater than the minimum requirements of this Ordinance.

B. Screening of parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, planting or other devices.

C. Limitations of size, number of occupants, method or time of operation or extent of facilities.

D. Regulation of number, design and location of drives or other traffic features.

E. Off-street parking or loading spaces beyond the minimum requirements of this Ordinance.

F. Operations shall not create more noise, fumes, odor, or vibration or other nuisance, than what would be created by any permitted uses in the district.

Section 9-3: Variances

9-3.01 **A.** The Zoning Board of Adjustment may authorize a variance from the terms of this ordinance when it finds that the criteria for granting a variance set forth in RSA 674:33 have been met. (Amended 3/13/12)

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

C. Granting the variance is consistent with the spirit of this Ordinance;

D. Granting the variance will do substantial justice; and

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

9-3.02.1 When considering an application for a variance from the terms of this ordinance, the Zoning Board of Adjustment must verify that the following additional conditions apply.

A. The specific variance as granted is the minimum variance that will grant reasonable relief to the owner and is necessary for a reasonable use of the lot or structure.

B. The use proposed is a permitted use.

Section 9-4: Equitable Waiver of a Dimensional Requirement

9-4.01 The Zoning Board of Adjustment shall hear and decide applications for an equitable waiver of the dimensional requirements of this ordinance. An equitable waiver may be granted only where the Zoning Board confirms each of the following findings based upon the evidence and arguments presented to it upon appeal.

A. The violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;

B. The violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in the interpretation or administration of this ordinance by the administrative officer;

C. The physical or dimensional violation does not constitute a public or private nuisance, diminish the value of properties in the area, nor interfere with or adversely affect any present or permissible future uses of the property;

D. Due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected; and

E. In lieu of the findings in Section 9-4.01a. and b., the violation has existed for ten (10) years or more and no enforcement action has been commenced against the violation during that time.

9-4.02 Waivers shall be granted under this section only from physical layout, mathematical or dimensional requirements, and not from use restrictions.

9-4.03 An equitable waiver of a dimensional requirement granted in accordance with this section shall not be deemed as a nonconforming use, and shall not exempt future use, construction, reconstruction or additions on the property from full compliance with the ordinance.

Section 9-5: Appeals

9-5.01 Appeals to the Zoning Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer, in the manner prescribed by RSA 676:5, as amended, within the time limit set by the Zoning Board of Adjustment according to said statute. The cost of advertising and costs of mailing and the notices of a hearing shall be paid by the person making the appeal prior to the hearing.

9-5.02 Prior to exercising its appeals powers, the Board of Adjustment shall hold a public hearing. Notice of the public hearing shall be given as follows.

A. The appellant and every abutter and holder of conservation, preservation or agricultural preservation restrictions shall be notified of the hearing by certified mail stating the time and place of the hearing, and such notice shall be given not less than 5 days before the date fixed for the hearing of the appeal. The board shall hear all abutters and holders of conservation preservation or agricultural preservation restrictions desiring to submit testimony and all non-abutters who can demonstrate that they are affected directly by the proposal under consideration. The board may hear such other persons, as it deems appropriate.

B. A public notice of the hearing shall be placed in a newspaper of general circulation in the area not less than 5 days before the date fixed for the hearing of the appeal.

9-5.03 The public hearing shall be held within 30 days of the receipt of the notice of appeal.

9-5.04 Any party may appear in person or by the party's agent or attorney at the hearing of an appeal.

9-5.05 The applicant, whether mailed, posted, or published, shall pay the cost of notice, in advance. Failure to pay such costs shall constitute valid grounds for the board to terminate further consideration and to deny the appeal without public hearing.

Section 9-6: Decisions

9-6.01 The vote of this Zoning Board of Adjustment is three (3) members concurring and that the Planning Board and Selectmen are made aware of the Zoning Board of Adjustment's decision within five (5) days.

9-6.02 The Zoning Board of Adjustment shall prepare a statement of its reasons for approving or disapproving an application and file said statement with the Town Clerk within seventy-two hours after reaching a decision (RSA 676:3).

ARTICLE 10
ADMINISTRATION, ENFORCEMENT AND PENALTY

(Amended 3/14/89)

Section 10-1: Administration

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

Section 10-2: Violations

Upon any complaint that this Ordinance is being violated, the Board of Selectmen shall inform the violator of the violation committed. If violation is not corrected within ten (10) days, the Board of Selectmen shall take immediate steps to enforce the provisions of same by seeking an appropriate action to correct the violation and, if necessary, seek an injunction in Superior Court to prevent, restrain, correct, or abate violations of this Ordinance. A Conditional-Use Permit may be withdrawn by the Town if the use is not conducted in accordance with the Regulations of this Ordinance or the conditions of the Permit.

