

ASHLAND ZONING ORDINANCE
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Article 1 Purpose and Authority

1.1 Purpose:

It is the intent of this Ordinance to promote the health, safety, and general welfare of the people of the Town of Ashland by establishing a set of regulations that will guide the community's growth so as to protect the value of homes and land, to promote good civic design and to insure the wise and efficient expenditure of public funds.

1.2 Authority:

Pursuant to the authority conferred by Chapter 674, Sections 16-23, New Hampshire RSA 1955, as amended, and in conformity with the Town of Ashland Comprehensive Master Plan, the voters of the Town of Ashland, New Hampshire, in official Town Meeting, enacted this Ordinance.

1.3 Title:

This Ordinance shall be known and cited as the "Zoning Ordinance of the Town of Ashland, NH."

Article 2 Zones and Zone Regulations

2.1 Zones:

The Town of Ashland is divided into the following zones:

- Commercial (c) – Zone I and Zone II
- Industrial - Commercial (ic)
- Village Residential (vr)
- Rural Residential (rr)
- Pemigewasset Overlay Districts
- Little Squam Lake and Squam River Overlay District

These zones, as established, are shown on the Zoning Map of the Town of Ashland, which is hereby declared to be a part of this Ordinance. Where zone boundaries parallel highways, the distance shown on the Zoning Map from the zone boundary to the highway shall be measured from the edge of highway right-of-way.

When, in the application of this ordinance, the Ashland Zoning Board cannot unanimously agree in which district a property lies, the Ashland Planning Board shall decide in a manner consistent with the Ordinance and the Zoning Map, and written boundary guidelines.

2.2 Zone Regulations

2.2a Commercial: The purpose of this zone shall be primarily for retail and service type shopping facilities, offices, and banking facilities. The area shall provide access parking, adequate lighting, good design, and similar related items for convenience and safety. The following uses are permitted:

- Stores and shops for the conduct of any wholesale or retail business
- Offices, banks, personal services, and medical facilities
- Auto service stations and garages
- Theaters, halls and clubs
- Lodging facilities, hotels, motels and restaurants
- Residential uses including apartments
- Accessory uses
- Personal storage units
- Communication Towers

2.2b Industrial - Commercial: The purpose of this zone shall be to encourage the establishment of industrial and commercial uses that will not be noxious, offensive or detrimental to the environment, the town or the abutters. The following uses are permitted:

- Manufacturing, packing, processing and warehousing

- Railroad and trucking uses, offices and printing facilities
- Research and/or testing facilities
- Storage yards
- Accessory uses
- Stores and shops for the conduct of any wholesale or retail business
- Offices, banks, personal services and medical facilities
- Auto service stations and garages
- Theaters, halls and clubs
- Communication Towers

Personal residences are not allowed in the Industrial - Commercial Zone.

The following is a description of an area that is included in the Industrial - Commercial Zone: commencing at a point on the Union Bridge marking the town line between the Town of Bridgewater and the Town of Ashland; thence following the center line of US Route 3 in a generally easterly and southerly direction along Tax Map Parcel 005-001-013; thence continuing along the center line of US Route 3 along Tax Map Parcel 004-001-002 and 004-001-004; to the point of intersection with state of NH land; thence, southwesterly, southerly and westerly along Tax Map Parcel 004-001-002 to the easterly boundary of B&M RR; thence northerly along the easterly boundary of B&M RR to the centerline of the Pemigewasset River; which centerline marks the Bridgewater/Ashland Town Line; thence northeasterly along the centerline of the Pemigewasset River to the point of beginning.

Also to be included are certain parcels on the easterly side of Route 3 and North Ashland Road, specifically designated as Tax Map Parcels 005-002-001, 005-002-002, 005-002-003, 005-002-004 and 005-002-011 (Amended 3/13/93)(Route 3-also known as Main Street)

- 2.2c **Village Residential:** This zone provides for residential neighborhoods that are adjacent or close to commercial areas, schools and fire and police protections. Public water and sewer lines generally serve areas designated as "Village Residential". The following uses are permitted:
- Single and two-family dwellings
 - Multi-family dwellings
 - Home occupations that comply with the standards of 4.6 and the definition in Article 10
 - Accessory uses (garages and outbuildings)

- 2.2d **Rural Residential:** This zone provides for low to medium density rural living, open space and the protection of environmentally sensitive areas such as wetlands, floodplains, poor soils, and steep slopes. The following uses are permitted:
- Single and two-family dwellings
 - Multi-family dwellings with no more than 6 units per structure
 - Cluster residential development
 - A mobile home on an individual lot
 - Agricultural, forestry and farming uses
 - Home occupations that comply with the standards of 4.6 and the definition in Article 10
 - Accessory uses (garages and outbuildings)

- 2.2e **Pemigewasset Overlay District:** This district provides protection for the environmentally sensitive corridor along the Pemigewasset River and the restrictions contained herein take precedence over permitted uses in the portions of the zones over which it lies. The following uses are prohibited:
- Structures on slopes, which exceed fifteen percent (15%)
 - Mobile home parks
 - Any excavations for which an Earth Excavation Permit issued under RSA 155 E is required.

The eastern boundary of the district shall be 500 feet from the river's high-water line, except that it shall be 1000 feet from the high-water line in any floodplain. For the purpose of determining this boundary, the floodplains shall be considered those floodplain soil areas shown in the US Soil Conservation Service's Soil Survey for Ashland.

2.2f **Little Squam Lake and Squam River Overlay District:** This district provides protection for the environmentally sensitive corridor along the shores of Little Squam Lake and Squam River, and the restrictions herein take precedence over permitted uses in the portion of the Rural Residential Zone over which it lies. The following are prohibited:

- Structures on slopes, which exceed fifteen percent (15%)
- Application of fertilizers, pesticides or herbicides
- Underground fuel storage tanks
- Any excavations for which an Earth Excavation Permit issued under RSA 155 E is required.

This district extends 250 feet inland from the shoreline of Little Squam Lake, Squam River and upstream from the River Street Dam. For the purposes of determining boundaries, this district shall begin at the water's edge at a lake level of 561' as measured by the New Hampshire Water Resources Board's gauge at the Route 3 Bridge over Squam River in Holderness, NH.

2.3 Land and Space Requirements

2.3a There shall be a minimum distance of 35 feet between the edge of any public right-of-way and any building. No driveway shall be located within fifteen (15) feet of the side or rear boundary. **(Amended 3/11/2008)**

2.3b Setbacks for wells, septic tanks, leach fields and components comply with the New Hampshire Department of Environmental Services Code of Administrative Rules Chapter Env-Wq 1000. **(Amended March 11, 2008)**

2.3c Lot Size and Frontage; Building Setback and Coverage. Lots and buildings shall conform to the following standards:

Zone	Min Lot Size Sq Ft	Min Lot Frontage Sq Ft (b)	Min Blding Set Back	Min. Building Set Back	Min. Building Set Back	Max % of Lot Covered Building	Min % Lot Allotted to Green Space
			(d) (ft)	(d)(ft)	(d) (ft)		
			Front	Rear	Side		
Commercial w/s&w	None	100(c)	35 (e)	15 (e)	15 (e)		10% (g)
Commercial w/o	40,000 (a)	100 (c)	35 (e)	15 (e)	15 (e)		10% (g)
Industrial	40,000 (a)	150	35	25	25		10% (g)
Village Res w/s&w	15,000	100	35	15	15	35%	10% (g)
Village Res w/o	40,000 (a)	100	35	15	15	35%	
Rural Residential	40,000 (a)	100	35	25	25	30%	
Pemigewasset Overlay	2 acres	150	(f)	(f)	(f)		
Little Squam Overlay	2 acres	150	(d)	(d)	(d)		

- (a) Or as determined by the Soils and Slopes Table in 2.4
- (b) A lot owned in common as a recreation area serving nearby dwelling units is exempt from the minimum lot frontage requirement
- (c) Minimum lot frontage may be reduced where lot sizes of less than 40,000 square feet are permitted.
- (d) The minimum structure setback from Little Squam Lake shall be 50 feet.
- (e) A commercial building need not be set back more than the average of the front setback of commercial buildings on the lots to either side. If a vacant lot exists on one side, the minimum front setback shall be required. The minimum side and rear setbacks may be reduced to conform with the side and rear setbacks of structures on adjoining properties at the discretion of the Zoning Board of Adjustment.
- (f) The minimum structure setback from the Pemigewasset River shall be 200 feet. In the Industrial - Commercial Zone, the structure setback from the Pemigewasset River may be reduced to 50 feet, through a special exception granted by the Zoning Board of Adjustment.

- (g) All lots with three or more residential units in the Commercial and Village Residential zones shall provide for recreation or playground purposes, in addition to the minimum percentage for green space, 500 square feet plus an additional 100 square feet for each residential unit over three.

2.3d Notwithstanding the requirements listed in 2.3c, back lots (so-called flag or hammerhead lots) are permitted with 50 feet of road frontage **or lots are provided access through a private right of way (Amended March 10, 2009)** under the following conditions:

- The back lot and adjacent front lot, each having frontage on the same street
- Must have a combined frontage required of two lots for the zones in which they are located. If two lots lie in different zones, the frontage requirements of the more restrictive zone shall apply to both.
- For the purpose of calculating frontage requirements, only one back lot may be combined with any one front lot.
- Access to the back lot must be via a **private right of way (Amended March 10, 2009)** at least 50 feet wide. That portion of the **private right of way shall (Amended March 10, 2009)** not be included in the lot size requirement of the back lot.

2.3e **Population Density:**

All lots with three or more dwelling units and/or mobile homes (except for mobile homes in mobile home parks): shall have the following minimum land area for each dwelling unit and mobile home:

- **Population density within the Commercial and Village Residential Zones having town sewer and water shall be as follows:**

- **5000 Sq Ft of land area per dwelling unit with maximum of 4 bedrooms**
- **3750 Sq Ft of land area per dwelling unit with maximum of 3 bedrooms**
- **2500 Sq Ft of land area per dwelling unit for 1 or 2 bedrooms**

The above formula applies only to the first 3 dwelling units. Each additional dwelling unit must provide 5000 Sq Ft of land area with a maximum of 4 bedrooms. An additional 1250 Sq Ft of land area shall be required for each additional bedroom above 4. (Amended March 10, 2009)

- Rural Residential Zone: 40,000 square feet per dwelling unit or mobile home
- Pemigewasset and Little Squam Overlay Districts: 60,000 square feet per dwelling unit or mobile home. (This requirement shall take precedence over the Rural Residential Zone requirement.)

