

ZONING ORDINANCE

For the

TOWN OF BROOKFIELD, NEW HAMPSHIRE

An ordinance to promote the health, safety, convenience, and general welfare of the community by regulating the use of the land in the Town of Brookfield.

ARTICLE I - PREAMBLE

In pursuance of the authority conferred by Chapter 672-676, New Hampshire Revised Statutes Annotated, 1983 as amended; and for the purpose of promoting the health, safety, morals, prosperity, convenience or general welfare, as well as efficiency and economy in the process of development, of the inhabitants of the Incorporated Town of Brookfield, Carroll County, New Hampshire; by securing safety from fire, panic, and other dangers by providing adequate areas between buildings and various rights-of-way; by preserving the rural charm now attached to the town; and in order to assist in the promotion of good civic design and arrangements, the wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements; and by other means; now, therefore, the following ordinance is hereby enacted by the voters of the Town of Brookfield, New Hampshire, in official town meeting convened.

ARTICLE II - DISTRICTS

For the purpose of this ordinance, the Town of Brookfield is zoned Residential-Agricultural except for an area which is designated as the Recreational Zone REC-1. The boundaries are described in Appendix A.

A. Residential-Agricultural Zone (RA-1)

1. Permitted uses

- a. Farms and single-family dwellings with accessory buildings incidental thereto. Every dwelling shall have a minimum ground floor area of 864 square feet, outside measurement. Porches, steps, or ground level terraces are not considered part of the dwelling for the purposes of this section.

- b. Home occupations and home-based businesses are permitted without site plan review subject to the following conditions:
- i. A home occupation or home-based business are defined as a business located and operated wholly or in part in the dwelling, accessory building or on the property where the owner of the property resides or on an adjacent lot used in conjunction with the residential property.
 - ii. The property owner(s) of record, manager(s) or lessee shall live in any structure used as a bed-and-breakfast.
 - iii. Adequate off-street parking with safe ingress and egress of vehicles shall be available.
 - iv. External storage of occupational equipment and supplies shall be screened from the view of abutters and the right-of-way.
 - v. The number of persons engaged in the on-site operation of any one or combination of home occupations and home-based businesses shall not be more than four, excluding the residents.
 - vi. The residential-agricultural character of the district shall be maintained.
 - vii. The home occupations and/or home-based businesses shall remain limited in scope and shall be clearly incidental and secondary to the residential use of the property.
 - viii. No more than six square feet of signboard shall be used to advertise activities conducted on the premises. The signboard may be two-sided.

The following are examples of businesses which are not home occupations or home based businesses:

Animal hospitals and boarding kennels.

Automobile service or filling stations, sales, or repair facilities.

Boarding house, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging or rooming house, or other similar home or structure.

- c. Farms, farming, agriculture, farmers' markets, farm stands, agritourism and garden activities are permitted, but no persons shall be allowed to raise or propagate more than twelve brood sows.
- d. To address homeowner needs while maintaining single family residential aesthetics and quality, compatible with homes in the neighborhood, not more than one accessory dwelling unit (ADU) may be contained within a single family residence (SFR) only if the following conditions are met:
 - i. An ADU is not permitted in any (SFR) in which the owner of record does not maintain his principal residence.
 - ii. The ADU is clearly incidental and subordinate in extent, use, and purpose to the SFR. There shall be no alterations, enlargements, or extensions of the existing structure which alter its character or appearance as a single family residence. An ADU shall meet all zoning requirements including setbacks.
 - iii. The floor area of the ADU shall not exceed one-thousand (1,000) square feet or forty percent (40%) of the total combined habitable area of the SFR and the ADU, whichever is smaller.
 - iv. The ADU shall be not less than 350 square feet of heated habitable area. There shall be no more than one occupant per 250 square feet of habitable area.
 - v. The driveway shall be designed so as to appear as a driveway of a SFR, and no new curb cut from the street shall be permitted. Adequate off-street parking shall be provided to serve the combined needs of the SFR and its ADU.
 - vi. The SFR and its ADU shall comply with the requirements of RSA 48 A:14 and all other applicable building and fire codes, including, without limitation, the Life Safety Code. Both the SFR and the ADU shall be fitted with a fire and smoke alarm system such that any alarm sounds throughout both the SFR and the ADU.
 - vii. A building permit is required before beginning the conversion of any existing SFR to contain an ADU.
 - viii. A building permit is required before beginning the renovation or

modification of an existing ADU.

- ix. A Certificate of Occupancy must be obtained before an ADU may be occupied.
- x. The septic system must be a State approved sewage disposal system which meets the State's requirements for the intended usage or the Town's minimum standards for use or occupancy, whichever is more stringent. RSA 485 A:38 and RSA 48-A:11.
- xi. No ADU lawfully established pursuant to this ordinance shall be deemed to create or allow any subdivision of the property into separate fee estates by deed, use, or otherwise.
- xii. If the owner fails to comply with the requirements of this section, the use of the ADU shall be terminated within 3 (three) months of the date of notice from the Board of Selectmen or its designee. The owner shall be subject to penalty under RSA 676:17 for each day the ADU fails to comply with the requirements of this ordinance.

e. Wood Lots

Purpose: To allow the subdivision of lots that are a minimum of ten (10) acres on a Class VI road into smaller non-buildable wood lots of five (5) acres or more which could be used as a sustainable source of firewood. Newly created lots must have at least two hundred and fifty (250) feet of frontage on a Class VI road. If a back lot is created as a result of a subdivision there must be an additional fifty (50) feet of road frontage to create a fifty (50) foot wide right-of-way access to that lot.

2. **Non-Permitted Uses**

- a. Animal hospitals and boarding kennels.
- b. Automobile service or filling stations, sales, or repair facilities.
- c. A boarding house, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging or rooming house, or other similar home or structure.
- d. Restriction on Funnel Development: No permanent or temporary rights in and to any lot, tract or parcel of land with frontage on a lake or pond shall

be granted for purposes of access to the water body or its shoreline unless said lot, tract or parcel has a minimum of fifty (50') feet of shoreline, measured according to the standards of Article II, A. 3 (Building Lot Requirements), for each person to whom such permanent or temporary rights are conveyed.

- e. Any other use not consistent with A. 1.

3. **Building Lot Requirements**

- a. The minimum lot size permitted shall be 87,120 square feet (two acres), and which shall include a minimum buildable area of :

31,750 sq. ft. with slopes less than 8%

35,250 sq. ft. with slopes 8 - 15%

40,000 sq. ft. with slopes 15 – 25%

of contiguous non-hydric soil, exclusive of slopes greater than 25% and poorly and very-poorly drained soils, sufficient in size and configuration to accommodate all proposed structures, improvements, and facilities.

- b. Dwellings: No more than one dwelling shall be allowed on any existing or newly subdivided lot regardless of the size of the lot.
- c. All lots shall have not less than 250 feet of frontage on a Class V or approved private road, and the lot depth shall not be less than 200 feet. Lots fronting on Kingswood Lake shall have not less than 250 feet of frontage on said lake. Lots with less frontage and depth, which is recorded and taxed as a lot of record at the time of passage of this ordinance on March 14, 1961, shall be deemed a nonconforming lot and subject to the conditions indicated under Article IV.
- d. Setback: No structure or part thereof shall be placed within 40 feet of the side and rear lot lines or within 50 feet of the edge of any right-of-way or within 75 feet of any pond, lake, stream, brook, watercourse, marsh, or seasonally wet area.
- e. Farm Stand Structures (as defined in Article X):
 - i. Farm Stand structures up to 200 sq. ft. shall be setback at least 10' from the traveled way and, if there is a stone wall along the right of way, no closer than the stone wall.
 - ii. No farm stand structure may reduce the sight line for entering and

exiting traffic of any road or driveway to less than 200'.

- iii. The farm stand structure may not be used for other purposes without complying with current applicable zoning setbacks.
- f. Any lot having shore land on Kingswood Lake shall have not less than 250 feet of frontage along the shoreline. Such measurement shall be made in straight lines of at least 25 foot segments.
- g. Frontage on a Class VI road (right-of-way) does not meet the frontage requirements for a building lot.
- h. A driveway is required for each dwelling.

B. Recreational Zone (REC-1)

1. Purpose

The Recreational Zone is a certain tract of land located as listed in Appendix A. The purpose of this Article is to provide for active recreational use in this Zone that minimizes the negative impact to the environment or the historic residential-agricultural character of the community as outlined in the Master Plan.

2. Administration

This Article shall be administered by the Planning Board. Applications for the conditional uses provided under this Article shall be made to the Planning Board.

3. Non-Permitted Uses

The Non-Permitted Uses in the Recreational Zone are listed in Appendix E.

4. Permitted and Conditionally Permitted Uses

The Permitted Uses in the Recreational Zone are listed in Appendix E. The following shall apply to all Conditional Uses.