Section 10-3: Penalty

Every person(s), firm, or corporation violating any of the provisions of this Ordinance may be fined in accordance with RSA 676:17. Such person(s) shall be liable for any Court costs and incurred reasonable attorney fees.

Section 10-4: Use Permits

No use listed in Article 3 herein, shall be conducted within an Aquifer Recharge District until the use has been approved by the Planning Board and a Conditional-Use Permit has been issued by the Planning Board.

10-4.01 The application for a Conditional-Use Permit shall be submitted to the Planning Board, accompanied by a site plan drawn to an indicated scale and showing the location and dimensions of all significant structures and uses present and proposed. A reasonable fee established by the Planning Board may be required to accompany the application to cover processing costs. In the event that the Planning Board determines to hold a public hearing on an application, it shall hold such hearing within thirty (30) days of receipt by it of a completed application, and shall cause notice of the date, time and place of such hearing to be given to the person(s) making the application. Public notice to be given in accordance with RSA 91-A:1-3.

10-4.02 The Planning Board shall, within ninety (90) days of a public hearing, approve, modify, or disapprove a Conditional-Use Permit.

10-4.03 In considering an application for a Conditional-Use Permit, the Planning Board shall evaluate the immediate and long-range impact of the proposed use on the ground waters and the possible effects of the proposed use upon the maintenance of safe and healthful conditions. In making such evaluations, the Board shall consider such factors as:

A. The amount and type of wastes to be generated by the proposed use and the adequacy of the proposed disposal system.

B. The capability of the land and water to sustain such use without degradation.

C. Topography and drainage of the site and susceptibility to flooding.

D. The need of a particular location for the proposed use.

E. The compatibility of the proposed use with adjacent land uses.

10-4.04 The Planning Board, in approving an application for a conditional use, may impose such reasonable restrictions concerning the setback of the structure from an aquifer or aquifer recharge area, the quantity of potential pollutants to be permitted within the Aquifer Recharge District, and like matters, as it deems advisable in order to protect the purity of the groundwater.

ARTICLE 11
MANAGEMENT OF SLUDGE/BIOSOLIDS AND SEPTAGE
(Adopted 3/9/04)

Section 11-1: Purpose and Intent

The purpose of this article is to promote the public health and safety of the citizens of the Town of Barnstead by imposing regulations for the land application and surface disposal of sludge, biosolids and septage.

Section 11-2: Definitions

In addition to the words and phrases defined in Article 2, the following terms have the following meaning as used in this article:

11-2.01 "Beneficial use" means taking advantage of the nutrient content and/or soil conditioning properties of septage by supplying agronomic or soil conditioning benefits such as the nitrogen, phosphorus, micronutrients, or organic matter needs for:

A. A crop;
B. Forested land; or
C. Establishing a vegetative cover for reclamation sites.

11-2.02 "Biosolids" means any sludge derived from a wastewater treatment facility that meets the standards for beneficial reuse specified by the New Hampshire Department of Environmental Services.

11-2.03 "Class A sludge" means sludge derived from human waste which is class A with respect to pathogens under 40 CFR part 503.32(a) and which meets one of the vector attraction reduction requirements of 40 CFR part 503.33(b)(1) through (b)(8).

11-2.04 "Class B sludge" means sludge derived from human waste which is class B with respect to pathogens under 40 CFR part 503.33 (b)(1) through (b)(11).

11-2.05 "Disposal" means the final discharge, deposit, injection, dumping, mixing, spilling, leaking, incinerating or placing sludge into or onto any land so that such sludge, or any constituent thereof, may enter the environment, be emitted into the air or be discharged into any surface water or groundwater. "Disposal" includes land application.

11-2.06 "Facility" means a location or system for storing septage or for the processing, treatment or disposal of septage other than land application. Facilities include, but are not limited to lagoons, septage treatment facilities, transfer stations, and sites where septage is treated or mixed with other septage or other material for treatment off-site. "Facilities" do not include septage-holding tanks.

11-2.07 "Land Application" means the placement of sludge or septage on the ground for beneficial use, whether or not it is incorporated or injected into the ground.

11-2.08 "Processing" means any activity to reduce the volume of septage or alter its chemical, biological, or physical state through methods such as thermal treatment, composting, blending, and pH adjustment. Processing does not include pH adjustment of septage for odor control or pathogen reduction, or screening to remove plastics and other foreign objects or dewatering of septage at its source

11-2.09 "Septage" means "septage" as defined by RSA 485-A:2,IX-a, namely "material removed from septic tanks, cesspools, holding tanks, or other wastewater treatment storage units, excluding wastewater sludge from public treatment works and industrial waste or any other sludge." "Septage" includes material from septage lagoons.