2.3f New construction, excavation, or building in the area of a known burial site or within the boundaries of an established burial ground or cemetery shall comply with the setbacks of the zone in which it is located. **(Amended March 11, 2014)**

2.4 **Lots**

Each lot shall meet all the standards for lot size, including:

- 2.3c District and Overlay District standards
- 2.3e Lots with three or more dwelling units and/or mobile homes
- 2.4a Lots without town sewerage
- 2.4c Cluster developments
- 4.1 Waterfront access lots
- 4.4 Mobile home parks
- 4.5 Recreational camping parks

2.4a The size of lots without town sewer shall be determined by the following Soils and Slopes Table and accompanying formulas. (See Appendix for Soil Breakdown)

Soil Type (Soil Chart-See Appendix)	Slope	Lot Size
Groups 1 and 2	0-8%	40,000 sq. ft.
	>8-15%	45,000 sq. ft.
	>15-25%	60,000 sq. ft.
Group 3	0-8%	50,000 sq. ft.
	>8-15%	75,000 sq. ft.
	>15-25%	100,000 sq .ft
Group 4	0-8%	60,000 sq. ft.
	>8-15%	80,000 sq. ft.
	>15-25%	120,000 sq. ft.
Group 5 and 6	These soils cannot be included in determining minimum lot sizes, and septic systems are not permitted on them.	

- For a single-family residence of not more than four bedrooms, the minimum lot size shall be as listed in the Soils and Slopes Table.
- For each residential building of five to ten bedrooms, the minimum lot size shall be determined as follows:

$$\frac{\text{Number of Bedrooms} \times \text{minimum lot size from Soils and Slopes Table}}{4}$$

- For each residential building of more than ten bedrooms, and commercial and industrial uses, the minimum lot size shall be determined by reference to the regulations of the New Hampshire Water Supply and Pollution Control Commission.
- Wetlands and areas with slopes over 25 percent may not be included in any part of the minimum size.
- In subdivisions with community water systems or municipal water supply (**amended March 11, 2008**) the minimum lot size may be decreased by 33 1/3 percent from the minimum lot size as determined from the Soils and Slopes Table. No such lot, however, shall have an area of less than 40,000 square feet.

2.4b In subdivisions where lots are ten acres or less, the depth of any lot shall be no more than four times its frontage.

2.4c The total land area in a cluster development shall equal the minimum lot size requirements established in 2.3c, times the number of lots and/or dwelling units.

2.4d (added March 10, 2009) Lot sizing for lots without town sewer shall not use the following in determining countable area for minimum lot size:

- Slopes greater than 25%
- Areas of exposed ledge
- Wet land areas
- Fill materials that contain tree stumps, sawdust, woodchips, tree bark, bricks, asphalt, concrete, metal, wall board, construction debris or other such non-soil material, or contain no more than 25% by volume of cobbles

larger than six (6) inches in diameter or stone larger than twelve (12) inches in diameter

- **Areas that are unsuitable for septic placement**

ARTICLE 3 GENERAL PROVISIONS

3.1 Height restrictions

3.1a No building or structure shall be constructed with more than three stories not counting any basement below ground level or with an overall height exceeding 45 feet above mean ground level, except as noted in 3.1b and as permitted in Article 9.

3.1b Within the Pemigewasset Overlay and Little Squam Overlay District, no building or structure shall be constructed with an overall height exceeding 35 feet above mean ground level.

3.1c Height restrictions shall not apply to chimneys, church steeples, silos, or other necessary features appurtenant to buildings, which are usually carried above roofs and are not used for human occupancy. Height restrictions shall not apply to antennas, except such antennas fitting within the definition of Communication Towers, which shall be governed by the provisions of Article 9.

3.2 Off-street parking

Adequate off-street loading and parking shall be provided for:

- All newly constructed buildings
- New building additions
- Renovations increasing the number of units, seats, or anticipated patrons and employees
- Renovations changing the use of a unit

3.2a New construction of institutional, commercial, or industrial uses requiring off-street loading facilities shall provide adequate space so that vehicles receiving or delivering merchandise or materials can be loaded or unloaded outside of any public right-of-way.

3.2b All construction and renovation as described in 3.2 shall provide adequate off-street parking spaces equivalent to 200 square feet per space plus adequate additional area for maneuvering. The following standards shall be used:

- Residential use: two spaces for each family unit
- Hotel, motel and tourist accommodations: one space for each unit
- Commercial and industrial uses: one space for each three anticipated patrons and/or employees on the premises at any one time
- Public assembly (auditorium, church, hall, restaurant and theater): one space for every four seats

3.3 Signs

3.3.1 Permits

No sign or advertising device shall be erected in the Town of Ashland without a permit, except for signs required by federal, county, state or local law for safety purposes or for official Town of Ashland purposes.

3.3.2 Application and Fee Schedule

All applications for a sign permit shall be made to the Building Inspector and shall include a fee of \$ 40.00 (residential), \$60.00 (commercial), or \$ 85.00 (industrial), site location, sign size, number of signs, lettering, method of illuminations, if any, and types and colors of materials to be used in construction. Sign permits for residential use shall be issued and approved by the Building Inspector. All sign applications for non-residential use are subject to site plan review by the Planning Board prior to sign permit being issued by the Building Inspector. The Building Inspector may waive the fee for low impact, temporary signs promoting a civic or charitable activity or cause.

3.3.3 Sign Zones and Measurements

3.3.3.1 **Commercial Zone I:** The boundaries of this zone shall extend from the southern most boundary of the Commercial Zone, encompassing the current boundaries and running down to and including the property on Tax Map 004-

002-027. No sign shall exceed 80 square feet nor be taller than 15 feet. No freestanding sign shall be smaller than 8 square feet.

- 3.3.3.2 **Commercial Zone II:** The boundaries of this zone shall extend from the northern most boundary of the Commercial Zone, encompassing the current boundaries and running down to and including the property on Tax Map 004-002-026. No sign shall exceed 200 square feet nor be taller than 75 feet. No freestanding sign shall be smaller than 8 square feet.
- 3.3.3.3 **Industrial - Commercial Zone:** The same requirements as outlined in 3.3.3.1 shall apply.
- 3.3.3.4 **Village Residential Zone:** No residential sign may exceed 8 square feet. Any non-residential sign application shall be treated as outlined in 3.3.2.
- 3.3.3.5 **Rural Residential Zone:** No residential sign may exceed 12 square feet. Any non-residential sign application shall follow the application and site plan review procedures as set forth in 3.3.2.
- 3.3.4 **Number of Business Identification/Advertising Signs**
 - 3.3.4.1 A single business site shall be allowed three identification/advertising signs.
 - 3.3.4.2 A multi-business site shall be allowed two identification/advertising signs not to exceed 80 square feet each and one sign per business not to exceed 8 square feet per sign.
- 3.3.5 **Location**

No sign shall be placed in a position to endanger traffic by obstructing the line of sight. No sign shall be allowed that could be confused with a traffic sign. No sign shall be allowed that could be a safety hazard. The Planning Board has the discretion to prohibit animated signs.
- 3.3.6 **Temporary Signs**

A temporary sign may be erected subject to other sections of this ordinance as may apply. A temporary sign may not be larger than 32 square feet in size. The duration of a temporary sign permit shall not exceed 7 consecutive days, unless extended or renewed. Other seasonal or special occasion temporary signs for community events are up to the discretion of the Planning Board when dealing with size and duration.

 - 3.3.6.1 **Real Estate**

One (1) temporary non-illuminated sign advertising only the sale or lease of the premises thereon shall be permitted without a sign permit. Said sign shall not exceed 6 square feet in the Residential Zone and shall not exceed 32 square feet in other zones. Said signs shall be removed within 48 hours after the date of closing.
 - 3.3.6.2 The penalty for not removing said signs within the above-specified amount of time shall be \$10.00 per sign per day.
- 3.3.7 **Maintenance**

All surfaces and supporting structures of signs, whether erected prior to effective date of this ordinance or not, shall be maintained in a safe and slightly condition, to the satisfaction of the Selectmen or their authorized agent. Failure to correct a violation within 30 days after notice thereof shall constitute a violation of this ordinance, subject to prescribed remedies whereupon the designated Town Official may remove, or cause to have removed, said sign.
- 3.3.8 **Enforcement**

The owner of any illegal sign shall be notified in writing of said violation and be given 30 days to respond in writing to the Building Inspector with a plan to correct said violation. Failure to comply with the Building Inspector's notice will result in the violation being sent to the Board of Selectmen for enforcement and compliance.
- 3.4 **Obnoxious Use**

Any use that may be obnoxious or injurious by reason of production or emission of odor, dust, smoke, refuse matter, fumes, noise, vibration, or similar conditions, or that is dangerous to the

comfort, peace, enjoyment, health or safety of the community or lending to its disturbance or annoyance, is prohibited.

3.5 Junk Yards

Junkyards are prohibited in the Town of Ashland.

3.5a Definitions

“Junkyard” or “automotive recycling yard” means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary fills. The word does not include any motor vehicle dealers registered with the Director of Motor Vehicles under RSA 261:104 and controlled under RSA 236:16. “Junkyard” also means any place of storage or deposit, whether in connection with a business or not, which has stored or deposited two or more motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material, which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to two or more motor vehicles. Junkyard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material, which are parts of a motor vehicle or cut the parts thereof.

Violations

Upon discovery of a violation of section 3.5(a), the Town shall issue a written notice of violation to the violator requiring that the property come into compliance within 30 days of the date of the notice of violation. If the Town determines that the violation poses an immediate threat to public health or safety, the violator must bring the property into compliance immediately. If the property is not brought into compliance with Article 3.5(a) within 30 days from the date of notification, or within 3 days of the date of notice of violation where it has been determined that the violation poses an immediate threat to public health or safety, the violator will be subject to a civil penalty of up to \$275.00 for each day that the violation continues, plus the Town’s enforcement costs as authorized by NH RSA 676:17.

3.5b Permanent storage facilities for hazardous waste are prohibited. Improper disposal of household hazardous waste is prohibited, except for authorized areas.

3.6 Keeping of Farm Animals

The keeping of farm animals (including cows, goats, horses, pigs and sheep) for commercial purposes within the Commercial, Industrial - Commercial and Village Residential zones shall be prohibited.

3.6a The keeping of farm animals (chicken, rabbits, etc) for non-commercial purposes within the Commercial, Industrial-Commercial and Village Residential zones of less than 2 acres (87,120 square feet) is prohibited.

3.7 Erosion

If clay, sod, loam, sand, or gravel is removed within 100 feet of any public highway, street, or roadway, the area shall be inspected to assure that the premises will be protected against erosion and washouts within 90 days of the completion of construction or removal of material.

ARTICLE 4 SPECIAL PROVISIONS

4.1 Waterfront Access

This provision provides guidelines for the development of backland with access to Little Squam Lake and the Squam and Pemigewasset Rivers so as to prevent overcrowding and to protect water quality.