- a. All Conditional Uses require a permit from the Planning Board.
- b. The Planning Board is authorized to issue Conditional Use Permits for any of the Conditional Uses listed in Appendix E if the applicant demonstrates that the use will not have a significant negative impact on the environment or the historic residential-agricultural character of the community.

- c. A Conditional Use Permit may place reasonable limits on the Conditional Use such as, but not limited to, the maximum number of attendees, hours of operation, public safety conditions, expiration date of the permit, and frequency or specific number of occurrences. This permit may place further restrictions in order to protect the residential-agricultural character of the Town.
- d. The completed Conditional Use Permit Application with fee attached shall be submitted to the Brookfield Planning Board. The Planning Board will have thirty (30) days from the date of receipt to review the Conditional Use Permit Application and to conduct a public hearing. Conditional Use Permit Applications may be submitted in conjunction with or prior to any necessary Site Plan Review Application. The Planning Board will act on Conditional Use Permit Applications within the time line established by RSA 676:4.
- e. The Planning Board may require a Site Visit before issuing a Conditional Use Permit.
- f. The Board of Selectmen will be the enforcement agency for Conditional Use Permits.
- g. The Planning Board may consider granting more than one Conditional Use Permit at a time.
- h. The Planning Board may set a reasonable application fee for Conditional Use Permit Applications.

5. **Recreational Lot Requirements**

- a. The minimum lot size permitted shall be ten acres.
- b. The lot width at the right-of-way shall be not less than 250 feet and the lot depth shall not be less than 200 feet. Frontage on a Class VI road (right-of-way) does not meet the frontage requirements for a recreational lot.
- c. No structure or part thereof shall be placed within 40 feet of the side and rear lot lines or within 50 feet of the edge of any right-of-way or within 75 feet of any pond, lake, stream, brook, watercourse, marsh, or seasonally wet area.

C. Workforce Housing Overlay District (RA-2)

1. The Workforce Housing Overlay District shall comprise lands contained within Area RA-2 as delineated on the Brookfield Workforce Housing Overlay District Map dated March 10, 2009.
 - a. Purpose. The purpose of this Article is to meet the Town’s reasonable and fair share for opportunities to develop workforce housing by permitting a higher density of residential use on a lot, than otherwise permitted in the underlying zoning district, in the form of multi-family and single-family workforce dwellings in specified areas of the Town of Brookfield.
 - b. Administration. This article shall be administered by the Planning Board. Applications for the provisions provided under this Article shall be made to the Planning Board as part of the submission of an application for site plan review or subdivision.
 - c. Other Requirements. All multi-family and single-family workforce housing shall comply with the requirements of Appendix C.
 - d. Definitions.

Dwelling Unit: designed for occupancy by one or more individuals, a household or a family and that includes permanent provisions for living, sleeping, eating, cooking and sanitation.

Multi-Family Dwelling: shall be defined as set forth in RSA 674:58, II.

Vegetated Buffer: an area of existing natural vegetation or planted with a combination of trees, shrubs and groundcover.

Workforce Housing: single-family and multi-family dwellings which are affordable through sale or rent to households that meet specific income requirements as stated in RSA 674:58.

2. Multi-Family Workforce Housing

Multi-family workforce housing shall meet the following standards:

- a. A multi-family workforce dwelling is permitted on a lot of five acres or greater, with a minimum of 250 feet of road frontage on a state maintained road, and with all structures and parking areas within 500 feet of the road.

- b. There shall be no more than one unit per 21,780 square feet (1/2 acre) of lot size.
- c. Multi-family workforce dwellings shall be set back 100 feet from a public right-of-way. Multi-family workforce dwellings shall comply with the additional setbacks required in Article II.A.3.
- d. A 40-foot vegetated buffer abutting rear and side lot lines and a 25-foot vegetated buffer along the road frontage shall be maintained and/or planted. When planted, vegetated buffers shall include trees consistent with trees in the surrounding neighborhood.
- e. Covered or non-covered off street parking and other structures shall not be placed within the setbacks required in part C.2 of this Article and Article II .A.3.
- f. Multi-family workforce housing shall comply with the Architectural and Design Standards in Appendix B.

3. **Single-Family Workforce Housing**

Single-family workforce housing shall meet the following standards:

- a. Single-family workforce dwellings shall be located on a parent parcel with a minimum of 5 acres and a maximum of 8 acres, and with one single-family dwelling permitted per lot.
- b. All lots containing a single-family workforce dwelling shall have a minimum of 250 feet of road frontage on a Class V or better road.
- c. The minimum lot size shall be determined by the NH Department of Environmental Services but in no case shall the minimum lot size be less than one acre.
- d. Single-family workforce dwellings shall comply with the setbacks required in Article II.A.3 of the zoning ordinance.

ARTICLE III - GENERAL PROVISIONS

- A.** No motor vehicle junk yard, nor other private junk yards or places of storage of discarded machinery, boats, vehicles, glass, paper, cordage, garbage, refuse, or other waste or discarded material, shall be maintained in the Town (RSA 236: 112 or as amended).

- B.** No property owner shall permit any building or structure thereon to be left in a badly damaged or dilapidated condition, whether caused by fire, the elements, or from any other cause. Property so damaged shall be repaired or rebuilt, or the ruins shall be completely removed to the ground level within one year of said damage. Should the owner fail to comply, the Town may petition the court to perform the work at the owner's expense.
- C.** In accordance with the Brookfield Earth Excavation Regulations adopted April 8, 1991 and as amended: If clay, loam, sand, or gravel for either private use or for sale is removed within 100 feet of any public highway, the area shall be regraded to assure that the premises will be left in a reclaimed condition, as expressed in the Brookfield Earth Excavation Regulations, and protected against erosion within 90 days of the cessation of operation and/or material removal. A permit for any removal of clay, loam, sand, or gravel must be obtained from the planning board.
- D.** Any uses that may be objectionable or injurious by reason of the production or emission of odor, dust, smoke, refuse matter, fumes, noise, vibration, or similar conditions, or that are dangerous to the comfort, peace, enjoyment, health or safety of the community, or lending to its disturbance or annoyance, are prohibited. RSA 31:39.
- E.** A maximum of two temporary signboards pertaining to the lease or sale of a lot or building shall be permitted on said lot. No neon signs and no signboards illuminated with flashing lights shall be permitted. However, a permitted signboard may be lighted on both sides, suitably shaded to illuminate the signboard but not the adjoining property. Lighting shall be situated or shielded to avoid impairment of vision for motorists or otherwise create a hazardous situation.
- F.** Where lumber operations have occurred along a public right-of-way, the area shall be cleaned so as to remove all slash and sawdust piles to a depth of fifty feet along such right-of-way as provided by the N.H. State Law (RSA 231: 144 et sequitur).
- G.** The Selectmen may delegate responsibility for reviewing timber harvesting operations to ensure compliance with State and local laws including the New Hampshire Code of Administrative Rules and the Department of Environmental Services, Wetlands, Bureau, Best Management Practices applicable to wetlands, to a code enforcement officer or other designee.
- H.** The Landowner's permission is required before a Brookfield Town Official may walk on the landowner's land. Access by town officials shall only occur by landowner's permission or by administrative warrant per RSA 595-B unless otherwise permitted by law.
- I.** The Selectmen or their designee shall notify abutters to the property to be logged, in

writing, at the earliest date possible following receipt of a Notice of Intent to cut with a specified lot and parcel and street address if available.

- J. Any use not specifically permitted is prohibited.

ARTICLE IV - NONCONFORMING USE

A. Non-conforming lots.

Nothing in this ordinance shall prevent the continued use of lawfully developed nonconforming lots. More specific provisions regarding changes to existing structures on nonconforming lots, or the initial development of nonconforming lots, are found below.

1. The zoning ordinance shall apply to any changes, alterations, additions and new accessory buildings that may be added to these existing structures. The Zoning Board of Adjustment is authorized to grant Special Exceptions to allow certain changes, alterations, additions and new accessory buildings not in conformance with the zoning ordinance provided the following criteria are met and the construction complies with the spirit of the zoning ordinance:
 - a. Frontage setback of the existing structure, if less than 50 feet, will be the limit of any additional structures, alterations, or structures of any kind.
 - b. Additional structures shall have setbacks as restrictive as possible. However, in no event may additional structures or additions to existing structures, jeopardize the ingress and egress of the lot, the septic system and well of the lot or the lot of any abutter.
2. Any structures sought to be constructed on non-conforming lots which have no structure, shall comply with the current zoning ordinance. For lots which cannot comply with the current zoning ordinance, the Zoning Board of Adjustment may grant a Special Exceptions to allow construction on the non-conforming lot without sufficient contiguous buildable area, setback, frontage requirements or lot size requirements provided the special exception will not adversely affect:
 - a. The character of the area in which the proposed use will be located.
 - b. The highways and sidewalks and use thereof in the area.
 - c. Town services and facilities.
3. Non-conforming buildings can be reestablished within one year after a loss, such

as, but not limited to, fire, collapse, or any natural disaster. An extension may be granted by the Board of Selectmen for an additional period, not to exceed one year.