11-2.10 "Septage Site" means contiguous land areas owned by the same person(s) on which septage is stored or land applied, even if the land area is divided by a highway, railroad bed, water body or boundary of a political subdivision.

11-2.11 "Septage Storage Tank" means a sealed tank used for the storage of septage for longer than 7 consecutive days.

11-2.12 "Sludge" means "sludge" as defined by RSA 485-A 2, XI-a namely "the solid or semi-solid material produced by water and wastewater treatment processes, excluding domestic septage: provided, however, sludge which is disposed at solid waste facilities permitted by the department shall be considered solid waste as regulated under RSA 149-M." "Sludge" also includes industrial sludge and sludge mixed with another sludge or another material.

11-2.13 "Stockpiling" means the storage of sludge.

Section 11-3: Prohibited Uses

The following uses are prohibited anywhere in the Town of Barnstead:

11-3.01 The treatment, storage, stockpiling, disposal or land application of Class A sludge.

11-3.02 The treatment, storage, stockpiling, disposal or land application of Class B sludge.

11-3.03 Land application of septage generated outside of the Town of Barnstead.

Section 11-4: Permitted Uses

11-4.01 The uses listed in Section 11-4.03 are permitted by Exception in the Commercial and Rural-Agricultural zones in the Town of Barnstead provided that a conditional use permit has been obtained from the Planning Board pursuant to Section 11-4.02, and provided that the person proposing the use complies with all requirements of the New Hampshire Code of Administrative Rules Env-Ws 1600 (as may be amended) and as in effect at the time of approval of the conditional use permit by the Planning Board.

11-4.02 Prior to conducting any use permitted by Section 11-4.03, the person proposing the use shall apply for a conditional use permit to the Planning Board. The Planning Board shall adopt rules and procedures relating to conditional use permits which carry forward the purposes of this Article, provided that it is the intent of this article that any applications the Planning Board shall elect to approve must comply with the Env-Ws 1600 rules.

11-4.03 If the requirements of sections 11-4.01 and 11-4.02 are met, the following uses are permitted:

A. Land application of septage generated solely within the Town of Barnstead or septage generated outside of the Town of Barnstead as part of a regional treatment or composting facility under an RSA 53a or 53b agreement.

B. Septage Treatment Facility.

C. Septage Composting Facility.

D. Septage storage tanks.

Section 11-5: Exclusions

This article does not apply to the use of Class A products sold by the bag in accordance with any applicable State or Federal requirements.

ARTICLE 12
GROWTH MANAGEMENT REGULATION
(Adopted 3/10/09)

Section 12-1: Authority
This section is enacted pursuant to RSA 674:16-17 and 674:22.

Section 12-2: Findings
As documented in the Barnstead Master Plan, the Town hereby finds that:

12-2.01 Barnstead's developable land resources are sufficient to support extensive new growth and development. A 2002 Town of Barnstead property value reassessment showed that there are 1,024 residential building lots that are vacant. In addition, there are 658 parcels in current use on 430 properties representing a total of 16,399.58 acres.

12-2.02 According to the 2000 U.S. Census, Barnstead's population increased 25.35% from 1990 to 2000, or 2.5% annually over the 10-year period. As part of an assessment to support sustainable growth, there have been a number of different projections attempting to predict what the population of Barnstead will be in the year 2020. Each subsequent estimate has relied upon the most recent data and has predicted increased growth rates for the town of Barnstead:

A. In 1996, the Office of State Planning projected the population of Barnstead would be 4,003 in the year 2020.

B. Using the 2000 census data, the Office of State Planning adjusted that prediction to an estimated population of 4,566 in 2020.

C. Using the census data showing the growth rate from between 1990 and 2000, the estimate was adjusted to a population of 6,264 in 2020.

D. And, using the 1999-2002-growth rate, the projected population in 2020 becomes 7,348. This would represent a growth rate of 89.09% over the next 20 years.

12-2.03 The number of housing units in Barnstead increased 11.77% from 1990 to 2000, a rate of 1.18% per year. But, in 2001 alone, the rate of housing growth was 5.89% for that single year. Even with the adoption of an Interim Growth Ordinance in June of 2002, the growth rate was still 4.99% for the year 2002.