Rights to gain access to a water body through or by means of any land in the Town of Ashland shall not be created or attached to any real estate, except in accordance with the standards set forth below and subject to Planning Board approval. Any owner granting rights of use and access shall comply with the following standards:

- 4.1a The minimum area of any waterfront access lot shall be the greater of: a) one acre or b) 800 square feet per residential dwelling unit, individual recreational campsite, or individual lodging unit.
- 4.1b A waterfront access lot shall not have less than 200 linear feet of shore frontage for up to 10 residential dwelling units, individual campsites, or individual lodging units with granted rights of use or access.

Each additional such unit of campsite shall require an additional 20 linear feet of shore frontage.

- 4.1c A parking area of 300 square feet adjacent to the waterfront access lot shall be provided for each dwelling unit, recreational campsite, or individual lodging unit located in excess of 1000 feet from the waterfront property to which it has granted access. Parking shall be permitted only in the designated parking area.
- 4.1d One toilet facility shall be provided on the waterfront access lot for each 10 residential dwelling units, individual campsite or individual lodging unit, or fraction thereof.
- 4.2 The minimum shore frontage for a building lot located along Little Squam Lake or along the Squam and Pemigewasset Rivers shall be 200 feet.

4.3 Mobile Homes

- 4.3a No mobile home shall be allowed within the Town of Ashland without a permit issued by the Building Inspector.
- 4.3b Mobile homes placed or replaced within the Pemigewasset Overlay District must be installed upon a permanent foundation.

4.4 Mobile Home Parks

- 4.4a No mobile home park shall be constructed on less than 10 acres of land. No mobile home park shall be permitted within the Pemigewasset and Squam Overlay Districts. In all other zones, mobile home parks shall be permitted only by Special Exception.
- 4.4b A mobile home park not served by town sewerage and water shall conform to the regulations of the New Hampshire Water Supply and Pollution Control Commission.
- 4.4c A separate, clearly defined site shall be provided for each mobile home. Each site shall have minimum area of 10,000 square feet in the Village Residential Zone, Commercial Zone and sewered portions, and a minimum area of 30,000 square feet in the Rural Residential Zone and unsewered portions of the Industrial-Commercial Zone.
- 4.4d Each mobile home site shall be provided with off-street parking of 400 square feet.
- 4.4e A usable area of no less than 1,000 square feet per mobile home site shall be set aside and maintained for joint use of all the occupants of the mobile home park.
- 4.4f Within the minimum 10 acres, but in addition to requirements stated in 4.4c and 4.4e, a 35 foot buffer strip shall be maintained along all boundaries and public roads. Within this space a dense visual screen of suitable shrubs and trees 6 feet or more in height shall be provided. Such open space shall not be built upon, paved, nor used for parking.
- 4.4g All roadways shall be constructed and maintained by the mobile home park owner in conformance with Ashland road standards, unless adequate provision has been made for on-going maintenance and repair.

4.5 Recreational Camping Parks

Within the Pemigewasset and Little Squam Overlay Districts, the following standards shall apply:

- 4.5a The minimum area shall be 5 acres.
- 4.5b A 35 foot landscaped buffer strip shall be maintained along all perimeters of the park, except that along the riverfront the buffer strip shall be 75 feet wide. Within this space, a dense visual screen of suitable shrubs and trees 6 feet or more in height shall be provided. Such open space shall not be built upon, paved, nor used for parking.

4.6 Home Occupation

Any use that is customarily conducted within a dwelling by the inhabitants thereof, which is secondary to the use of the dwelling for residential purposes. A home occupation shall not be interpreted to include dining facilities, lodging or transient housing, convalescent homes, mortuary establishments, garbage and waste hauling services, animal hospitals or kennels, or similar uses.

- 4.6a A home occupation meeting the requirements listed below is permitted in any zone:
 - 4.6a.1 Advertising shall be limited to business cards, flyers, and newspaper ads, which may refer to the location of the structure and type of occupation.
 - 4.6a.2 No signage other than a sign up to 12 inches high by up to 30 inches in length or up to 30 inches high and up to 12 inches in length, or any other configuration not to exceed 360 square inches. **(Amended March 13, 2007)**
 - 4.6a.3 Storage of goods is only allowed within the primary structure or accessory building.
 - 4.6a.4 Adequate off-street parking spaces are permitted for the home occupation as deemed necessary by the applicant.
 - 4.6a.5 The occupation shall not cause nuisance due to noise, radiation, radio interference, vibration, sound pressure, odors, dust, fumes, vapors, gases, smoke or glare.
 - 4.6a.6 Such use must be clearly secondary and incidental to the use of the premises for dwelling purposes.
 - 4.6a.7 No more than thirty-three percent (33%) of the gross floor area of the occupied dwelling unit shall be devoted to such a home occupation.

- 4.6b There shall be no outside parking of vehicles defined in NH RSA 259:7, 259:11a, 259.59, 259:98 and 259:109 as Bus, Combination Vehicle, Motor Truck, Semi-trailer, Tractor-trailer, and Truck-tractor.

- 4.6c Any Home Occupation not meeting the requirements of 4.6a.1 through 4.6a7, and 4.6b may be permitted by Special Exception. Applicants for a Special Exception must meet the requirements of Sections 6.3.1 through 6.3.2c of the Zoning Ordinance.

4.7 **Bed and Breakfast**

Bed and Breakfasts are allowed in all zones subject to site plan review and the following conditions:

★ Maximum number of accommodations units shall be determined by the more restrictive of:

Subtracting 750 from the total square footage of the building and dividing the result by 400

OR

The total square footage of the lot divided by 1800.

★ Establishment is not primarily a restaurant, although establishment may serve breakfast and snacks to its guests.

★ All Bed and Breakfasts shall be required to have all local and state permits, and a permit to operate issued by the Building Inspector before operation begins. Approval alone by the Planning Board does not constitute permission to operate.

Signage: Main sign shall be no larger than 8 square feet and may be double sided, posts not included. There shall be no neon or flashing signage.

Nameplate sign of 100 square inches to be mounted on building.

Exit and Entrance signs to be determined by applicant and reviewed by Planning Board.

Parking signs to be determined by applicant and reviewed by Planning Board.

- Parking: Minimum off-street parking to include (2) spaces for the owner/innkeeper and (1) space for each unit, (200 square feet minimum per space)
- Lighting: All lighting shall be installed so as not to disturb the neighbors or the residential nature of the area.

The Bed and Breakfast shall not cause nuisance due to radiation, radio interference, vibration, sound pressure, odors, dust, fumes, vapors, gases, smoke, traffic or glare.

4.8 **Yard, Garage, Barn Sales and Auctions**

Yard, Garage, Barn Sales and Auctions are permitted in all districts without permit, but only after notification to the Town Office. No such sale or auction may run for more than 4 consecutive days.

Signage: There are no sign permits required for yard, garage, barn sales and auctions, however, all signs must be removed within 24 hours of ending the sale. All signs must contain name, address, and telephone number of the sale's host, as well as the date(s) of the sale.

Signs are not permitted on utility poles, or within the public right-of-way. Failure to comply may result in a fine being levied of not more than \$275 a day from date of ordinance violation (RSA 676:17)

4.9 **Flood Hazard Areas:**

This ordinance, adopted pursuant to the authority of RSA 674:16 shall be known as the Town of Ashland Floodplain Development Ordinance. The regulations in this Ordinance shall overlay and supplement the regulations in the Town of Ashland 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 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 following 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 Rate Maps dated April 2, 1986, which are declared to be a part of this ordinance and are hereby incorporated by reference.

4.9.1 Definition of Terms

The following definitions shall apply to this Floodplain Development Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Ashland.

- Area of Special Flood Hazard is the land in the floodplain within the Town of Ashland subject to a one (1) percent or greater chance of flooding in any given year. The area is designated as Zone(s) A and AE on the Flood Insurance Rate Map. (**Amended March 13, 2007**)
- Base Flood means the flood having a one-percent possibility of being equaled or exceeded in any given year.
- Basement means any area of a building having its floor sub grade on all sides.
- Building – see Structure
- Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling grading, paving, excavation or drilling operation or storage of equipment or materials. (**Amended March 13, 2007**)

- FEMA means the Federal Emergency Management Agency.
- Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - The overflow of inland or tidal waters.
 - The unusual and rapid accumulation or runoff of surface waters from any source.
- Flood Insurance Rate Map (FIRM) means 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 Ashland.
- Floodplain or Flood-prone area means any land area susceptible to being inundated by water from any source (see definition of Flooding)
- Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
- Floodway – see Regulatory Floodway
- Functionally dependent use means 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.
- Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- Historical Structure means 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;
 - a. By an approved State program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior in states without approved programs.
- Lowest Floor means the lowest floor of the lowest enclosed area (including the basement). An unfinished or flood resistant enclosure, usable solely for parking 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.
- Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home includes park trailers or 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. **(Amended March 13, 2007)**

- Mean sea level means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- 100-year Flood – see base flood
- Recreational Vehicle is defined as:
 - Built on a single chassis;
 - 400 square feet or less when measured at the largest horizontal projection;
 - Designed to be self-propelled or permanently towable by a light duty truck; and
 - Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. (**Amended March 13, 2007**)
- (See-Area of Special Flood Hazard) (**Amended March 13, 2007**)
- Structure means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
- Start of Construction includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvements was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site such as pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include installation of streets and/or walkways; nor does it include excavation for a basement, footing, 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.
- Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.
- Substantial Improvement means any condition of repairs, reconstruction, alteration or improvements to a structure in which the cumulative cost equals or exceeds 50% of the market value of the structure. The market value of the structure should 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. The term includes structures, which 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 structures continued designation as a historic structure.
- Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.
- Flood Insurance Study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and

determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards. **(added March 13, 2007)**

- Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. **(added March 13, 2007)**
- New Construction means for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. **(Added March 13, 2007)**
- Violation means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR§ 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided. **(Added March 13, 2007)**

4.9.2 All proposed development in any special flood hazard areas shall require a permit.

4.9.3 The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- A. be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. be constructed with materials resistant to flood damage;
- C. be constructed by methods and practices that minimize flood damages; and
- D. be constructed with electrical, heating, ventilations, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4.9.4 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 Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from 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.