B. Non-conforming use

Whereas there are some uses of property (land or buildings) which were in use prior to the adoption by the Town of a zoning ordinance restricting use to single family dwellings and agriculture, which uses do not comply with the current zoning ordinance, nothing in this zoning ordinance shall be construed to prevent the continued use of such land and buildings for the use in effect at the time of the adoption of the zoning ordinance. However, any such non-conforming use may not be expanded or changed without a Special Exception granted by the Zoning Board of Adjustment. The Zoning Board of Adjustment may grant Special Exceptions as follows, which exceptions shall be within the spirit of the zoning ordinance:

1. A non-conforming use may be reestablished within a year of a loss, such as, but not limited to, fire, collapse, or any natural disaster. An extension not to exceed six-months may be granted by the Board of Selectmen.
2. Changes of a non-conforming use to another non-conforming use may be permitted by Special Exception as long as the new non-conforming use is not substantially different from the previous. (RSA 674: 19).
3. Any non-conforming use discontinued for more than one year (except as provided for in (1) above) may not be reestablished.

ARTICLE V - ZONING BOARD OF ADJUSTMENT

The zoning board of adjustment shall consist of five members, each member to be appointed for a term of three years by the board of selectman. The zoning board of adjustment shall function under NH RSA, Chapter 674:33, 676:5 through 676:7, and Chapter 677 and any amendments thereto. The zoning board of adjustment shall have the following powers:

- A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement hereof or any ordinance adopted pursuant thereto.
- B. A local zoning ordinance may provide that the zoning board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance. All special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance.

- C. To authorize upon appeal, in specific cases, such variance from the terms of the ordinance as will not be contrary to the to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done and granting the variance will cause no diminution of surrounding property values. To obtain zoning variance, an applicant must satisfy each of five requirements:
 - 1. that denial of variance would result in unnecessary hardship to applicant;
 - 2. that no diminution in value of surrounding properties would occur;
 - 3. that proposed use would not be contrary to the spirit of the ordinance;
 - 4. that granting the variance would not be contrary to the public interest; and
 - 5. that granting the variance would do substantial justice.

- D. In exercising the above-mentioned powers, the zoning board of adjustment may, in conformity with the provisions hereof, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

- E. The concurring vote of three members of the board shall be necessary to reverse any action of such officer, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

ARTICLE VI - MANUFACTURED HOUSING, TRAVEL TRAILERS and CAMPING

- A. Manufactured housing, as permitted in RSA 674: 32 as amended, is allowed on individual lots.

- B. Neither manufactured housing parks nor recreational campgrounds or camping parks, as defined in RSA 216:I, are permitted within the Town of Brookfield.

- C. A camping or travel-type house trailer or recreational vehicle may not be used as a permanent, year round dwelling. Such trailers and vehicles may be occupied for no more than six months aggregate per calendar year. The Board of Selectmen may extend this time period in cases where a property owner is residing in a temporary trailer or recreational vehicle while rebuilding a primary residence destroyed by fire or other such event on the same property.

ARTICLE VII- PERSONAL WIRELESS SERVICE FACILITIES

A. Purpose and Intent

It is the express purpose of this Article to permit carriers to locate personal wireless service facilities, to the extent required by the Telecommunications Act of 1996, within the Town of Brookfield, consistent with appropriate land use Articles that will ensure compatibility with the visual and environmental features of the Town. Compatibility with the visual features of Brookfield is based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed personal wireless service facility. This Article enables the review of the location and siting of personal wireless service facilities by the Town of Brookfield so as to eliminate or mitigate the visual and environmental impacts of personal wireless service facilities. It is structured to encourage carriers to locate on existing buildings and structures whenever possible. New ground mounted personal wireless facilities are permitted, but only when the use of existing structures and buildings are found to be not feasible. Co-location is encouraged for all personal wireless service facility applications, and the review of a facility shall be on the basis of the site being built using all positions on the mount. No antenna, structure, or other device shall be mounted on, or be a part of, any personal wireless service facility, unless it is necessary to transmit or receive personal wireless service, as defined in the Telecommunications Act of 1996 except that facilities used by the Town of Brookfield or its agents may be allowed.

B. Applicability

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

C. Procedure

Applicants shall be required to submit the following information to the Planning Board:

1. A map showing the service area and an explanation of need.
2. A map showing the locations and service areas of other existing or proposed sites operated by the applicant which are close enough to impact service within the Town's borders.
3. A diagram and /or map showing the viewshed of the proposed personal wireless service facility including all buildings and accessory structures.

4. Photo simulations from at least four directions which adequately represent the appearance of the completed structure when viewed from inhabited areas or roads within the Town and from Route 16. Balloon tests may also be required.
5. A site and landscaping plan, which meets the requirements of the Brookfield Site Plan Review.
6. An inventory of existing facilities that are within the jurisdiction of the Town and those within two miles beyond the Town borders.
7. If the applicant is proposing a new facility, written evidence demonstrating that no existing structure within two miles of the Town borders can accommodate the applicant's needs. This evidence can consist of:
 - a. Substantial evidence that no existing facilities are located within the geographic area.
 - b. Substantial evidence that existing facilities are not of sufficient height to meet the applicant's engineering requirements or do not have sufficient structural strength to support applicant's proposed equipment.
 - c. Substantial evidence that existing facilities have no additional capacity.
 - d. Conclusive evidence that co-location on an existing facility would cause electromagnetic interference at the existing facility, or that co-location at the existing facility would interfere with signals from another existing facility.
8. An agreement with the Town that assures maximum co-location upon the new personal wireless service facility. Such statement shall become a condition to any approval, and shall, at a minimum, require that the applicant supply available co-locations for reasonable fees and costs to other personal wireless service facility providers and to the Town of Brookfield or its agents.
9. Engineering information detailing the size and coverage required for the personal wireless service facility location. Structural plans shall bear the seal of a qualified structural engineer licensed in the State of New Hampshire. The Planning Board may have any submitted information reviewed by a consultant for verification of any claims made by the applicant regarding technical limitations and feasibility of alternative locations, or any other matter required by the Planning Board. Cost for this review shall be borne by the applicant.
10. An Environmental Assessment from a qualified source shall be provided at the

expense of the applicant.

D. Location Regulations

1. Location- Personal wireless service facilities may be permitted in all Zones. Applicants seeking approval for personal wireless service facilities shall first evaluate existing structures for the siting of such facilities. Only after finding that there are no suitable existing structures pursuant to Section D. herein, shall an applicant propose a new ground mounted facility.
2. Existing Structure: Policy - Personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing personal wireless service facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.
3. Existing Structures: Burden of Proof - The applicant shall have the burden of proving that there are no suitable existing structures upon which to locate its proposed facility. To meet that burden, the applicant shall take the following actions as appropriate:
 - a. The applicant shall submit to the Planning Board a list of all contacts made with owners of potential sites regarding the availability of potential space for a personal wireless service facility. If the Planning Board informs the applicant that additional existing structures may be satisfactory, the applicant shall contact the owner(s) of those structures.
 - b. The applicant shall provide copies of all letters of inquiry made to owners of existing structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the U.S. Post Office shall be provided for each owner of existing structures that was contacted.
 - c. If the applicant claims that a structure is not capable of physically supporting a personal wireless service facility, this claim must be certified by a licensed professional civil engineer. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the personal wireless service facility without unreasonable costs. The estimated cost shall be provided to the Planning Board.
4. Ground Mounted Facilities: Policy - If the applicant demonstrates that it is not feasible to locate on an existing structure, ground mounted personal wireless

service facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping, and placement within trees.

5. Environmental Assessment: When a proposed facility location is such that an EA is required, the cost of this will be borne by the applicant and the results of the assessment can become the basis for denial of the application.

E. Use Regulations

All personal wireless service facilities shall require a building permit as follows:

1. Existing Structures: Subject to the provisions of this Article, and site plan review regulations, a carrier may locate a personal wireless service facility on an existing building, utility tower or pole, or water tower or other suitable structure.
2. Ground Mounted Facility: A personal wireless service facility involving construction of a ground mount shall require compliance with site plan review regulations and be subject to the provisions of this Article.
3. When an approved facility is put into use, the facility owner must notify the Brookfield Tax Assessor when additional antennas are added to the mount, when additional ground facilities are proposed, or when any other event occurs which increases the valuation of the property.

F. Dimensional Requirements

Personal wireless service facilities shall comply with the following requirements:

1. Height, Existing Utility Structures: Carriers that locate new personal wireless service facilities on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, masts, and monopoles may be permitted to increase the height of those structures no more than ten (10) feet, if the additional height will not cause visual impact as defined in Section H. This increase in height shall only be permitted once for each structure.
2. Height, Other Existing Structures: The height of a personal wireless service facility shall not increase the height of a structure by more than ten (10) feet, unless the facility is completely camouflaged; for example a facility completely within a flagpole, steeple, or chimney (if the appendage is completely camouflaged, the height of the structure may be increased up to 20 feet.) The increase in the height of the structure shall be in scale and proportion to the structure as originally configured. A carrier may locate a personal wireless service

facility on a building that is legally nonconforming with respect to height, provided that the provisions of this Article are met.