12-2.04 Barnstead's housing growth rate is greater than the growth rate in the surrounding region. When Barnstead's growth rate is compared, overall, to communities in the Lakes Region Planning Commission (LRPC), the 2002 new housing rate of 4.99% is second highest in the region to Alton's new housing rate of 5.8% for the same period. Barnstead's population of 3,886 ranks it 11th in the 29-town Lakes Region, and its rate of population change of 25.35% in the period of 1990-2000 ranks it 7th in the region for growth. During the period of 2001-2002, based on the number of new houses, the population increased approximately 17.45%.

12-2.05 High levels of demand for housing in Barnstead are expected to continue. This can be attributed to low property costs and high quality of life.

12-2.06 Growth is stimulating increasing demand for Town school facilities. The Towns of Barnstead and Alton entered into a Joint Maintenance Agreement in 2002 to build a new high school, which is intended to meet the needs of both towns for 10 years. However, the new school will not meet the needs of both towns if the two towns continue to grow at the 2001-2002 rates. In addition, the Barnstead Elementary School has once again outgrown the facility. Modular classrooms are once again a part of the facility, and the school needs to expand, or a middle school needs to be built.

12-2.07 Much of the Barnstead public sector is straining to meet projected service and facility demands. A new fire station needs to be constructed, or an existing one rebuilt, to adequately house the full time personnel. A new police station is needed. A public safety complex is being discussed as a means of satisfying these needs.

Section 12-3: Purpose

The Town finds the purposes of this section of the Zoning Ordinance to:

12-3.01 Promote the development of an economically sound and environmentally stable community, which considers and balances local and regional development needs.

12-3.02 Guide efforts by the Town to monitor, evaluate, and establish a rate of residential growth in Barnstead that is consistent with the municipal capacity for planned, orderly, and sensible expansion of local public services to accommodate growth.

12-3.03 Provide a mechanism to control the growth of development of residential projects to manage the impact on municipal services.

12-3.04 Provide a mechanism to reduce the rate of residential growth, when and where municipal services are strained, to allow the Town time to correct such deficiencies.

12-3.05 Protect the health, safety, convenience, and general welfare of Town residents.

12-3.06 Address community development goals in the Town of Barnstead Master Plan.

12-3.07 Address public facility needs in the Town Capital Improvements Plan.

12-3.08 And, overall, establish a mechanism to moderate a more rapid rate of local residential growth compared with comparable communities by instituting a manageable maximum growth rate on new residential construction. Instituting a manageable maximum annual rate of residential growth as reflected in a sustainable rate of development allows Barnstead to grow at a rate similar to the surrounding region, while also enabling Barnstead time to plan for capital facility expansions and provide for orderly development.

Section 12-4: Applicability and Effect

This ordinance applies to all lots of record as defined in Section 12-5 of this Zoning Ordinance, as well as to all future residential development. To receive a residential building permit, an applicant is required to file a completed application for a building permit with the Building Inspector. This ordinance does not apply to nonresidential building or to the expansion, alteration, renovation or replacement of existing dwelling units.

Section 12-5: Definitions

The following definitions shall apply only to the growth management section of this Zoning Ordinance and shall not be affected by provisions of any other ordinance of the Town.

12-5.01 **Lot of Record**: Land designated as a separate and distinct parcel prior to the date of posting (December 27, 2002) of this ordinance either in a legally recorded deed filed with the Belknap County Registry of Deeds (BCRD) or as lots submitted as part of a subdivision application accepted by the Planning Board prior to the date of posting.

12-5.02 Sustainable Rate of Development: A target number of building permits to be issued in each year limiting the population growth rate to 2.5% for the Town of Barnstead. During the last census period, from 1990-2000, the Town of Barnstead averaged a growth rate of 2.54%. In this time period the Town was able to increase services and address other issues such as the library expansion and the new high school.

12-5-03 Total Target Dwelling Units (TDU): The total dwelling units present in the Town of Barnstead on December 1 of each year. This number includes single-family homes, as well as dwelling units and duplexes, apartments and other multifamily structures.
NOTE: For 2002, the TDU number is 2,133 based on the blotter listing of the number of dwelling units present in Barnstead.

12-5-04 Blotter Book: Inventory of the real property in town, published each October so the Department of Revenue can set the tax rate.

Section 12-6: Periodic Review

It shall be the responsibility of the Planning Board to monitor growth in the Town and region and notify the Town of the findings.

12-6.01 The Planning Board or its agent(s) shall determine the sustainable rate of development by December 15 of each year by assembling such information as necessary for assessing whether unsustainable rates of development continue to exist. Information should include statistics on building permits issued, building permits issued and redeemed. Reliable information that may be used includes: statistics provided by the local Building Inspector, by "Permit Authorized Construction in Permit-Issuing Places by State and County" as reported by the Building Permits Branch of the U.S. Census, and by the current blotter book.