4.9.5 For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Building Inspector:

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

The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

4.9.6 The Building Inspector 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

4.9.7

- A. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector and the Conservation Commission, in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau and notice of Conservation Commission meetings. **(Amended March 13, 2007)**
- B. The applicant shall submit to the Building Inspector and the Conservation Commission, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- C. The Building Inspector shall obtain, review and reasonably utilize any floodway data available from federal, state or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:
 - No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.
- D. Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other developments are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. **(Added March 13, 2007)**
- E. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. **(Added March 13, 2007)**

4.9.8

- A. In special flood hazard areas the Building Inspector shall determine the 100-year flood elevation in the following order of precedence according to the data available:
 - a. In Zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
 - b. In Zone A, the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals) **(Amended March 13, 2007)**
- B. The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in Zone A and AE that:
 - 1, all new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation.
 - 2. 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, shall:
 - i. be flood proofed so that below the 100-year flood elevation that structure is water tight with walls substantially impermeable to the passage of water;

- ii. have structural components capable of resisting, hydrostatic and hydrodynamic loads and the effect 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;
- C. All manufactured homes to be placed or substantially improved within special flood hazard area 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 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.
- D. All recreational vehicles placed on sites within Zones A and AE shall either:
- 1. be on site for fewer than 180 consecutive days;
 - 2. be fully licensed and ready for highway use, or
 - 3. 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. **(Amended March 13, 2007)**
- E. 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:
- 1. the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
 - 2. the area is not a basement
 - 3. shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Opening may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

4.9.9 Variance and Appeals

- A. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- B. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33,I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
 - 1. that the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense.
 - 2. that if the requested variance is for activity within a designate regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - 3. that the variance is the minimum necessary, considering the flood hazards, to afford relief.
- C. The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction

below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

- D. The community shall (i) maintain a record of all variance actions, including their justifications for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE 5 NON-CONFORMING USES

- 5.1 All non-conforming properties in active use when this Ordinance is adopted may continue in their present use.
- 5.2 If a use is discontinued or abandoned for one year, it shall thereafter conform to the regulations for the zone, and the non-conforming use may not thereafter be resumed without approval of the Zoning Board of Adjustment.
- 5.3 Any and all non-conforming property may be altered and expanded as the business conditions warrant, provided, however, that any such expansion does not make any existing non-conforming structure, more non-conforming within the terms of this Ordinance and provided that all other standards of the Ordinance are met.
- 5.4 Non-conforming buildings, which are destroyed by fire or other natural disaster, may be rebuilt or replace if the degree of non-conformity is not increased.

ARTICLE 6 BOARD OF ADJUSTMENT

6.1 Creation, Appointment and Jurisdiction

Within thirty days after the adoption of this Ordinance, and thereafter as terms or vacancies occur, the Board of Selectmen shall appoint a Zoning Board of Adjustment consisting of five members whose duties, terms and powers shall conform to the provisions of Chapters 673,674,676 and 677 RSA 1955, as amended. The Zoning Board of Adjustment may also include not more than three alternate members appointed by the Board of Selectmen. No person may be appointed to more than three consecutive terms as a member of the Zoning Board of Adjustment.

6.2 Appeals

- 6.2a Appeals to the Zoning Board of Adjustment may be taken by any aggrieved person or by any officer, department, board or bureau of the Town of Ashland affected by any decision of the administrative officer in the manner prescribed by RSA 674:34 and 675:5-7 within the time limit set by the Zoning Board of Adjustment according to said statute.
- 6.2b Prior to a hearing, the costs of advertising, posting and mailing the notices of the hearing shall be paid by the person making the appeal.

6.3.1 Special Exception

At the discretion of the Zoning Board, any use not permitted in a specific article may be allowed as a Special Exception, provided that:

- The specific site is an appropriate location for the intended use or structure
- The use will be compatible with neighboring land uses
- The property values in the zone and in the surrounding area will not be reduced by such a use.
- There will be no nuisance or serious hazard to vehicles or pedestrians.
- Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- The proposed use will comply with the minimum lots sizes, frontage and setback requirements set forth in 2.3.

- Existing road and highways are capable of carrying the additional traffic.

The Board may impose additional standards in granting a special exception where deemed necessary to protect the best interests of the surrounding property, the neighborhood, or the town as a whole. These standards may include, but are not necessarily limited to the following:

- Increasing the required lot size or setback in order to protect the adjacent properties
- Limiting the lot coverage or height of buildings
- Controlling the location and number of vehicular access points to the property.
- Requiring suitable on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character with the surrounding area
- Provide for specific layout of facilities on the property such as the locations of buildings, parking spaces, and access to the building so as to minimize the effect on adjoining property.
- Requiring the lot to be of sufficient size to support an adequate subsurface sewage disposal system in the case of conversions of existing structures to more intensive use.
- Requiring professional inspection of, and improvements to, an existing subsurface sewage disposal system.

6.3.2 Procedure for Special Exception

A special exception use will require an application and a site plan submitted to the Zoning Board of Adjustment. A special exception may be granted only after a public hearing is held.

6.3.2a The site plan for a proposed development, which necessitates a special exception, shall contain, where applicable:

- The lot dimensions and any bounding streets with their right-of-way and pavement widths
- The locations and dimensions of existing or required service areas, buffer zones, landscaped areas, recreational areas, signs, right-of-way, streams, drainage and easements
- All existing and proposed buildings, additions or other structures with their dimensions
- All setback dimensions (front, rear, side) and building heights
- Computed lot and building areas with percentages of lot occupancy
- Elevations or contours if required or relevant
- The location and number of parking spaces and traffic lanes with their dimensions
- Any required loading, unloading, and trash storage areas

6.3.2b All abutters of any proposed use not permitted under Article 2 shall be notified by the Zoning Board of Adjustment by certified mail return receipt requested, not less than 15 days before the date of any public hearing regarding said site. The names and addresses of the abutters shall be supplied by the applicant on a plot plan to be submitted to the Zoning Board of Adjustment.

6.3.2c The applicant shall pay the total costs of advertising and posting any hearings and the cost of certified mailings, and any necessary site inspection fees.

6.4 Variances

6.4a (Amended 3/09/10) Variances may be granted only after a public hearing in accordance with NH RSA 676:7.

6.4b (Amended 3/9/2010) The Zoning Board of Adjustment shall have the power to authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance in accordance with NH RSA 674:33.

6.4c **Rehearings**

The Selectmen and any party subject to an order or a decision of the Zoning Board of Adjustment, and any party directly affected by such an order or decision may apply for a rehearing. The application for a rehearing shall be treated according to NH RSA 677.

ARTICLE 7 ADMINISTRATION AND ENFORCEMENT

7.1 **Issuing Permits**

The Building Inspector shall issue all building permits required in accordance with the Town of Ashland Building Regulations. No permit shall be issued for the erection of any structure or for the use of land unless the proposal complies with the provisions of this Ordinance.

7.2 **Enforcement**

7.2a Upon receiving any credible information that this Ordinance is being violated, and upon an affirmative vote that a violation more probably is being committed, the Selectmen are hereby authorized to enforce the provisions of this Ordinance by application for appropriate relief in the Superior Court, or by taking any other legal action.

7.2b Any violation of any provision of this Ordinance by any person, firm, corporation, or other legal entity, whether the owner of the property or whether acting under authority of such owner, shall be a violation pursuant to the Criminal Code of New Hampshire for each day of such offense. In addition, after conviction, the additional penalties provided for by RSA 676:17 may apply.

ARTICLE 8 MISCELLANEOUS PROVISIONS

8.1 **Saving Clause**

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

8.2 **Effective Date**

This Ordinance shall take effect immediately upon its adoption.

8.3 **Amendments**

This Ordinance may be amended by majority vote of any Town Meeting, in accordance with the provisions of RSA 675 as amended.

8.4 **Validity**

Whenever the provisions of this Ordinance or rulings made under the authority herewith differ from those of other ordinances or regulations of the Town, the provision or ruling which imposes the greater restriction or the higher standard shall govern.

ARTICLE 9 COMMUNICATION DEVICES

9.1 **Statement of Purpose behind the Zoning Ordinance**

It is the purpose of these provisions to regulate the placement, maintenance and eventual removal of Communication Devices and Towers to preserve and protect the public safety and welfare, including community aesthetics. All Communication Devices and Towers shall comply with the criteria set out in Article 9 of this Ordinance, as well as with any additional criteria imposed by the Planning Board as part of its authority to approve or disapprove a site plan for any such Communication Device or Tower.

9.2 **Statement of Substantive Requirements for Communication Devices**

a. Requirements for Communication Towers

- (1) Proof of landowner's good title and support of the application.
- (2) Site Requirements

- (I) **Minimum Setbacks:** A Communication Tower must be set back from the boundary of the property and any structure by a distance no less than one hundred ten percent (110%) of the height of the tower.
- (II) **Effect of Communication Tower on Scenic Views:** No Communication Tower shall be permitted in the Little Squam Overlay District or the Pemigewasset Overlay District.

The Applicant must demonstrate that every reasonable effort has been made to cause the Communication Tower to have the least possible visual impact on the town at large, including demonstration of realistic analysis of multiple sites within the town and outside the town, the need for the proposed height and landscaping and other measures. The applicant must demonstrate that existing or approved structures, including other Communication Towers in the region, are functionally unsuitable to handle the need for the Communication Devices, which will be located on the Communication Tower.

- (III) **Other Impacts of the Communication Tower on Other Properties:**
Except as specified in this subparagraph c, the Applicant must demonstrate that no offensive noise, bright lights or odors shall be transmitted outside the property boundaries. Any lights, whether required by any regulatory agency or otherwise, shall be installed in such a way as to minimize the impact on adjoining properties.
- (IV) **Maintenance Roads and Outbuildings:** The Communication Tower must be accessible to emergency vehicles throughout the year. The Applicant must demonstrate that any proposed maintenance and access roads meet the specifications of the Planning Board at the time of application. Any outbuildings must meet the requirements of the Town of Ashland Building Regulations.

- (3) Construction Requirements

- (I) **Structural Requirements**
 - The Applicant must demonstrate that the Communication Tower and any attachments to the Communication Tower, including Communication Devices, can withstand winds of at least 130 miles per hour.
 - The Applicant must demonstrate that the Communication Tower and any attachments to the Communication Tower, including Communication Devices meet all federal and state regulatory standards.
 - The Applicant must demonstrate that the Communication Tower and any attachments to the Communication Tower, including Communication Devices meet all commonly accepted engineering standards.
- (II) **Requirement to Accommodate Multiple Providers:** The applicant must demonstrate that every reasonable effort has been made to design the Communication Tower to accommodate multiple providers of communication services and must agree to make the Communication Tower available upon reasonable terms by lease or other legal instrument to other communication services to the extent of the Communication Tower's design.

(4) Maintenance Requirements

The Applicant must present its plan to maintain the Communication Tower in accordance with this ordinance, all state and federal regulatory standards and commonly accepted engineering standards. This plan must cover maintenance roads, outbuildings and periodic physical (“shakedown”) inspections.