3. Height, Ground-Mounted Facilities: Ground-mounted personal wireless service facilities shall not exceed the greater of sixty (60) feet or twenty (20) feet above the average tree canopy height whichever is greater within a one hundred and fifty (150) foot perimeter of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest.
4. Setbacks: All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of this Ordinance.
5. Ridge Lines: No personal wireless service facility may be situated within a horizontal distance of 300 feet of topographic summits greater than 700 feet elevation Geodetic Vertical Datum, or within 300 feet of a ridge line leading to such a summit.
6. Fall Zone for Ground Mounts: In order to ensure public safety, the minimum distance from the base of any ground-mount of a personal wireless service facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the Fall Zone, as defined in this Article. The Fall Zone may cross property lines, so long as the applicant secures a Fall Zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the site plan review.
7. Fall Zone for Non-Ground Mounts: In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of this Ordinance shall apply. In the case of pre-existing nonconforming structures, personal wireless service facilities and their equipment shelters shall not increase any non-conformities.

G. Performance and Design Standards

1. Visibility
 - a. Visual impacts are measured on the basis of:
 - i. Change in community scale, as exhibited in relative height, mass or proportion of the personal wireless service facility within their proposed surroundings.

- ii. New visible elements proposed on a contrasting background.
 - iii. Different colors and textures proposed against a contrasting background.
 - iv. Use of materials that are foreign to the existing built environment
- b. Enhancements are measured on the basis of:
 - i. Conservation of opportunities to maintain community scale, e.g. buffering areas and low-lying buildings should not be compromised so as to start a trend away from the existing community scale.
 - ii. Amount and type of landscaping and/or natural vegetation.
 - iii. Preservation of view corridors, vistas, and viewsheds.
 - iv. Continuation of existing colors, textures, and materials.
- c. Visibility focuses on:
 - i. Eliminating or mitigating visual impact.
 - ii. Protecting, continuing, and enhancing the existing environment.
- d. Camouflage for Facilities on Existing Buildings or Structures – Roof Mounts: When a personal wireless service facility extends above the roof height of a building on which it is mounted, it shall be concealed or camouflaged within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
- e. Camouflage for Facilities on Existing Buildings or Structures – Side Mounts: Personal wireless service facilities which are side mounted shall blend with the existing building's architecture and, if individual antenna panels are over five (5) square feet, the panels shall be painted or shielded with material consistent with the design features and materials of the building.
- f. Camouflage for Ground Mounted Facilities: All ground-mounted personal wireless service facilities shall be surrounded by a buffer of dense tree

growth that extends continuously for a minimum distance of one hundred and fifty (150) feet from the mount, security barrier, or designated clear area for access to equipment, whichever is greatest, and screens views of the facility in all directions. These trees must be existing on the subject property, planted on site, or be within a landscape easement on an adjoining site. The Planning Board shall have the authority to decrease, relocate, or alter the required buffer based on-site conditions. The one hundred and fifty (150) foot vegetative buffer area shall be protected by a landscape easement or be within the area of the carrier's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.

2. Color - To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding them, they shall be of a color, which blends with the background or surroundings.
3. Equipment Shelters - Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following design standards:
 - a. Equipment shelters shall be located in underground vaults; or
 - b. Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the personal wireless service facility; or
 - c. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, and/or an appropriate fence equal to the height of the proposed building. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
 - d. If mounted on a rooftop, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.
4. Lighting, Signage, and Security
 - a. Lighting: personal wireless service facilities shall not be lighted.
 - b. Signage: signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of this Ordinance.

- c. Security Barrier: the Planning Board shall have final authority on whether ground mounted personal wireless service facilities should be surrounded by a security barrier and the height and material used. If a fence, wall, or other constructed impediment is used, it shall be gated and must have anti-climbing barriers installed. Any security barrier with a gate must be locked, but arrangements must exist with municipal and regional emergency responder organizations (police, medical, fire) to enable immediate access when necessary. No devices (such as electrically charged sections or wires) will be allowed which might endanger humans or wildlife. All individual structures within the enclosed area, such as battery containers, generator houses, fuel supplies, electrical junction arrays, and equipment storage areas must also be locked or otherwise secured to mitigate any hazards in the event of a breach of the security barrier by natural or other causes.
5. Aesthetics and Health
 - a. Any personal wireless service facility located on or within historic/cultural areas shall not alter the character-defining features, distinctive construction methods, or original historic materials of buildings.
 - b. Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.
 - c. Personal wireless service facilities authorized by this Article shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas.
6. Scenic Landscapes and Vistas - Ground-mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, or abutting properties. All ground-mounted personal wireless service facilities shall be surrounded by a buffer of dense tree growth as per Section G.1f.
7. Driveways – If available, existing entrances and driveways to serve a personal wireless service facility shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic, and environmental impact. New driveways to serve a personal wireless service facility shall not exceed twelve (12) feet in width and shall include a curve or turn so that the service facility is not visible from the entrance to the driveway. A gravel or crushed stone surface is encouraged.
8. Antenna Types - Any antenna array placed upon an existing or proposed ground

mount, utility pole, or transmission line mount shall have a diameter of no more than four (4) feet, excluding the diameter of the mount. A larger diameter antenna array may be permitted after a finding by the Planning Board that the visual impacts of a larger antenna array are negligible.

9. Ground and Roof Mounts - All ground mounts shall be of a mast or monopole type design. Lattice and guyed mounts are expressly prohibited.
10. Hazardous Waste - No hazardous waste shall be discharged or stored on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred and ten percent (110%) of the volume of the hazardous materials stored or used on the site.
11. Noise - Personal wireless service facilities shall not generate noise that may be heard from beyond the boundaries of the site.
12. Radio Frequency Radiation (RFR) Standards - All equipment proposed for a personal wireless service facility shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio frequency Radiation (FCC Guidelines), under Report and Order, FCC 96-326, published on August 1, 1996, and all subsequent amendments.

H. Monitoring and Maintenance

1. Maintenance - The owner of the facility shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but not be limited to, painting and structural integrity of the mount and security barrier, and maintenance of roadways, buffer areas, landscaping, and equipment shelters.
2. Monitoring - As part of the issuance of the site plan approval or building permit, the property owner shall agree that the Town of Brookfield may enter the subject property to obtain RFR measurements and noise measurements at the expense of the carrier. The Town shall provide reasonable written notice to the carrier and landowner, providing them the opportunity to accompany the Town representatives when the measurements are conducted.
3. Security for Removal - Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in

accordance with Section J.2. An irrevocable letter of credit issued by a major bank in New Hampshire shall be the preferred form of security. The amount of the security shall be based upon the removal and disposal costs plus, fifteen percent (15%), as determined by the Planning Board and as certified by a professional civil engineer licensed in New Hampshire at the expense of the applicant. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in New Hampshire every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than ten percent (10%) then the owner of the facility shall provide additional security in the amount of the increase, plus 15%.

I. Abandonment or Discontinuation of Use

1. Notification - At such time that a carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.
2. Removal - Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
 - a. Removal of antennae, mount, equipment shelters and security barriers from the subject property.
 - b. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal Articles.
 - c. Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading may remain in the after-condition.
3. Failure to Remove - If the owner of the facility does not remove the facility upon the Selectmen's order, then the Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute

the security to pay for this action.

J. Insurance

The Planning Board shall require the annual submission of proof of adequate insurance covering personal and property liability. Such insurance shall provide for a minimum of 30 days notice of cancellation to the Town. Absence of said insurance shall constitute abandonment of said facility.

ARTICLE VIII- SMALL WIND ENERGY SYSTEMS

A. Purpose

This small wind energy systems ordinance is enacted in accordance with RSA 674:62, et seq., and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to accommodate distributed generation/small wind energy systems in appropriate locations, while minimizing any adverse visual, safety and environmental impacts of the system. In addition, this ordinance provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

B. Procedure for Review

Applicants shall submit the following information to the Board of Selectmen/Building Inspector:

1. Property lines and physical dimensions of the applicant's property.
2. Location, dimensions, and types of existing major structures on the property.
3. Location of the proposed small wind energy system, foundations, anchors and associated equipment.
4. Tower foundation blueprints or drawings.
5. Tower blueprint or drawings including height and length of blades.
6. Setback requirements as outlined in this ordinance.
7. The right-of-way of any public road that is contiguous with the property.
8. Any overhead utility lines.

9. Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
10. If the small wind energy system will be connected to the power grid, documentation shall be provided regarding the notification of the intent with the utility regarding the applicant's installation.
11. Sound level analysis prepared by the wind turbine manufacturer or a qualified sound engineer.
12. Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to State, Federal, and International Building or Electrical Codes or laws.
13. Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
14. Estimated costs of physical removal of the small wind energy system.
15. List of abutters to the applicant's property and funds sufficient to cover the cost of certified mail to each abutter and publication of public hearing announcement(s) in a local newspaper of general circulation.
16. Agreement that the town may have an abandoned system removed at the owner's expense as provided in **Section F** below.
17. Abutter and Regional Notification:
 - a. The Board of Selectmen/Building Inspector shall notify all abutters and the local governing body by certified mail upon application for a building permit to construct a small wind energy system.
 - b. A public hearing shall be held no earlier than 30 days after abutter notification.
 - c. The public will be afforded a minimum of 30 days following the public hearing to submit comments to the Board of Selectmen/Building Inspector prior to the issuance of the building permit.
 - d. The Board of Selectmen/Building Inspector shall review the application for regional impacts. If the proposal is determined to have potential regional impacts, the Board of Selectmen/Building Inspector shall follow the procedures set forth in RSA 36:57, IV.

C. Location Regulations

1. Small wind energy systems are an accessory use and are permitted only on lots of two acres or more.
2. They are not permitted in areas designated for conservation, wetlands or other environmentally sensitive areas.
3. No small wind energy system shall protrude above a ridgeline.
4. Only one small wind energy system is permitted per recorded lot.

D. Use Regulations

1. No small wind energy system shall be erected, constructed, or installed without first receiving approval from the Board of Selectmen/Building Inspector and a building permit from the Building Inspector.
2. A building permit shall be required for any physical modification to an existing small wind energy system that materially alters the size and/or type of the small wind energy system or its location.
3. Like-kind replacements shall not require a building permit.
5. Small wind energy systems that are in operation prior to the enactment of this ordinance are required to comply with this ordinance only when the system is physically modified.

E. Dimensional, Performance and Design Standards

The Board of Selectmen/Building Inspector shall evaluate the application for compliance to the following standards:

1. Minimum Setback Requirements: One and one-half times the system height from:
 - a. Occupied Buildings on Participating Landowner Property.
 - b. Occupied Buildings on Abutting Property.
 - c. Property Lines of Abutting Property.
 - d. Utility Lines on Public Roads.

- e. Guy wires used to support the tower are exempt from the small wind energy system setback requirements.
2. Tower:
 - a. Height: tower height shall not exceed the greater of one hundred (100) feet or thirty (30) feet above the average tree canopy height whichever is greater within a three hundred (300) foot radius of the tower, security barrier, or designated clear area for access to equipment, whichever is greatest.
 - b. The applicant shall provide evidence that the proposed tower height does not exceed the height recommended by the manufacturer of the wind turbine.
 - c. No small wind energy system may be situated within a horizontal distance of 300 feet of topographic summits greater than 700 feet elevation Geodetic Vertical Datum, or within 300 feet of a ridgeline leading to a summit.
3. Sound Level: the small wind energy system shall not exceed 55 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe windstorms and utility outages.
4. Shadow Flicker: small wind energy systems shall be sited in a manner that does not result in shadow flicker on abutting property. The applicant has the burden of proving that the shadow flicker will not have an adverse impact on neighboring or adjacent uses.
5. Signs: all signs including flags, streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
6. Code Compliance: the small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
7. Aviation: the small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.
8. Visual Impacts: it is inherent that small wind energy systems may pose some

visual impacts due to the tower height needed to access the wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the wind resources.

- a. The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, turbine design or appearance, buffering, and screening of ground mounted electrical and control equipment.
 - b. The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
 - c. A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.
9. Wind Turbines: it is recommended that the manufacturer and model of the wind turbine to be used in the proposed small wind energy system be approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.
 10. Utility Connection: if the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.
 11. Access: the tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 12. Clearing: clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.

F. Abandonment or Discontinuation of Use

1. At such time that a small wind energy system is scheduled to be abandoned or

discontinued, the applicant will notify the Planning Board Administrator by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

2. Upon abandonment or discontinuation of use, the owner shall physically remove energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Planning Board. "Physically remove" shall include, but not be limited to:
 - a. Removal of the wind turbine and tower and related above-grade structures.
 - b. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after-conditions.
3. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the Planning Board Administrator shall issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the Planning Board Administrator shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the Planning Board Administrator shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
4. If the owner fails to respond to the Notice of Abandonment or if, after review by the Planning Board Administrator, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind turbine and tower at the owner's sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the Planning Board Administrator shall pursue legal action to have the small wind energy system removed at the owner's expense.

G. Violation

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

H. Penalties

Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676.

I. Definitions

Net metering: the difference between the electricity supplied over the electric distribution system and the electricity generated by the small wind energy system which is fed back into the electric distribution system over a billing period.

Power grid: the transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

Shadow flicker: the visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.

Small wind energy system: a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

System height: the vertical distance from ground level to the tip of the wind turbine blade when it is at its highest point.

Tower: the monopole, guyed monopole or lattice structure that supports a wind turbine.

Tower Height: the height above grade of the fixed portion of the tower excluding the wind turbine.

Wind turbine: the blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

Article IX- FLOODPLAIN DEVELOPMENT AND MANAGEMENT ORDINANCE

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

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

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

A. DEFINITION OF TERMS:

The following definitions shall apply only to this floodplain development ordinance and shall not be affected by the provisions of any other ordinance of the Town of Brookfield.

1. **Area of Special Flood Hazard:** the land in the floodplain within the Town of Brookfield subject to a one-percent (1%) or greater possibility of flooding in any given year. The area is designated as *Zone A on the Flood Insurance Rate Map*.
2. **Base Flood:** the flood having a one-percent (1%) possibility of being equaled or exceeded in any given year
3. **Basement:** any area of a building having its floor subgrade on all sides
4. **Building:** for floodplain ordinance purposes only see "structure"
5. **Development:** any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

6. **FEMA:** Federal Emergency Management Agency.
7. **Flood or Flooding:** a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, and (2) the unusual and rapid accumulation or runoff of surface waters from any source.
8. **FIRM:** Flood Insurance Rate Map: an official map, incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Brookfield.
9. **“Flood Insurance Study” (FIS)** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface evaluations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
10. **Floodplain or Flood-Prone Area:** any land area susceptible to being inundated by water from any source (see definition of "Flooding").
11. **Flood Proofing:** any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
12. **Floodway:** see "Regulatory Floodway".
13. **Functionally Dependent Use:** a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
14. **Highest Adjacent Grade:** the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
15. **Historic Structure:** any structure that is:
 - a. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. certified or preliminarily determined by the Secretary of the Interior as

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

- c. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - d. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - i. by an approved state program as determined by the Secretary of the Interior, or
 - ii. directly by the Secretary of the Interior in states without approved programs.
16. **Lowest Floor:** the lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
17. **Manufactured Home:** a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days. This includes manufactured homes located in a manufactured home park or subdivision.
18. **Manufactured Home Park or Subdivision:** a parcel (or contiguous parcels) of land divided to accommodate two or more manufactured homes for rent or sale.
19. **Mean Sea Level:** the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
20. **New Construction:** for the purposes of determining insurance rates, means structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain

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

21. **100-Year Flood:** see "Base Flood".
22. **Recreational Vehicle:** is defined as:
 - a. built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. designed to be self-propelled or permanently towable by a light duty truck; and
 - d. designed primarily **not** for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
23. **Regulatory Floodway:** the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation more than a designated height.
24. **Special Flood Hazard Area:** see "Area of Special Flood Hazard.
25. **Structure:** for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
26. **Start of Construction:** includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. "Permanent construction" does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

27. **Substantial Damage:** damage of any origin sustained by a structure whereby the cost of restoring the structure to its original condition before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
28. **Substantial Improvement:** any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".
29. **Violation:** the failure of a structure or other development to be fully compliant with the Town of Brookfield, floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required under Section D or Section G 2 b of this ordinance is presumed to be in violation until such time as that documentation is provided.
30. **Water Surface Elevation:** the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains.

B. BUILDING PERMITS

All proposed development in any special flood hazard area shall require a permit. The code enforcement officer shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall be:

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

2. constructed with materials resistant to flood damage;
3. constructed by methods and practices that minimize flood damages;
4. constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. WATER AND SEWER SYSTEMS

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

D. INFORMATION REQUIREMENTS

For all new or substantially improved structures located in *Zone A*, the applicant shall furnish the following information to *the Board of Selectmen or its duly authorized agent*:

1. the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and *shall* include whether or not such structures contain a basement;
2. if the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed;
3. any certification of flood proofing.

The Board of Selectmen or its duly authorized agent shall maintain this information for public inspection and shall furnish such information upon request.

E. OTHER CERTIFICATIONS REQUIRED

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

F. ALTERATION OR RELOCATION OF WATERCOURSE

1. In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Bureau of the New

Hampshire Department of Environmental Services and submit copies of such notification to the code enforcement officer, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the *Board of Selectmen or its duly appointed agent*, including notice of all scheduled hearings before the Wetlands Bureau and any local hearings.