Section 12-7: Calculation of the Annual Number of Building Permits

The allowable number of Building Permits for the next calendar year will be determined by multiplying by 1.5% the TDU number for the current year. This number will be the total number of building permits for new residential construction to be issued in the following calendar year. This will give an average increase of approximately 2.5% in the population, based on an average household of 3 people.
NOTE: For example, the allowable number of Building Permits for 2003 will be 1.5% times 2,133 (the TDU number for 2002), or 32.

Section 12-8: Building Permit Distribution

The purpose of this section is to establish an equitable distribution for issuing permits for new housing construction.

12-8.01 Building permits for new housing construction will be on a first-come-first-served basis; only completed permit applications will be accepted.

12-8.02 Building permits will be issued only to the lot owner of record.

12-8.03 No single individual, partnership, corporation, or other entity shall be issued more than one building permit during the permit period except under conditions established in Sections 12-8.04 and 12-11 each calendar year.

12-8.04 All subdivisions approved by the Planning Board and recorded with the BCRD are eligible for building permits according to the following schedule: subdivisions with ten (10) to nineteen (19) lots may receive up to two (2) permits per year; subdivisions with twenty (20) to twenty nine (29) lots may receive up to three (3) permits per year; subdivisions with thirty (30) to thirty nine (39) lots may receive up to four (4) permits per year; subdivisions with forty (40) or more lots may receive up to five (5) permits per year. However, said building permit allocations shall not increase the total number of building permits allowed for any calendar year.

Section 12-9: Establishment of Application List

Applications for building permits will be accepted continuously by the Building Inspector and assigned a number predicated on date and time of submission. Excess applications will carry over to successive years.

Section 12-10: Deleted 3/10/15

Section 12-11: Multiple Permits

A single individual, partnership, corporation, or other entity that has received a building permit during a calendar year, or that has received additional permit(s) under Section 12-8.04, may apply for one additional building permit after December 1st of that year if no other first time applications are on file with the building inspector. These permits will also be issued on a first-come-first-served basis, in accordance with the number assigned by the building inspector under section 12-9.

Section 12-12: Unused Permits

Permits for new construction that have been issued but not utilized during the permit period shall be put back into the annual allocation.(amended 3/10/15)

Section 12-13: Administrative Procedures

The Selectmen are hereby authorized to establish administrative procedures necessary to implement this article. All such procedures shall be posted. The Selectmen shall annually post, no later than December 15th of each year, an estimate of the annual limitation that will become effective the following year.

Section 12-14: Conflicts

In matters governed by this ordinance, this ordinance shall supersede conflicting local ordinances and regulations.

Section 12-15: Severability

Should any part of this ordinance be held invalid or unconstitutional by a court, such holding shall not affect, impair or invalidate any other part of this ordinance, and to such end, all articles, sections and provisions of this ordinance are declared to be severable.

Section 12-16: Sunset (Amended 3/11/14)

This Ordinance expires April 1, 2019 unless readopted prior to that date. If the number of building permits requested for three (3) consecutive years is less than 75% of the sustainable rate of development in the prior year then the Planning Board shall consider suspension of the growth management ordinance. At such time, if the Planning Board decides to keep the ordinance in place, it shall provide findings as to why continued implementation of the ordinance is necessary to address public facility deficiencies and other impacts of rapid growth.

ARTICLE 13
IMPACT FEES
(Adopted 3/11/03)

Section 13-1: Purpose

This ordinance is enacted pursuant to RSA 674:16 and 674:21, and in order to:

13-1.01 Promote public health, safety, convenience, welfare, and prosperity;

13-1.02 Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Barnstead;

13-1.03 Prevent scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services;

13-1.04 Provide for the harmonious development of the municipality and its environs;

13-1.05 Ensure the proper arrangement and coordination of streets; and,

13-1.06 Ensure streets of sufficient width to accommodate existing and prospective traffic.

Section 13-2: Authority

13-2.01 The Planning Board may, as a condition of approval of any subdivision or site plan, and when consistent with applicable Board regulations, require an applicant to pay an impact fee for the applicant's fair share of off-site improvements to public facilities affected by the development.

13-2.02 An impact fee may be assessed upon any person or entity, which proposes new development within the Town of Barnstead. New development shall include, but not be limited to, any proposed residential or non-residential development or construction which requires any permit or approval from the Barnstead Planning Board, Zoning Board of Adjustment, Planning Department, Building Inspector, or other Barnstead official or board.