(5) Removal Requirements

- (I) The Applicant must provide a draft-dismantling plan, acceptable to the Planning Board, which will describe demolishing the Communication Tower and restoring the site.
- (II) Assurances of funding to remove the wireless towers must be provided. The Applicant must provide a bond or other security acceptable to the Planning Board in an amount sufficient to cover the costs of executing the draft-dismantling plan. The amount of funding required shall take into consideration the expected useful life of the Communication Tower.

(6) Any other requirements or conditions imposed by the Ashland Planning Board.

- (I) Requirements for Placement of Other Wireless Communication Devices. This section is intentionally left blank.

9.3 Exemptions

This ordinance shall not govern any tower, or the installation of any antenna that is 35 feet in height or less and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receiving only antennas. [This application adopts the provisions and limitations as referenced in RSA 674:16,IV.]

9.4 Procedural Requirements for Communication Devices

This ordinance shall be administered by the Ashland Planning Board. Enforcement shall be by the Board of Selectmen. Before a building permit may be issued for a Communication Device or Tower, the applicant must have received final site plan approval from the Planning Board, which shall include compliance with the provisions of this Ordinance.

- a. **Procedural Requirements for obtaining approval to install a wireless communication device. The Town of Ashland Planning Board shall make all approvals of Communication Devices.**
 - I. **Rights of Abutting Towns:** Because the visual impact of wireless communication facilities can transcend town lines; the Town of Ashland shall formally notify all towns that may reasonably be visually affected of applications for such proposed Communication Towers. The applicant shall be responsible for the cost of this notice.
- b. **Procedural Requirements for Approval for Modifying a Communication Device/Tower:**
 - I. Any alteration of the original permitted use, structure or configuration of the Communication Device/Tower will require a new approval by the Planning Board.
 - II. Additional prospective users of an existing Communication Tower must obtain approval for their device to be added to the Communication Tower and bear the burden of showing that the Communication Tower shall continue to comply with all requirements with the addition of this user.

III. Any alteration of a Communication Device/Tower shall be subject to the approval of the Planning Board. Alteration of the Communication Device/Tower includes adapting or adding another Communication Device to the existing Communication Tower or a change in ownership of the Communication Tower.

- c. **Authority for Planning Board to Hire Experts at Applicant's Expense**
As part of any approval or modification, the Ashland Planning Board may inspect the site and may elect to hire experts to verify that the application satisfies the provisions of this Article 9. These inspections shall be reasonable in frequency and the Board shall request the results in writing. Copies of such reports will be made available to other regulatory agencies. The costs for any such experts shall be borne by the Applicant.
- d. **Procedural Requirements for Obtaining Approval of a Dismantling Plan**
Prior to the start of any dismantling, the Applicant shall seek final approval of the dismantling plan from the Planning Board. The final dismantling plan shall include all provisions required by Section 9.2(a)(4)(A), shall specify a starting date and ending date for the dismantling, the safety measures to be employed and shall satisfy any additional concerns raised by the Planning Board.
- e. **Application Fee**
The Planning Board shall establish an application fee for a Communication Device or Tower from time to time, based on a reasonable estimate of its cost to process the application for site plan review.
- f. **Waiver**
The Planning Board may choose to waive one or more provisions of this Article 9, if, in the context of a particular application they serve no valid purpose, or where a waiver would create a benefit in terms of the purpose, as described in Section 9.1.
- g. **Removal of Abandoned Communication Towers**
Any Communication Tower that is declared abandoned shall be considered hazardous to the public health and safety. Within ninety (90) days of receipt of a declaration of abandonment from the Planning Board, the owner shall remove the abandoned structure and restore the site according to the dismantling plan approved by the Board. A declaration of abandonment shall only be issued following a public hearing, noticed according to NH RSA § 676:4, with notice to abutters and the last known owner and/or operator of the Communication Tower. Evidence of abandonment shall include, but not be limited to the owner's failure to satisfy maintenance requirements, the owner's failure to provide periodic proof of current use as requested by the Board, and the owner's failure to comply with the agreement with the landowner. If the abandoned Communication Tower is not removed 90 days following the declaration, the Town may execute the security, and have the Communication Tower removed. If there are two or more users of a Communication Tower, this provision shall not become effective until all users cease using the Communication Tower.

ARTICLE 9A LARGE WIND ENERGY SYSTEMS (LWES) [Per Town Meeting vote March 11, 2014]

9A.1 PURPOSE: The purpose of this Ordinance is to provide for the development and use of wind power as an alternative energy source, benefiting both the economy and the environment, while protecting public health, safety, property values, wildlife, and general welfare; preserving environmental, historic and scenic resources; controlling Sound Pressure Levels; and preventing electromagnetic interference. This ordinance provides a permitting process to ensure compliance with requirements and standards established therein.

This Ordinance is adopted pursuant to the enabling provisions of NH RSA 674:1,V, NH RSA 674:16, NH RSA 674:17(j), and NH RSA 162-H. In addition, pursuant to the provisions of NH RSA 674:21, the Ashland Board of Selectmen is hereby granted the authority to issue permits for the construction or operation of Large Wind Energy Systems, including Meteorological Towers, in the Town of Ashland, subject to these provisions. If there is a conflict between provisions in this Ordinance, or between its provisions and those in any other ordinance or regulation, this Ordinance shall apply. Should any section or provision of this Ordinance be declared by the courts to be invalid, such a decision shall not invalidate any other section or provision of the Ordinance.

9A.2. DEFINITIONS: The following terms shall have the meanings indicated:

“Adverse Noise Impacts” - Disturbances that interfere with: customary speech and communications both indoors and outdoors, telephone conversations, reading, tasks requiring concentration, listening to music or television, and sleep.

“Applicant” – The person, firm, corporation, company, or other entity who applies for approval under this Section, as well as the Applicant’s successor(s), assign(s) and/or transferee(s) as to any approved LWES or testing facility. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the LWES or testing facility. The duties and obligations regarding approval for any approved LWES or testing facility shall be with the owner of the LWES or testing facility, and jointly and severally with the owner and operator or lessee of the LWES or testing facility.

“Application” –An application for a LWES under this Section.

“Automatic Obstruction Lighting System” - A lighting system that provides continuous 360-degree surveillance of the airspace around a wind farm from the ground level to above aircraft flight altitudes, automatically activating obstruction lighting when aircraft are detected at a defined outer perimeter and course of travel.

“Background Sound Pressure Level” – The Sound Pressure Level represented without the wind turbines operating and when man-made and natural intrusive sounds are at a minimum. The intent of this definition is to exclude Sound Pressure Level contributions from intermittent noises such as traffic and emergency vehicles, and from seasonal natural sounds such as tree frogs and crickets that are not present year round.

“Blade Glint” – The intermittent reflection of the sun off the surface of the blades of a single Wind Turbine or multiple Turbines.

“Debris Hazard” – Hazard owing to the possibility that the parts of a LWES, or material (ice or other debris) accumulated on its rotating elements, could be dislodged and fall or be thrown some distance onto surrounding property.

“FAA” – The Federal Aviation Administration.

“Health” – State of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

“Impact(s)” – Includes any effect on the environment, including sound and visual impacts such as changes in sound pressure, noise and light in the environment.

“Large Wind Energy System (LWES)” - An electricity-generating facility with a generating capacity of over 100 kilowatts, consisting of one or more Wind Turbines, including any substations, Met Towers, cables/wires, and other buildings accessory to such facility.

“Leq” –The equivalent continuous Sound Pressure Level that has the same acoustic energy for a constant Sound Pressure Level as for a fluctuating or intermittent level in the same period of time.

“Met Tower” - A meteorological tower used for the measurement of wind speed.

“Natural Environment” – Includes navigable waters, waters of a contiguous zone, ocean waters and any other surface water, groundwater, drinking-water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States, including wildlife, ecosystems, and habitat, and historical, cultural, recreational and archeological resources.

“Noise” – Any unwanted sound or any sound that is not part of the natural environment.

“Non-Participating Landowner”- Any landowner who is not a Participating Landowner pursuant to definition below.

“Octave Band” – A band of sound covering a range of frequencies such that the highest is twice the lowest, as defined in ANSI Standard S1.11.

“One-Third Octave Band” –A band of sound covering a range of frequencies such that the highest frequency is the cube root of two times the lowest, as defined in ANSI Standard S1.11.

“Participating Landowner” – Any landowner on whose property all or a portion of a Large Wind Energy System is located pursuant to an agreement with the Applicant or any landowner who has waived his or her rights for protection under this Ordinance.

“Permit to Construct” – After the application has been accepted by the Planning Board, the Ashland Board of Selectmen shall issue a Permit to construct the project.

“Permit to Operate” – A written approval issued by the Ashland Board of Selectmen to operate a LWES once such project has been approved by the Planning Board.

“Project Boundary” – A continuous line that encompasses all Wind Turbines and related equipment to be used in association with a Large Wind Energy System.

“Public Infrastructure” – Roadways, culverts, and bridges maintained by the Town of Ashland or State of New Hampshire.

“Setback” – The distance a LWES tower base is set back from abutting property lines, structures, or other features.

“Shadow Flicker” – The effect when the blades of an operating Wind Turbine pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his/her immediate environment.

“Sound Power Level” –Lw. Ten times the logarithm to the base ten of the ratio of the sound power radiated by the source to a reference sound power, expressed in decibels (dB). The reference sound power is 1 picowatt (pW).

“Sound Pressure Level” - Lp. Twenty times the logarithm to the base ten of the ratio of a given sound pressure to a reference sound pressure of 20 microPascals (uPa), expressed in decibels (dB).

“Total Height” - When referring to a Wind Turbine, the distance measured from ground level to the blade extended at its highest point.

“Tower Shadowing” – The shadow created on the surrounding area by the sun shining on a Wind Turbine.

“Useful Life” – The LWES or individual Wind Turbine(s) will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

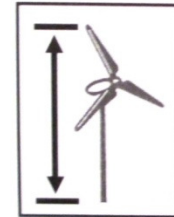
“Visual Clutter” –The accumulation of diverse built elements on a site, especially elements that contrast with their surroundings in form, color, texture, or pattern.

“Welfare” – A state of well-being.

“Well-being” – A good or satisfactory condition of existence; a state characterized by health, happiness, and prosperity.

“Wind Shear” – The difference in atmospheric wind speed and direction occurring over relatively small increases in altitude (wind gradient).

“Wind Turbine” – A wind-energy conversion system that converts wind energy into electricity through the use of a wind-turbine generator, including the turbine, blade, tower, base, and pad transformer, if any.