2. The applicant shall submit to the *Board of Selectmen or its duly authorized agent*, certification provided by a registered professional engineer, assuring that the flood-carrying capacity of an altered or relocated watercourse can and will be maintained.
3. *The Board of Selectmen or its duly authorized agent*, shall obtain, review, and reasonably utilize any floodway data available from Federal, state, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

“No encroachments, including fill, new construction, substantial improvements, and other development, are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.”

G. 100-YEAR FLOOD ELEVATION DATA

1. In Zone A, *the Board of Selectmen or its duly appointed agent shall obtain*, review and reasonably utilize any 100-year flood elevation data available from any Federal, state or other source including data submitted to the community (i.e. subdivisions, site plan approvals).
2. The *Board of Selectmen or its duly authorized agent's* 100-year flood elevation determination will be used as criteria for requiring in Zone A that:
 - a. all new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation;
 - b. that all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, it shall:
 - i. be flood proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

- ii. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - iii. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
- 3. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100-year flood elevation and shall be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- 4. Recreational vehicles placed on sites within Zone A shall either:
 - a. be on the site for fewer than 180 consecutive days;
 - b. be fully licensed and ready for highway use; or
 - c. meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c) (6) of Section 60.3 of said regulations.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

- 5. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: (a) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (b) the area is not a basement; and (c) it shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than

one (1) foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

H. VARIANCES AND APPEALS

1. Any order, requirement, decision or determination of the Board of Selectmen or its duly authorized agent made under this ordinance may be appealed to the zoning board of adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing, in addition to the usual variance standards under state law:
 - a. that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
 - b. that if the requested variance is for an activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - c. that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that: the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25) for one hundred dollars (\$100) of insurance coverage and such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
4. The Town of Brookfield shall maintain a record of all variance actions, including its justification for their issuance, and report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE X - DEFINITIONS

- A. 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 local land use 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 property will be directly affected by the proposal under consideration.
- B. Accessory Building:** a building subordinate to the main building on a lot used for purposes customarily incidental to those of the main building.
- C. Agriculture:** as define in RSA 21:34-a.
- D. Agritourism:** as define in RSA 21:34-a.
- E. Antenna:** the surface from which wireless radio signals are sent and/or received by a personal wireless service facility.
- F. Antenna Array:** a collection of antennas attached to a mount to send and receive radio signals.
- G. Average Tree Canopy Height:** an average height found by measuring the height above ground level (AGL) of all trees over twenty (20) feet in height within a 150' radius of the proposed facility site.
- H. Buildable Area:** a minimum area of :
31,750 sq. ft. with slopes less than 8%
35,250 sq. ft. with slopes 8 -15%
40,000 sq. ft. with slopes 15 – 25%
of contiguous non-hydric soil excluding poorly and very poorly drained soils and areas with slopes greater than 25% of sufficient size and configuration to accommodate all proposed structures, improvements, and facilities.
- I. Camouflaged:** a personal wireless service facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.
- J. Caretaker Dwelling:** a dwelling in the REC-1 zone intended to provide a residence for a caretaker to actively oversee the recreational uses of the lot where the dwelling is located, with the following restrictions:
1. The caretaker dwelling must be clearly incidental, secondary and related to the active recreational use of the property. No caretaker’s dwelling may be constructed or inhabited if there is no approved recreational use for the lot. No

caretaker's dwelling may be inhabited if all approved recreational uses cease for a period of one year.

2. No more than one caretaker dwelling shall be allowed on any existing or newly subdivided lot regardless of the size of the lot.
 3. Every caretaker dwelling shall have a minimum ground floor area of 864 square feet, outside measurement. Porches, steps, or ground level terraces are not considered part of the dwelling for the purposes of this section.
 4. Accessory dwelling units are prohibited.
 5. Construction, change in use, or expansion related to a caretaker dwelling requires site plan approval.
- K. Carrier:** a company that provides personal wireless services, also sometimes referred to as a provider.
- L. Co-location:** the use of a single mount on the ground by more than one carrier (vertical co-location) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.
- M. Driveway:** a private way that serves not more than two (2) lots and provides vehicular access to any street or approved private road.
- N. Dwelling, Single Family (Dwelling):** a structure providing complete, independent living facilities for one family, including permanent provision for living, sleeping, eating, cooking and sanitation.
- O. Dwelling Unit, Accessory (ADU):** an independent living area, contained within either a single family residence or its accessory building which is clearly incidental and subordinate in extent, use and purpose to the principal dwelling, and where either structure is the primary residence of and is occupied by, the owner.
- P. Environmental Assessment (EA):** an EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.
- Q. Equipment Shelter:** an enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed necessary equipment such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

- R. Existing:** in existence, or as existing on the effective day of this ordinance.
- S. Facility:** something that is built or installed to perform some particular function.
- T. Fall Zone:** the area on the ground from the base of a ground mounted personal wireless service facility that forms a circle with a radius equal to twice the height of the facility, including any antennas or other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.
- U. Farms, farming and agriculture:** as defined in RSA 21:34-a.
- V. Farmers' Markets:** as define in RSA 21:34-a.
- W. Farming:** as define in RSA 21:34-a.
- X. Farm Stand:** as define in RSA 21:34-a.
- Y. Floor Area:** heated habitable area.
- Z. Frontage:** that part of the lot or lot line abutting a road or body of water.
- AA. Governing Body:** a board of selectmen in a town.
- BB. Guyed Mount:** a mount that is secured to the ground or other surface by diagonal cables for lateral support.
- CC. Height:** the height above ground level (AGL) from the natural grade of a site to the highest point of a structure.
- DD. Hydric soils:** as defined by the Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission (as amended) and the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987.
- EE. Improvements:** any permanent structure or other development such as a street, walkways, sewers, utilities, etc.
- FF. Junk Yard:** defined under RSA 236:112, I, as well as **Junk** defined as any old bottles, old paper products, old rubber products, two or more unregistered motor vehicles, two or more unregistered boats, used parts and material of motor vehicles or boats, and other second-hand articles the accumulation of which is detrimental or injurious to the neighborhood.

- GG. Lattice Mount:** a type of mount with multiple legs and structural cross bracing between the legs and which may be guyed.
- HH. Legislative Body:** a duly constituted and convened town meeting.
- II. Lot:** a parcel of land. To be buildable, a lot must be of sufficient size to meet the minimum zoning requirements for use and have frontage on a public street or an approved private road. No lot shall be created that fails to meet the requirements of this ordinance. For the purpose of this ordinance, a lot shall have boundaries identical with those recorded with the Carroll County Registry of Deeds.
- JJ. Mast:** a thin pole (12 inches or less in diameter) that resembles a streetlight standard or a telephone pole, which is self, supporting. A dual-polarized antenna is typically deployed on a mast.
- KK. Monopole:** a type of mount thicker than a mast that is self-supporting with a single shaft of wood, steel, concrete, or other material, that is designed for the placement of antennas and arrays along the shaft.
- LL. Mount:** the structure or surface upon which antennas are mounted, including the following four types of mounts:
1. Roof-mounted: mounted on the roof of a building.
 2. Side-mounted: mounted on the side of a building.
 3. Ground-mounted: mounted on the ground.
 4. Structure-mounted: mounted on a structure other than a building.
- MM. Non-conforming Building or Structure:** a building or structure which in whole or part, does not conform to the regulations that are now in effect because it existed prior to those regulations going into effect.
- NN. Non-conforming lot:** any lawfully created lot that doesn't conform to the most current version of the zoning ordinance is nonconforming.
- OO. Non-conforming use:** a use of land or buildings in use prior to the adoption of the zoning restriction prohibiting the use which use does not comply with the current use restrictions.
- PP. Personal Wireless Service Facility:** facility for the provision of personal wireless

services, as defined by the Telecommunications Act of 1996, as amended. Personal Wireless Service facilities include a mount, antenna, equipment shelter, and other related equipment.

- QQ. Personal Wireless Services:** the three types of services regulated by this Article: Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.
- RR. Poorly drained soils:** soils are classified as being poorly drained in New Hampshire and are defined according to the Site Specific Soil Mapping Standards for New Hampshire and Vermont. The interpretive limits for the poorly drained drainage class are consistent with the Field Indicators for Identifying Hydric Soils in New England.
- SS. Radio Frequency (RF) Engineer:** an engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.
- TT. Radio Frequency Radiation (RFR):** the emissions from personal wireless service facilities.
- UU. Right-of-Way:** means, includes, and is limited to all Class V town roads, state or Federal highways, or private ways dedicated to public use as property shown on an approved subdivision plan. This definition in no way implies acceptance of any private rights-of-way by the Town of Brookfield.
- VV. Road, Approved Private:** a private road that was approved by the Subdivision Regulation process.
- WW. Road, Private:** a highway, street, road, avenue or way with the following characteristics:
1. not open to public use as a matter of right for vehicular travel,
 2. the maintenance and repair of which shall be borne by the subdivider, abutting landowners or an association of abutting landowners.
 3. serves three or more lots.
- XX. Security Barrier:** a wall, fence, or berm that restricts an area from unauthorized entry or trespass.
- YY. Separation:** the distance between one carrier's array of antennae and another's carrier's array.
- ZZ. Setback:** the distance between the property lines and the closest structure.