13-2.03 Nothing in this section shall be construed to limit the existing authority of the Planning Board to disapprove proposed development which is scattered or premature, or which would require an excessive expenditure of public funds, or which would otherwise violate applicable ordinances and regulations. Nothing in this section shall be construed to limit the Planning Board's authority to require off-site work to be performed by the applicant, in lieu of paying an impact fee, or the board's authority to impose other types of conditions of approval. Nothing in this section shall be construed to affect types of fees governed by other statutes, town ordinances or regulations.

Section 13-3: Assessment Methodology

13-3.01 Proportionality: The amount of the impact fee shall be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee. Any off-site work required by the Planning Board as a condition of approval shall be proportional to the impact of the development on the capital improvements for which the off-site work has been required.

13-3.02 Existing Deficiencies: Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

Section 13-4: Administration

13-4.01 Accounting*:* In accord with RSA 674:21, V(c), impact fees shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the Board of Selectmen, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fee was collected to meet.

13-4.02 Assessment: All impact fees imposed pursuant to this section shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development.

13-4.03 Security: In the interim between assessment and collection, the municipality may require developers to issue letters of credit, or provide cash escrow or other form of security deemed acceptable by the municipality, in its sole discretion, so as to guarantee future payment of assessed impact fees.

13-4.04 Collection: Impact fees normally shall be collected as a condition for the issuance of a Certificate of Occupancy; provided, however, in projects where off-site improvements are to be constructed simultaneously with a project's development, and where a municipality has appropriated the necessary funds to cover such portions of the work for which it will be responsible, that municipality may advance the time of collection of the impact fee to the issuance of a building permit. Nothing in this section shall prevent the Planning Board and the assessed party from establishing an alternate, mutually acceptable schedule of payment.

13-4.05 Refund: Any portion of an impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected, shall be refunded, with any accrued interest, to the assessed party or successor in interest:

A. When the subdivision or site plan approval expires under the respective rules of the Planning Board, or under the terms of the decision, without having become vested under RSA 674:39, and without any extension being granted by the Planning Board; or

B. When such approval is revoked under RSA 676:4-a; or

C. Six years after its collection; or

D. Six years after its collection, whenever the calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the Town, and the Legislative Body of the Town has failed to appropriate the Town's share of the capital improvement costs.

Section 13-5: Appeals

13.5-01 Appeals of the decision of the Planning Board in administering this ordinance may be made to Superior Court, as provided in RSA 677:15. Any decision under this impact fee ordinance may be appealed in the same manner provided by statute for appeals from the officer or board making that decision, as set forth in RSA 676:5, RSA 677:2-14, or RSA 677:15, respectively.

13.5-02 The filing of an appeal shall not stay the collection of the impact fee due unless a letter of credit or other form of security deemed acceptable by the Planning Board, in its sole discretion, has been filed. If such security has been filed in an amount equal to the impact fee due, the Town shall issue a Certificate of Occupancy, if all other requirements therefore have been met.

Section 13-6: Definitions

13-6.01 Impact Fee: A fee, assessment, or required off-site improvements imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space.

ARTICLE 14
ZONING DISTRICTS

(Adopted 3/9/04 and Amended 3/14/06)

Section 14-1: Purpose

The purpose of this article is to establish districts as defined in the town master plan that promote the proper siting of business, industry and commerce in harmony with residential and rural areas in the Town of Barnstead.

Section 14-2: General Requirements

14.2.01 Allowable Uses. Allowable uses are listed in Table 1 for each zoning district, except for the suburban districts.

14.2.02 Special Exception Permit. An applicant must first obtain a special exception permit, as contained in Section 9-2, from the Zoning Board of Adjustment for uses by exception prior to applying to the Planning Board for site plan approval.

14.2.03 Prohibited Uses. The commercial burning or incineration of any construction and demolition material or debris (C & D) is expressly prohibited in all zoning districts in the Town of Barnstead. (Added 3/14/2006)

14.2.04 Prohibited Uses. The commercial withdrawal of groundwater, other than for the domestic and agricultural use of residents of the Town of Barnstead, is expressly prohibited in all zoning districts in the Town of Barnstead. (Added 3/14/2006)

Section 14-3: Aquifer Recharge District

This district is intended to protect groundwater quality in stratified drift aquifers that are delineated as potential groundwater recharge areas identified by the United States Geological Services and shown on the Town of Barnstead Recharge District Map. This district overlays all other zoning districts.

14.3.01 Prohibited Uses. The following uses are prohibited in the Aquifer Recharge District

A. Disposal of solid wastes other than brush and stumps.

B. Storage of petroleum or gasoline in above ground or under ground storage tanks regulated by the New Hampshire Department of Environmental Services.