9A.3. LARGE WIND ENERGY SYSTEM REQUIREMENTS:

1. Design, Manufacture, Construction, and Maintenance Standards

- a) In order to minimize Visual Clutter, Wind Turbines shall use tubular towers of similar design, size, operation, and appearance throughout the project, which shall be painted a non-reflective, non-obtrusive color. Blades shall be coated or otherwise designed with a material to minimize Blade Glint.
- b) At LWES sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend with the existing natural setting and environment.
- c) Wind Turbines shall not be used for displaying any signs or advertising except for signs at ground level for reasonable identification of the manufacturer, owner, or operator of the LWES, the utility procuring the power, emergency contact information, and appropriate warnings as required by national, state, and local laws. Such identification shall not be illuminated. All signage shall meet Ashland’s ordinance requirements. Any graffiti on LWES structures shall be removed as soon as practical.
- d) Control wiring and power lines shall be wireless or below ground except where collector wiring is brought together for connection to the transmission or distribution network adjacent to that network. The Planning Board may permit above-ground wiring, if in the opinion of the Planning Board, its Impact, including but not limited to environmental and visual Impacts, is less than the Impact of below-ground wiring.
- e) The Applicant of an LWES shall not undertake any blasting without specific approval of such blasting during Site Plan Review. Terms and conditions for the blasting, including any necessary notifications, shall be specified during Site Plan Review.
 - i) The Applicant shall prepare an inventory of all structures, wells, bridges, and other seismically sensitive structures that could potentially be damaged by blasting.

- ii) Before each blasting event, the Applicant shall notify all Participating and Non-Participating Landowners whose property can be potentially damaged of the time and date of the event. The Applicant shall receive signature verification of such notice.
- iii) Flying rock traveling in the air or along the ground is not permitted to cross into the property of Non-Participating Landowner(s).
- iv) A blasting log for each blast shall be kept on site at the LWES office for not less than five (5) years, and copies of the required blasting log shall be promptly submitted to the Planning Board upon completion of construction of the LWES.
- v) Pre-blasting and post-blasting inspection and documentation may be required by the Planning Board.
- f) If at any time during construction, operation, or maintenance of the LWES, the Applicant wishes to modify the approved Site Plan, the Applicant shall submit to the Planning Board an Amended Site Plan for review and approval.
- g) Construction and maintenance activities shall be organized and timed to minimize Impacts on residents and wildlife from noise, disruption (including disruption of wildlife habitat), and the presence of vehicles and people. Construction and maintenance, unless there is an imminent threat to life or property, shall be performed only on weekdays between the hours of 7 AM and 6 PM. The Planning Board has the authority to waive this requirement if, in its opinion, there is good reason to do so.
- h) Any construction equipment or parts (used or unused) kept on site shall be stored indoors except during periods of construction, maintenance, and repair.

2. Height

- a) The Total Height of the Wind Turbines shall not exceed 450 feet.
- b) Met Towers must be less than 200 feet in height, and must be designed so as not to require lighting in compliance with FAA regulations. Guy wires are allowed on Met Towers, but must be designed so as to limit environmental hazards to wildlife, especially birds and bats.

3. Setbacks

All LWES tower bases must be sited so as to be set back from adjacent property lines by at least two thousand (2,000) feet. An exception can be made to this requirement in the case of a Participating Landowner who waives his or her rights under this ordinance; such waiver shall exclude the ability of the owner of that property to have or build any structures within 2,000 feet of the closest LWES tower and shall be recorded in the Grafton County Registry of Deeds. In no case shall the Setback be less than 1.5 times the maximum height of the Wind Turbine from the nearest property line. Additional Setbacks may be required to meet noise standards.

The applicant shall submit a graph of the required Setback for each hazard as a circle for a single tower or as a series of connected arcs for multiple towers centered on each turbine and submitted with the required Setback graphically superimposed to scale on town maps identifying lot owners, structures, and lot property lines.

4. Communications Interference

Any LWES shall be sited and operated so that it does not interfere with television, telephone (including cellular and digital), microwave, satellite (dish), navigational, or radio reception to neighboring areas. The Applicant shall provide certification from a NH licensed Professional Engineer confirming that the proposed project will not interfere with television, telephone (including cellular and digital), microwave, satellite (dish), navigational, or radio reception to neighboring areas. The Applicant shall be responsible for the full cost of any remediation necessary to provide equivalent alternate service or to correct any problems. Remedies may include relocation or removal of the LWES. The Applicant of the LWES shall respond within five business days to any request for a communications interference investigation by a property owner within the Project Boundary and a three-mile radius beyond the Project Boundary. Testing shall commence within ten working days of the request. The Applicant is responsible for mitigating within ten working days from determination of interference cause attributed to the operation of the LWES.

5. Sound Pressure Level Limits and Measurement

The intent of this section is to preserve the quiet rural environment of Ashland and to provide protection from Excessive Sound Pressure Levels that cause adverse Impacts to public Health, Welfare, and Well-being. The existing Background Sound Pressure Levels in Ashland are *less than 30 dBA* (baseline needs to be tested). Annoyance due to Noise, as measured by community surveys, is the consequence of activity interference. Sound Pressure Level limits are based on the recommended guidelines found in the United States Environmental Protection Agency’s document *Information On Levels Of Environmental Noise Requisite To Protect Public Health And Welfare With An Adequate Margin of Safety, 550/9-74-004, March 1974* and include levels requisite to protect against activity interference. These Sound Pressure Level limits are consistent with the World Health Organization (WHO) night-noise guidelines for exposure to noise during sleep, found in the following documents: *Night Noise Guidelines (NNLG) For Europe, 2007* and *ISBN 978 92 890 4173 7, 2009*.

- a) Sound Pressure Levels produced by the LWES shall not exceed 33 dBA (Leq 10 minute) anywhere at any time on a Non-Participating Landowner’s property.

- b) The Planning Board may impose greater noise constraints if it deems such constraints are necessary to protect the public health, safety, and welfare of the community.
- c) Any model used to predict Wind Turbine Noise shall use the following parameters:
 - i. Each Wind Turbine shall be considered as an individual and unique noise emitter.
 - ii. The prediction model shall use the Manufacturer's highest sound-power levels, as measured using standard IEC 61400-11 (edition 2.1, dated November 2006), which shall be submitted in
 - iii. 1/3 octave band for frequencies 31.5 to 8000 Hz. Test reports performed for the same model(s) proposed for the LWES shall be submitted in full.
 - iv. The prediction model shall use a Wind Shear (wind profile power law exponent, alpha) of no less than 0.50, where Wind Shear is defined as the difference in atmospheric wind speed and direction occurring over relatively small increases in altitude.
 - v. There shall be no attenuation (zero) for ground cover, since a Wind Turbine is an elevated noise emitter.
 - vi. There shall be no attenuation (zero) for foliage, since trees have no leaves from November to April.
 - vii. Add a plus-5-dB design margin to the predicted Sound Pressure Levels to account for variations in atmospheric propagation due to refraction (the bending of sound waves in the atmosphere due to changes in air temperature or wind gradient).
 - viii. Ground absorption values used in the modeling software shall be set to 0 for water and hard concrete or asphalt surfaces and 0.5 for all other surfaces.
- d) Noise measurements shall be taken with the Wind Turbines turned on and turned off to determine any Background Noise to be accounted for. The Applicant shall cooperate by shutting Wind Turbines off and turning them on during acoustic testing at times required by the acoustic monitoring personnel.
- e) The wind velocity at the sound measurement microphone shall not exceed 2 m/s (4.5 mph) during measurements of Background Sound Pressure Level, and the maximum wind speed at the microphone for noise measurements during Wind Turbine operation shall not exceed 4 m/s (9 mph).

6. Shadow Flicker, Tower Shadowing, and Blade Glint

- a) The facility shall be designed such that Shadow Flicker or Tower Shadowing falling on or in any Non-Participating Landowner's property or a public road shall be limited as follows:
 - i. The Shadow Flicker or Tower Shadowing shall not exceed twenty (20) hours per year in total.
 - ii. The traffic volumes shall be fewer than 500 vehicles per day on the roadway.
 - iii. The Shadow Flicker or Tower Shadowing shall not fall onto an intersection.
- b) Blades shall be coated or otherwise designed with a material to minimize Blade Glint.
- c) Within twelve months of the date when the project becomes fully operational, or at any time upon receipt of a verified complaint of Shadow Flicker, Tower Shadowing, and/or Blade Glint, the Applicant shall submit to the Planning Board a Shadow Flicker, Tower Shadowing, and Blade Glint study certifying that Shadow Flicker, Tower Shadowing, or Blade Glint present no deleterious effects for any occupied structure located within a one-mile radius of any Wind Turbine. If Shadow Flicker and/or Blade Glint exceeds any of the conditions listed above, the source Wind Turbine(s) shall be shut down until the Shadow Flicker, Tower Shadowing, or Blade Glint problem is remedied.

7. Public Infrastructure

The Applicant shall avoid, mitigate, or repair any and all adverse impacts to any Public Infrastructure occasioned by or in any manner related to the installation, operation, maintenance, and repair or decommissioning of the LWES. This includes reimbursement to the Town or State for any repairs or reconstruction reasonably deemed necessary by the Town or State.

8. Erosion and Storm Water Control

During the Useful Life of the LWES, the Applicant shall maintain any erosion and storm-water control practices described in the Erosion and Storm-Water Control Plans and Life Cycle and Decommissioning Plans submitted with the Application for Site Plan Review.

9. Safety

- a) Each Wind Turbine shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. All Wind Turbines shall be equipped with redundant braking systems. This includes both aerodynamic (including variable pitch) over-speed controls and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode, whereby they are engaged in the case of loss of load on the generator. Stall regulation shall not be considered a sufficient braking system for over-speed protection. A manual electrical and/or over-speed shutdown disconnect switch shall be provided and clearly labeled on/in the Wind Turbine structure.
- b) The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of not less than 75 feet.

- c) Any Wind Turbine and/or accessory structure shall not be climbable up to above 15 feet above ground level.
- d) The LWES shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present.
- e) Appropriate warning and safety signage shall be placed on any Wind Turbine, accessory structure, and/or electrical equipment, and posted at all LWES entrances.
- f) All structures shall be self-supporting. No guy-wire-supported structures shall be permitted, with the exception of Met Towers.
- g) A sign bearing emergency contact information shall be posted near the tower(s) or operations and maintenance office building.
- h) Signage shall be placed at the road access to warn visitors about the potential danger of falling and thrown ice and the Debris Hazards.
- i) The property shall be posted to limit general access for recreational purposes.
- j) Any Wind Turbine that is found to present an imminent physical threat of danger to human life, wildlife, or property, or that is found to exceed the noise standards of this Ordinance, shall be immediately shut down. Following repair or redesign to comply with the noise standards of this Ordinance, the Wind Turbine shall be certified to be safe and to comply with this Ordinance by a NH licensed Professional Engineer(s) prior to resumption of operation.