- AAA. Site Visit:** a visit by the appropriate Town Official(s) to examine a site in order to determine its suitability for a specific activity, event, or enterprise. The visit seeks to gather further information to aid in evaluating a planned action, e.g., a permit application, or to confirm that a required action has been performed as stipulated.
- BBB. Structures:** anything permanently affixed to the ground, including but is not limited to, dwellings; accessory buildings such as garages, barns and sheds; and accessory items such as windmills, in-ground pools, free-standing satellite and radio antennae, and free-standing solar panels.
- CCC. Tent Camping:** any area on which are maintained one or more tents used or intended to be used as human habitation or accommodations.
- DDD. Very Poorly drained soils:** soils are classified as being very poorly drained in New Hampshire and are defined according to the Site Specific Soil Mapping Standards for New Hampshire and Vermont. The interpretive limits for the very poorly drained drainage class are consisted with the Field Indicators for Identifying Hydric Soils in New England.
- EEE. Wood Lot:** a non-buildable lot of five (5) or more acres on a class VI road.

ARTICLE XI - ENFORCEMENT

The Board of Selectmen or its designee is hereby authorized to enforce the provisions of this regulation, and to that end shall seek all appropriate legal or equitable remedies under New Hampshire law, including, but not limited to, civil penalties pursuant to RSA 676:17 as the same may be amended from time to time.

ARTICLE XII - CONFLICTING PROVISION

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

ARTICLE XIII - VALIDITY

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.

ARTICLE XIV - WHEN EFFECTIVE

This ordinance and all amendments shall take effect immediately upon passage.

Enacted: March 14, 1961

Amended:

March 10, 1964	March 11, 1986	March 13, 2001	March 9, 2010
November 5, 1966	March 9, 1993	March 12, 2002	March 8, 2011
November 20, 1971	March 8, 1994	March 11, 2003	March 12, 2013
March 5, 1975	March 11, 1997	March 9, 2004	March 11, 2014
August 5, 1975	March 10, 1998	March 11, 2008	March 10, 2015
March 12, 1985	March 14, 2000	March 10, 2009	March 8, 2016

Planning Board Members:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Administrative Assistant: George Nick

Filed with Town Clerk: _____ Date _____
Virginia McGinley, Town Clerk.

Copies of the document have been distributed to the Town Clerk’s Binder, OEP, Strafford Regional, and Town Counsel.

APPENDIX A

REC-1 Zone Boundaries

A certain tract or parcel of land situated on the southerly side of Mountain Road, so called, in the town of Brookfield, in the County of Carroll and State of New Hampshire, bounded and described as follows:

Beginning at a point on the southerly side of the Mountain Road, so called, (also known as Tricky Road), at land now or formally of Paul D. Seiler; thence running in a southerly direction four hundred (400) feet, more or less, along said land of Seiler to the center of Hanson Brook, so called; thence turning and running in a northeasterly direction along the center line of Hanson Brook a distance of one thousand five hundred fifty (1,550) feet, more or less to a barbed wire fence at land now or formerly of Ashton R. Chamberlain; thence turning and running in a southerly direction along said Chamberlain land as indicated by barbed wire fences and stone walls, a distance of two thousand one hundred fifty (2,150) feet, more or less to a pile of stones and an iron pipe set in the ground at land now or formerly of the Heirs of Aimee B. Cate; thence turning and running E 20 S along said Cate land a distance of two thousand fifty (2,050) feet, more or less, to a point at land now or formerly of Amey L. Churchill; thence turning and running in a southerly direction along said land of Churchill a distance of seven hundred fifty (750) feet, more or less, to a point; thence turning and running in a northeasterly direction along said land of Churchill a distance of one thousand two hundred (1,299) feet, more or less, to a point at land now or formerly of Bruce R. Wiggin; thence turning and running S 21 W along said land of Wiggin and land now or formally of Nathaniel Calder a distance of five thousand two hundred and fifty (5,250) feet, more or less, to a granite stone on the Brookfield-Middletown Town Line at land now or formerly of Charles DiPrizio & Sons, Inc.; thence turning and running in a northwesterly direction along said DiPrizio & Sons' land a distance of two thousand three hundred seventy (2,370) feet, more or less, to a point; thence turning and running in a southwesterly direction along said land of DiPrizio & Sons a distance of two thousand seven hundred ninety (2,790) feet, more or less, to a point at land now or formerly of Joseph I. Melanson; thence turning and running in a northerly direction along said Melanson land as partially indicated by a stonewall and barbed wire fence, a distance of six thousand seven hundred fifty (6,750) feet, more or less, to a point at land now or formerly of Raymond L. Nason; thence turning and running in a northeasterly direction along said Nason land to a point; thence turning and running in an easterly direction along said Nason land to a stone on the southerly side of said Mountain Road; thence turning and running southeasterly and easterly along the southerly side of said Mountain Road a distance of one thousand one hundred fifty (1,150) feet, more or less, to a point at land now or formerly of Paul D. Seiler, said point being the place at the beginning.

APPENDIX B

Architectural and Site Design Standards for Multi-family Workforce Housing

Multi-family structures shall comply with the following architectural and site design standards to ensure compatibility with Brookfield's rural and agricultural landscape.

- 1.** Design elements and exterior materials, i.e. roof, windows, doors, porches and trim must be in keeping with the rural character of the community or neighborhood.
- 2.** A multi-family structure shall be no more than two stories above ground with a maximum height not to exceed 35 feet above ground.
- 3.** Garages or carports are encouraged, and must be compatible in scale and material with the principal structure or dwelling.
- 4.** Off-street parking shall meet the following specifications:
 - a.** A parking space shall comprise a rectangular area not less than 9 feet x 18.5 feet, forming a parking stall within or without a structure and not located in any public right of way.
 - b.** A minimum of two off-street parking spaces shall be provided per dwelling unit.
 - c.** Open off street parking shall be as inconspicuous as possible and screened from the roadway by landscaping.
- 5.** Waste containers shall be shielded with fencing, a half wall and/or a landscape buffer and have a gated entry.
- 6.** Storage lockers shall be provided for resident families in basement or garages.
- 7.** Lighting throughout the property shall be provided sufficient for safety, security and to illuminate all public places as designed by an architect and or lighting engineer. Exterior lighting shall be appropriately shielded to avoid upward projection and projection to abutting properties or any public right of way. The luminaries system shall include emergency lighting as required by police, fire and other emergency services.
- 8.** Electrical transformers and other utility equipment shall be surfaced to match structures and to blend with project architecture and/or landscaping.
- 9.** Landscaping will be an integral part of the site and building design and submitted with the design development package. Retention of existing woodlands, meadows, and vegetation is critical and shall be preserved to the maximum extent possible.

10. Pervious surfaces shall be used as much as possible in the preparation and establishment of landscape features and off-street parking.
11. A multi-family structure will incorporate the following site design principles:
 - a. combine one and two-story buildings with graduated elevations to promote broken roof lines and plane changes, and to avoid large flat building walls;
 - b. locate garages as part of perimeter walls at the end of or behind buildings;
 - c. add window detailing to avoid flat wall surfaces except as necessary for a given architectural style;
 - d. consider adjacent land uses in designing structures with respect to their physical and visual impact and their massing, scale and placement; and
 - e. orient structures to capture views and/or vistas beyond building(s) and parking areas.

APPENDIX C
Workforce Housing Requirements

1. Applicability

Multi-family and single-family workforce dwellings are not permitted in Area RA-1 and REC-1. These areas are designated for protection or conservation under the Natural Resource Inventory and the Conservation Priority Areas Map and in areas designated for protection of existing and new sources of Brookfield’s drinking water including Stratified Drift Aquifer and NH Department of Environmental Services source water protection areas, as delineated on the Town of Brookfield Official Zoning Map.

- a. Area RA-1 contains those lands designated for conservation and under conservation, and aquifer and source water protection areas.
- b. Area RA-2 contains lands where multi-family and single-family workforce dwellings may be permitted in compliance with the standards of this ordinance.
- c. Area REC-1 contains the Moose Mountains Recreational area.

2. Affordability Criteria

As required by RSA 674:58, workforce housing is housing which is intended:

- a. for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household, or
- b. for rent and which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household in Carroll County as published annually by the U.S. Department of Housing and Urban Development.