C. Siting of pipelines for the transmission of petroleum or gasoline.

D. The disposal of liquid or leachable wastes.

E. Paving of more than ten (10) percent of any lot surface excluding buildings.

14-3.02 Conditional-Use Permits. The following uses are permitted upon approval of a conditional-use permit issued by the Planning Board with any other conditions attached by the board.

A. Storage of road salt provided the salt is stored under cover on an impervious surface.

B. Sewage disposal system for a single or two family residential dwelling with a minimum of three (3) acres.

C. Enlargement or alteration of an existing sewage disposal system provided it would not be for an expanded use of the site.

D. Manure pile in connection with an agricultural operation.

E. Animal feedlot.

F. The flooding or mining of land.

14-3.03 Non-Conforming Use. A non-conforming use that is prohibited under Section 14-3.01 or 14-3.02 may be expanded by not more than a twenty-five (25) percent increase in structure, floor space, bulk or size, or land area and may be replaced or repaired, with the approval of the planning board, if the board finds the expanded use will not be detrimental to the protected area. A non-conforming use that has been discontinued for eighteen (18) months may not be resumed.

Section 14-4: Industrial-Commercial District

All property extending from the Pittsfield town line north to the Suncook River and having access to and frontage on Route 28 extending to a depth of no more than five hundred (500) feet from the highway right-of-way or to the property boundary line, whichever is less, shall be included in the Industrial-Commercial districts. The Industrial-Commercial district shall also include Tax Map 7, Lots 1, 1-1 and 4 on the Town's Map as of March 12, 2013. (Added 4/12/13)

14-4.01 Buffer Zone. A buffer zone for the purpose of providing suitable vegetative screening or fencing shall be established to a depth of ten (10) feet along the site frontage.

14-4.02 Set Back Requirements. All buildings shall be set back at least 110 feet from the property line abutting Route 28. Buildings shall be constructed at least fifty (50) feet from the rear or side building line.

Section 14-5: Village Districts

14-5.01 Purpose. Village districts are established to retain cultural and historic centers that provide mixed residential and commercial land uses.

14-5.02 Locations.

A. Barnstead Center. This district shall include, and be identified on the Town of Barnstead Land Use Map as, all existing lots on Maps 19, 20, and 21 to the east of the to the east of the Route 28 Industrial-Commercial Zone.

B. Barnstead Parade. This district shall include, and be identified on the Town of Barnstead Land Use Map as, all existing lots on Maps 17 and 18 between the Route 28 Industrial-Commercial Zone on the west, and the Suncook River on the south and east."

14-5.03 Setback requirements. Buildings shall be setback from the road a distance at least equal to the average distance from the road of the two buildings on either side thereof. Except when a lot is nonconforming, the building shall be setback fifty (50) feet from the rear and side property lines.

Section 14-6: Suburban Districts

14-6.01 Purpose. The intent of this section is to maintain districts as areas of residential use including only those business and industry that have minimal impact on the residential district consistent with Table 1.

14-6.02 Locations. All major subdivisions of four or more lots that were approved prior to March 9, 1999 comprised of nonconforming lots shall be included in these districts.

Section 14-7: Residential-Agricultural Districts

All land in the Town of Barnstead not included in the industrial-commercial; village or suburban zoning districts shall be considered as agricultural-residential.

14-7.01 Purpose. The purpose of this section is to establish districts of larger lot sizes that provide a rural character while allowing mixed residential housing and industrial, commercial uses in harmony with the area.

14-7.02 Setback Requirements. All buildings shall be setback a minimum of fifty (50) feet from the front property line. Buildings shall be setback a minimum of thirty (30) feet from the rear and side property line.

Section 14-8: Signs (amended 3/11/14)

All new signage shall conform to this ordinance. Existing signs that do not meet the standards of this ordinance may be replaced 'in kind' (size, shape, content and design) pending the approval of the planning board.

A. Permanent Building Signs: Signs shall be limited to and no greater than fifty (50) square feet (e.g. 5' x 10') or smaller with no more than one (1) sign per business or entity constructed of wood, metal, glass or polylaminates. A drawing or picture of the sign with list of materials and location shall be submitted to the Planning Board.

1. Businesses or entities with multiple tenants are allowed one sign per business or entity, but not more than 25 square feet per tenant and signs shall be uniform (size and design).