10. Rescue, Fire, and Hazard Protection

The Applicant shall assure that the LWES complies with the following fire control and prevention measures.

- a) A plan acceptable to the Ashland Fire Chief for fire-fighting and rescue services, including water accessibility, any necessary equipment, and/or training for local fire protection and rescue personnel, shall be prepared and updated annually. The full cost of implementing and maintaining the plan, including equipment, equipment maintenance, and staffing, shall be the responsibility of the Applicant.
- b) The Applicant shall comply with all laws applicable to the generation, storage, clean-up, transportation, and disposal of hazardous wastes generated during any phase of the project’s life.

11. Environmental Impact

The Applicant shall take appropriate measures to minimize, eliminate, or mitigate adverse impacts on the natural environment during the entire life cycle of the LWES and shall comply with all Federal, State and local laws regulating environmental impacts. In making its determination under this section, the Planning Board shall consider the U.S. Fish and Wildlife Service “*Wind Turbine Guidelines Advisory Committee Recommendations,*” dated March 4, 2010, or subsequent updates, the “Proposed Wind Power Siting Guidelines–May 29, 2007” (which was developed by the Wind Energy Facility Siting Guidelines Working Group and forwarded to the NH Energy Policy Committee Wind Siting Subcommittee), and any recommendations of the New Hampshire Fish and Game Department and the Ashland Conservation Commission.

- a) Environmentally Sensitive Areas. The plan for the LWES shall reflect the natural capabilities of the site to support development. Environmentally sensitive areas—including but not limited to wetlands, vernal pools, seeps or springs, steep slopes (greater than 15%), watersheds, floodplains, significant wildlife habitats, fisheries, habitat for rare or endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers—will be maintained and preserved to the maximum extent possible. The Applicant shall demonstrate appropriate measures for protecting these resources during the entire life cycle of the project.
- b) Wildlife. The Applicant shall demonstrate that the LWES will have no significant adverse Impact on area wildlife and wildlife habitat. Such analysis shall include but not be limited to adverse Impacts on birds, bats, raptors, animals, and habitat fragmentation. In addition, the Applicant must demonstrate that the LWES will have no undue adverse Impact on rare, threatened, or endangered wildlife. The wildlife and habitat analysis must include pre-construction field studies conducted by a qualified wildlife biologist selected by the Planning Board and paid for by the Applicant. Such studies shall span at least two coincident migration cycles.
- c) Avian and Bat Species. Development and operation of a LWES shall have no adverse impact on bird or bat species.
 - i. All above-ground lines, transformers, or conductors should comply with the Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) published standards to prevent avian mortality.
 - ii. The design and installation of the LWES shall avoid, to the extent practicable, the creation of artificial habitat for raptors or raptor prey; e.g., electrical equipment boxes on or near the ground that can provide shelter and warmth and horizontal perching opportunities on the towers or related structures.

- iii. In order to minimize the detrimental Impacts on bat and bird populations, all Wind Turbines shall be configured and or controlled so that the blades will not turn when wind velocity at hub height is less than 10 mph. In addition, there may be periods of time when the Wind Turbine operations must be curtailed to protect bats and raptors and other migratory birds.
- d) Ground and Surface Water. The LWES will not adversely affect the quality or quantity of ground and surface waters. The Applicant shall demonstrate to the Planning Board's satisfaction that there are no unusual risks caused by the LWES. The Board may require that spill prevention and control measures be installed, and that all activities involving potentially permeable pollutants, including at delivery and transfer points, be conducted under cover and over an impervious surface surrounded by dikes. Whenever sedimentation is caused by stripping vegetation or grading, it shall be the responsibility of the Applicant to remove it from all adjoining surfaces, drainage systems, and watercourses and to repair any damage as quickly as possible at the Applicant's expense.
- e) Historical, Cultural, Archeological. Because the preservation of historic resources is very important to the Town of Ashland, the Applicant shall be required to:
 - i. Inventory and map all historically significant sites located within two thousand (2000) feet of the proposed LWES project area, including stone walls, structures, roadways, and cellar holes.
 - ii. Provide a plan outlining how the Applicant proposes to minimize the impact of construction and ongoing operation of the LWES on those sites. As a condition of approving the Applicant's Historical, Cultural, Archeological protection plan, the Planning Board may require specific setbacks of LWES structures or roadways from significant sites and/or other actions that protect or restore items of historic significance.

12. Visual Impact

- a) An LWES shall be designed and located so as not to cause adverse visual Impacts, including Visual Clutter and Impacts caused by any lighting, and so as not to dominate views from residential areas, cultural resource areas, public recreational and scenic areas, trails used by the public open space within the Town, or any public road right-of-way.
- b) Dominance is determined by how an LWES will be seen within its visual context and occurs when the project would cause a change in the balance or feel of the character of the surrounding area or create a very dominant focal point that detracts from other important natural or cultural focal points. (The Planning Board may use as a reference document *A Visual Impact Assessment Process for Wind Energy Projects*, Vissering, Sinclair, and Margolis, May 2011.) Some of the factors to be considered in evaluating the degree of dominance are:
 - i. appearance of proximity,
 - ii. duration of view,
 - iii. expectation for natural or intact landscape setting,
 - iv. uniqueness of a scenic resource,
 - v. whether the view is directly ahead over extended distances, and
 - vi. whether large numbers of turbines are visible in many views.
- c) All available mitigation techniques to reduce the visual impacts of the LWES shall be considered, including methods prescribed by the American Landscape Institute. The use of Automatic Obstruction Lighting Systems, such as those manufactured by DeTect and OCAS, is mandatory for Wind Turbines with FAA lighting.
- d) Photographic simulations shall be provided from potentially sensitive public and private viewpoints. The Planning Board may request that particular viewpoints be illustrated. Such locations could include the center of Town, public recreation areas, historic sites, and scenic sections of Town or State roads. Simulation photographs shall be taken at 50mm (or digital equivalent) and illustrated on 11 x 17" printed copies for each simulation. If several photographic frames are required to illustrate the breadth of the project from a particular viewpoint, illustrations shall be provided of each 50mm frame, plus a combined panoramic view. Any visible roads, site clearing, and all project infrastructure shall be depicted on the simulations. The report shall employ a standard visual-impact-assessment methodology for detailing what the visual impacts of the project would be and explaining why these may be acceptable or unacceptable. The report shall identify all mitigation methods proposed by the applicant, if any, to address the potential visual impacts of the LWES. These methods may include turbine siting and distance between towers; reductions in turbine height or numbers; design and size; hazard lighting mitigation by employing Automatic Obstruction Lighting Systems; underground placement of collector lines; and other methods. The Planning Board may require additional mitigation measures to minimize the impact on scenic resources of the Town.

13. Financial, Technical, and Managerial Capability

Applicant shall demonstrate to the Planning Board that it has adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of this ordinance.

9A.4. APPLICATION PROCEDURE

1. Applications for new and replacement LWESs shall be filed and processed in accordance with the Town of Ashland Planning Board’s Site Plan Review regulations.
2. The Planning Board will determine in accordance with RSA 36:56, I whether an LWES application could be construed as having the potential for regional impact.
3. Submission Requirements: In addition to standard Planning Board requirements, applicants for a LWES shall submit the following:
 - 3.1 A demonstration satisfactory to the Planning Board that the Applicant has adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of this ordinance.
 - 3.2 Plans prepared and stamped by a NH licensed Professional Engineer that show the location, shape, size, color, materials, textures, landscaping, design, and total height of all proposed components of Met Towers and LWES, including the proposed access to the project site (including Town and State roads) and associated transmission lines.
 - 3.3 A location map to scale of current and planned land uses within the project boundary and a one-mile radius beyond the project boundary, showing the location of all proposed Wind Turbines and required setbacks for each, and that identifies Participating Landowners. These maps must be prepared by a NH licensed land surveyor.
 - 3.4 A site grading and clearing plan that shows all areas to be cleared and all grade changes. The plan shall include details on the collector lines, locations and heights of poles, clearing limits for above-ground lines, substations, transmission line details, and upgrades or changes to existing power lines. This plan should delineate environmentally sensitive areas.
 - 3.5 Historical, Cultural, Archeological Inventory and Resource Map prepared by NH licensed land surveyor, and Applicant’s plan to minimize impact of LWES construction and operation on these sites.
 - 3.6 Environmental Resource Map prepared by a qualified NH licensed land surveyor.
 - 3.7 Intended period of data collection for the Met Tower.
 - 3.8 Certification of the non-reflecting properties of the external surfaces of the LWES.
 - 3.9 Calculations and supporting data for all setbacks for each turbine.
 - 3.10 List of property owners whose property wholly or in part falls within the standard setback areas.
 - 3.11 Studies and Reports as required by the Planning Board, including but not limited to those listed below. The cost of any required study, report, plan, mitigation effort, or any other work required to be done by the Planning Board, is the full responsibility of the applicant.
 - 3.11.1 Sound Pressure Level Study
 - 3.11.2 Rescue, Fire, and Hazard Protection Plan
 - 3.11.3 Road and Property Risk Assessment
 - 3.11.4 Wildlife and Bird Impact Study and Protection Plan
 - 3.11.5 Groundwater and Surface Water Quality studies
 - 3.11.6 Visual Impact Assessment, including photographic simulations
 - 3.11.7 Communication Interference Certificate
 - 3.11.8 Shadow Flicker, Tower Shadowing, and Blade Glint study
 - 3.11.9 Safety Plan
 - 3.12 A Complaint Resolution Plan to address any complaints from affected parties during construction and over the life of the operation. The Plan shall identify a contact person and a process for mediation.
 - 3.13 A Decommissioning and Site Restoration Plan as outlined in Section J (Decommissioning).
 - 3.14 Storm Water Management Plan – pre- and post-decommissioning.
 - 3.15 Erosion Control Plan.
 - 3.16 Landscape Plan showing restoration of disturbed areas after completion of construction.
 - 3.17 Estimate of decommissioning costs prepared by a NH licensed Professional Engineer.
 - 3.18 Blasting plan, including inventory of all potentially affected structures.
 - 3.19 Any other information deemed necessary by the Board in order to make an informed decision.
- 4.0 Repowering. When an LWES is planned for a retrofit, the Applicant must apply to the Planning Board for approval before any portion of the LWES may be repowered.
- 5.0 Permit to Operate.
 - 5.1 Following construction of an LWES, before commencing operation, the Applicant shall apply to the Board of Selectmen for a Permit to Operate. The application shall include the following:

5.1.1 An Inspection Report prepared and signed by a NH licensed Professional Engineer certifying the structural and operational integrity of the LWES, and completion of construction in accordance with all submitted and approved building, road, and lighting plans, and any other plans submitted to the Planning Board as required.