3. Affordability Requirements

In order to qualify as workforce housing under this ordinance, workforce dwelling units must remain affordable as per the above requirements for a period of no less than 30 years. The developer of workforce housing must make a binding commitment of affordability for a period of no less than 30 years. This commitment shall be enforced through a deed restriction, restrictive covenant or a contractual agreement through a local, state or federal housing authority or other non-profit housing trust or agency. For the 30-year term, the deed restriction, restrictive covenant or contractual agreement established to meet the affordability criteria must make the following continued affordability commitments:

- a. Affordable housing units offered for sale shall require a lien, granted to the Town of Brookfield, be placed on each affordable unit. The value of the lien shall be equal to the difference between the fair market value of the unit and its reduced

“affordable” sale price, which is indexed according to the qualifying income standards. The municipality’s lien is inflated over time at a rate equal to the Consumer Price Index (CPI). Future maximum resale values shall be calculated as the fair market value minus the CPI adjusted lien value. Subsequent sales are not limited based on income targets, but the combination of maintenance of the municipality’s lien and adherence to this Article’s Definition of Affordable Owner-Occupied Housing for a period of 30 years.

- b. Affordable housing rental units shall limit annual rent increases to the percentage in the area median income, except to the extent that further increases are made necessary by hardship or other unusual conditions.
- c. Deed restrictions, restrictive covenants, or contractual arrangements related to dwelling units established under this Article must be documented on all plans filed with the Brookfield Planning Board and the Registry of Deeds.

4. **Affordability Administration, Compliance and Monitoring**

- a. No certificate of occupancy shall be issued for an affordable housing unit without written confirmation of the income eligibility of the tenant or buyer of the affordable housing unit and confirmation of the rent or price of the affordable housing unit as documented by an executed lease or purchase and sale agreement.
- b. On-going responsibility for monitoring the compliance with resale and rental restrictions on affordable units shall be the responsibility of a coordinating housing authority or trust or their designee.
- c. The owner of a project containing affordable units for rent shall prepare an annual report, due on January 1, certifying that the gross rents of affordable units and the household income of tenants of affordable units have been maintained in accordance this Article. Such reports shall be submitted to the Brookfield Board of Selectmen or their designee and shall list the contract rent and occupant household incomes of all affordable housing units for the calendar year.

5. **Home Occupations**

Home Occupations are allowed as an accessory use provided that: the home occupation use (HO) is incidental, subordinate and related to the primary use as a dwelling; no one other than the residents of the dwelling shall be employed in the conduct of the accessory use; the HO creates no increased traffic and requires no additional parking; the HO does not materially harm or affect the residential or rural quality of the area and does not pose a fire or toxic hazard or produce offensive noise, vibration, smoke, electrical interference, dust, odors or heat; and the HO shall be completely contained within the dwelling.

6. Prohibited Uses

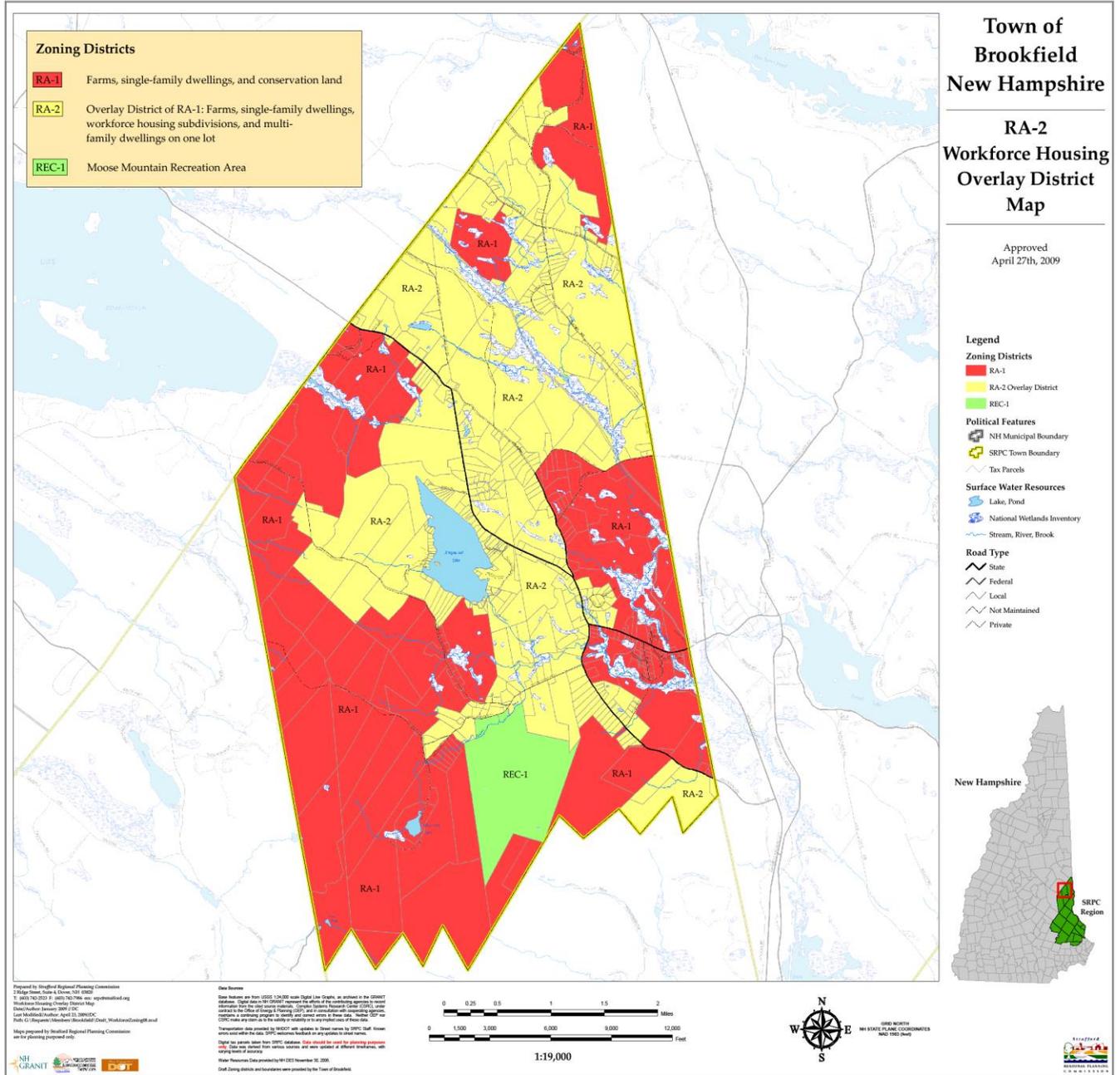
- a. The raising of livestock for any purpose and sales of agricultural products are prohibited in workforce housing developments.
- b. Accessory dwelling units are not permitted in multi-family or single-family workforce housing.

7. State Approvals

Prior to approval of workforce housing developments, an applicant must secure the necessary approvals and permits for on-site water supply systems and sewage disposal systems from NH Department of Environmental Services.

APPENDIX D RA-2 Workforce Housing Overlay District Map

APPENDIX D - RA-2 WORKFORCE HOUSING OVERLAY DISTRICT MAP



APPENDIX E

Recreational Zone (REC-1) Non-permitted, Permitted and Conditional Uses

Non-Permitted Uses.

The following uses are not permitted in the Recreational Zone (REC-1):

Any use not listed as a Permitted Use or a Conditional Use, including but not limited to:

- ATV competition
- Dwellings (except one caretaker dwelling)
- Golf course
- Hotel / inn / lodging
- Motor car racing
- Motorized dirt bikes
- Shooting / skeet, sporting clays, rifle target
- Snowmobile grass drags / water crossing
- Snowmobile sales

Permitted Uses

The following uses are permitted in The Recreational Zone (REC-1):

- Alpine slide / manmade
- Archery
- Astronomy
- ATV trail riding
- Banquet facility activities
- Bird watching
- Club or business meetings or training activities
- Dancing
- Day camp
- Disk golf course (frisbee golf)
- Downhill skiing
- Equipment rental / service - for permitted uses only
- Equipment sales, excluding snowmobiles - for permitted uses only
- Fishing
- Food service / activity driven
- Full service restaurant
- Horseback riding
- Hot air ballooning
- Hunting

Indoor gaming events
Luge
Miniature golf
Mountain biking (bicycle) / non-competitive
One caretaker dwelling
Orienteering
Racquet sports (tennis, paddle tennis, etc)
Skate park
Skating
Ski jumping
Snow shoeing
Snowboarding
Snowmobile rentals
Snowmobile trail riding
Swimming
Theater
Trail running / non-competitive
Tubing
Vending carts
Weddings
X-Country skiing
Zip line

Conditional Uses

The following uses are permitted by Conditional Use Permit in the Recreational Zone (REC-1):

Antique shows
Arts / crafts shows
Biathlon (XC skiing / target shooting)
Car / boat / vehicle shows
Concerts / indoor
Concerts / outdoor
Conventions / conferences
Farmer's market
Flea market
Gun shows
High wire adventure
Hunting preserve
Mountain biking - bicycle / competitive (BMX)
Overnight youth camp / multi-day / supervised
RV camping

Snowmobiling competition
Tent camping
Tractor pulls
Trail running / competitive
Water slide

Other uses or events similar in nature or in kind to those listed in Conditional or Permitted
Uses above.