B. Permanent Free Standing Ground Signs: A maximum of one (1) per building/business on the property shall be permitted. Minimum setbacks are: from the front property line will have a minimum of 5' and from the sideline 30', providing it doesn't violate section H of this ordinance. Size to be no more than fifty (50) square feet (e.g. 5' x 10') and shall be placed a minimum of one and a half times the sign height from a 30' setback from adjoining property. The maximum sign height is 18' above ground.

C. Permanent Offsite Signs: Whenever possible a business or other entities shall use a New Hampshire Department of Transportation Motorist Service Sign for direction to their location. Other off-site signs are permitted under the following conditions: The maximum size sign shall be no greater than eight (8') square feet (e.g. 2'x4'), and constructed with materials such as wood, metal, glass or polylaminate. A drawing or picture of the sign with list of materials and location shall be submitted to the Planning Board. All signage located on New Hampshire State property must conform to all State sign regulations, permits and proper setbacks. Written permission from the property owner shall be submitted with a sketch or drawing and be placed on file with the Planning Board.

D. Directional Signs: Any business or entity that is in need of more signage for location reasons will be allowed up to fifteen (15) offsite directional signs and the remaining provisions as above will be in effect. Each sign not exceed 9 square feet (e.g. 3' x 3').

E. Temporary Offsite Road Signs: this includes political, auction, real estate and for sale signs.

> **Definition: Temporary** – A sign erected for a limited time-use to advertise a special business, entity or other events. Temporary signs are signs that will be posted for not more than 6 months. They shall be removed after the posted event has occurred or not longer than 6 months, whichever is sooner.

F. Illuminated Signage: Must be turned off when the business or entity is closed. Pulsing or signs illuminated with unshielded lights are not allowed.

G. Advertising signage provided by product manufacturers: May be displayed on premises as needed by owner.

H. No sign shall be placed in a manner that will endanger traffic by obscuring the view.

I. Sign Maintenance: Owners of businesses/organizations are responsible for all maintenance of their signs whether existing, operating and/or seasonal.
If a business/organization closes permanently, at a minimum the façade must be removed leaving the structure still standing or attached. Entire sign and structure maybe removed.

TABLE 1
TOWN OF BARNSTEAD
PERMITTED USES BY DISTRICT OR ZONE

P = Permitted Use
N = Not Permitted
E = Permitted By Special Exception

Use	Village District	Residential Agricultural District	Industrial Commercial District	Suburban District
Accessory Building or Use	P	P	P	P
Accessory Dwelling Unit	P	P	P	N
Aggregate Extraction	N	P	P	N
Auto Repair and Service	E	E	P	N
Bed and Breakfast	P	P	P	N
Campgrounds	N	E	E	N
Church/Community Building	P	P	P	P
Commercial Towers	N	P	P	N
Day Care	P	P	P	E
Dwelling, Single Family	P	P	P	P
Dwelling, Two Family	P	P	P	E
Dwelling, Two Unit	P	P	P	N
Farm	P	P	P	P
Forest/Woodlot	P	P	P	P
Home Occupation	P	P	P	P
Inn	P	P	P	E
Manufacturing	N	E	P	N
Manufactured Housing	N	P	P	P
Manufactured Housing Park	N	N	N	N
Office Building	E	E	E	N
Recreation Facility, Indoor	E	E	E	E
Recreation Facility, Outdoor	E	E	E	E
Retail Business	P	P	P	N
School, Private	E	P	P	E
Septage Facility	N	E	E	N
Service Business	P	P	P	N
Warehouse/Storage	N	E	P	N

TOWN OF BARNSTEAD ZONING ORDINANCE
AS PROPOSED MARCH 10, 2015

CERTIFICATION OF ADOPTION AND FILING

In accordance with New Hampshire RSA 675:3, Method of Enactment in Certain Towns and Village Districts, one question regarding the Town of Barnstead Zoning Ordinance appeared on the Official Ballot for the election held on March 10, 2015 which passed with a majority vote in the affirmative. The Planning Board hereby certifies this revised Zoning Ordinance to be correct.

I do

_____	_____
Nancy Carr, Chairman	Bruce Grey
_____	_____
Elaine Swinford, Vice-Chairman	Katherine Preston
_____	_____
Karen Schacht, Secretary	Dana Frenette
_____	_____
Andy Houle, Selectmen's Rep.	David Allen, Alternate
_____	_____
David Kerr, Selectmen's Rep. Alternate	Christopher Carazzo, Alternate
	_____
	Michael Kowalski, Alternate

hereby certify that on _____, 2015 the Town of Barnstead Zoning Ordinance with original signatures was filed with the Town Clerk, Town Hall, Barnstead, New Hampshire.

_____
Cynthia L. Treadwell, Town Clerk