5.1.2 A decommissioning fund.

5.1.3 A signed statement that the Applicant and project site landowner(s) have read this Ordinance, understand all its provisions, and agree to abide by them.

5.2 A Permit to Operate shall be valid for thirty (30) years. Application for renewal requires a new Application to the Planning Board, governed by then-current ordinances.

5.3 Applications for a Permit to Operate or a Renewal Permit will be heard at the next regularly scheduled Planning Board or Board of Selectmen meeting for which adequate legal notice has been posted.

5.4 Before a permit to operate is transferred to a new owner or operator, the holder of the permit must satisfactorily demonstrate to the Planning Board that the new owner or operator has adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of this Ordinance.

5.5 If a Permit to Operate is transferred to a new Owner or Operator, the new Owner or Operator is bound by all conditions, requirements, and financial obligations of the original permit.

5.6 All conditions of approval shall be reviewed annually by the Planning Board or Board of Selectmen.

5.7 A Permit to Operate may be revoked and the LWES required to cease operations if the Board of Selectmen determines that there is a violation of any provision of this ordinance or other applicable regulations. The Permit shall not be reinstated until the Board of Selectmen determines at a duly noticed public meeting that all violations have been corrected.

9A.5. EASEMENTS AND LEASES

1. Any landowner may grant an easement to the Applicant for any Impacts of the LWES on their property and shall advise all subsequent owners of the property that the standards permitted by this Section may be exceeded on the property. The terms of the easement must be consistent with the current application for an LWES. Easement periods shall be limited to thirty (30) years.

2. The full terms of any leases or easements shall be recorded with the Registry of Deeds.

3. The option period for any land agreement shall be limited to five (5) years.

4. Nothing in this Ordinance shall be construed to restrict the rights of Non-Participating Landowners.

9A.6. ACCESSIBILITY TO PURCHASE POWER

1. Unless the Applicant has previously sold the rights to purchase all of the power that it anticipates producing, the Ashland Electric Department shall be afforded the opportunity to negotiate power purchasing contracts with the Applicant.

9A.7. ONGOING REQUIREMENTS

1. Monitoring: Upon reasonable notice, Town of Ashland officials or their designated representatives may enter a lot on which an LWES has been approved for the purpose of monitoring noise, Impacts on the Natural Environment, and other impacts that may arise. In such a case, the Town will provide the Applicant with 24-hour advance telephone notice, followed by e-mail notification for the record.

2. Post-construction Water-Quality Study:

a) Within six (6) months of the first Wind Turbine becoming operational, and every twelve (12) months thereafter for a period of three (3) years, a water-quality study of all wells, springs, and water resources specifically identified during the Site Plan Review shall be designed and carried out by a water-quality professional approved by the Board of Selectmen.

b) Upon receipt of a substantiated complaint that the integrity or water quality of any well has been damaged by the LWES construction, the Planning Board may require prompt investigation of the complaint by a water-quality professional approved by the Board of Selectmen, at the expense of the Applicant.

c) If degradation or contamination of any well, spring, or water resource is found to have occurred, the Applicant shall be considered in violation of this Section and subject to the provisions of the Enforcement Subsection of this Section.

d) The Applicant is responsible for all costs associated with water-quality testing and corrective action if necessary.

3. Annual Power Production Report: The Applicant shall submit an annual power production report to the Board of Selectmen [and Planning Board]. The power-production report shall cover the preceding calendar year, and shall be submitted by February 15 of the following year. The report shall be in a form agreed to by the Board of Selectmen and shall include actual power production in kilowatt-hours for each Wind Turbine.

4. Environmental Impact Studies: Recognizing the importance of wildlife as described in C. 11, continuing environmental impact studies shall be required.

- a) At least every 3 years, and more frequently if deemed appropriate by the Board of Selectmen, an environmental study shall be conducted by a qualified wildlife biologist selected by the Board of Selectmen and paid for by the Applicant.
- b) If the post-construction field studies demonstrate substantive harm to the Natural Environment, the Applicant shall develop an appropriate mitigation plan acceptable to the Board of Selectmen and Conservation Commission. The Applicant shall be responsible for the full cost of implementing the mitigation plan.
- c) In addition, the Applicant shall submit a quarterly report to the Board of Selectmen and Conservation Commission identifying all dead birds and bats found within 500 feet of the LWES. Reporting shall continue for at least three (3) years after the first Wind Turbine becomes operational, or longer if required by the Board of Selectmen. In the event of an avian or bat mortality kill of threatened or endangered species, or discovery of more than six (6) dead birds or bats of any variety on site, the Applicant shall notify the Board of Selectmen, Conservation Commission and the New Hampshire Department of Fish and Game within 24 hours. Within thirty (30) days of the occurrence, the Applicant shall submit a report to the Board of Selectmen describing the cause of the occurrence and the steps taken to avoid future occurrences. During migration seasons, the Board of Selectmen reserves the right to request video surveillance as part of environmental-impact studies.

5. Decommissioning Costs. Estimated total costs of decommissioning, prepared at the Applicant's expense by independent NH licensed Professional Engineer(s) approved by the Board of Selectmen, shall be submitted to the Board of Selectmen every fifth year of operation. Funds required under Section J of this ordinance shall be updated within 90 days of acceptance by the Board of Selectmen.

6. Noise Compliance Report. Within four (4) months of the first Wind Turbine becoming operational and again within two (2) months after all Wind Turbines have become operational, and at any time the Board of Selectmen deems it necessary due to the number of complaints received, the Applicant shall submit to the Board of Selectmen a noise-compliance report certifying compliance with the noise regulations set forth herein. The report shall be prepared under the direction of a Professional Engineer or a Board Certified member of the Institute of Noise Control Engineering (INCE). The report shall be signed or stamped by this person. This person shall be selected by the Board of Selectmen, and the report paid for by the Applicant. The report shall comply with the following:

- a) Except as specifically noted otherwise, sound measurements shall be conducted in compliance with the most recent version of the American National Standards Institute (ANSI) Standard S12.18-1994 "Outdoor Measurements of Sound Pressure." Sound data shall be recorded with both dBA filtering and unfiltered down to 0.5Hz. Wind speeds shall be logged simultaneously with Sound Pressure Level data.
- b) Sound Pressure Level meters and calibration equipment shall comply with the most recent version of ANSI Standard S1.4 "Specifications for General Purpose Sound Pressure Level Meters," and shall have a calibration traceable to the National Institute of Standards and Testing (NIST) performed within the preceding 24 months.
- c) Noise measurements shall be taken at locations and times when the Wind Turbine is clearly audible and dominating the acoustical environment. All unattended measurements shall consider the Wind Turbine as dominating the acoustical environment.
- d) Noise measurements shall be taken with the Wind Turbines on and off to determine any background noise to be accounted for. The Applicant shall cooperate by shutting Wind Turbines off and turning them on during acoustic testing at times required by the acoustic-monitoring personnel.
- e) The acoustic-monitoring personnel shall determine if extraneous sounds such as those made by insects, frogs, or other wildlife are contributing to the measured Leq Sound Pressure Level and remove their contributions either by relocating the measurement microphone to a spot not affected by such sounds or conducting testing at dates and times when such sounds are not present. The acoustic-monitoring personnel may correct the Leq Sound Pressure Level using full or 1/3 octave band analysis to subtract Wind Turbine "off" levels from Wind Turbine "on" levels, and by removing data in 1/3 octave bands from the Leq computation that are contaminated by extraneous sounds.
- f) The wind velocity at the sound-measurement microphone shall not exceed 2 m/s (4.5 mph) during measurements of Background Sound Pressure Level, and the maximum wind speed at the microphone for noise measurements during turbine operation should not exceed 4 m/s (9 mph).
- g) During Wind Turbine testing the atmospheric profile shall be Pasquill Stability Class E or F preferred, Class D as alternate. Wind Turbine acoustic testing shall be conducted with hub-height wind speeds varying between cut-in and cut-out speeds.
- h) The Wind Turbine shall be fully engaged blades-to-generator and running the standard power output program and producing the maximum power output for the incoming hub-height wind speed. Feathering or

other blade angle manipulations that are not part of the normal Wind Turbine program to obtain maximum power output shall be prohibited during acoustic testing. If the wind turbine must be feathered due to a high wind condition for safety purposes, the testing shall be rescheduled.

- i) Wind Turbine power output and hub-height wind speed data at 10- minute or shorter intervals shall be provided to the acoustic-monitoring personnel by the Applicant for the entire sound-measurement period.
- j) Noise measurements shall be taken at locations specified by the Planning Board, which shall also set the direction of noise monitoring. The Planning Board may employ a NH licensed Professional Engineer, whose fees shall be paid by the Applicant, for advice regarding these measurements.

7. If the Applicant intends to assign or transfer the ownership, control, or authority of the LWES, the Applicant must give the Board of Selectmen 30 days' advance notice. Applicant shall also provide notice of any change in name or contact information.

9A.8. PUBLIC INQUIRIES AND COMPLAINTS

Throughout the life of the project, including the decommissioning phase, the LWES Applicant shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints. The Complaint Resolution Plan submitted with the initial application shall be used to resolve complaints. However, this process shall not preclude the local government from acting on a complaint, and local provisions for complaint resolution shall prevail and supersede all Applicant complaint resolution processes.

- a) Any individual, group of individuals, or reasonably identifiable entity may file a signed-and-dated written complaint with the Applicant of the LWES. If any complaints are received by phone, the Applicant shall inform the complainant that complaints must be submitted in writing. Any complaints received directly by the Board of Selectmen shall be referred to the Applicant.
- b) The Applicant of the LWES shall report to the Board of Selectmen all complaints received concerning any aspect of the LWES construction, operation, or decommissioning as follows
 - i. Complaints received by the Applicant shall be reported to the Board of Selectmen or its designee within five business days; except that complaints regarding unsafe and serious violations of this Section shall be reported to public-safety personnel immediately, and the Board of Selectmen or its designee by the following business day.
 - ii. The Applicant shall document each complaint by maintaining a record including at least the following information:
 - a. Name of the LWES and the Applicant
 - b. Name of complainant, address, phone number
 - c. A copy of the written complaint
 - d. Specific property description (if applicable) affected by complaint
 - e. Nature of complaint (including weather conditions if germane)
 - f. Name of person receiving complaint, date received
 - g. Date reported to the Board of Selectmen or its designee
 - h. Initial response, final resolution, and date of resolution
- c) The Applicant shall maintain a chronological log of complaints received, summarizing the above information. A copy of this log, and a summary of the log by type of complaint, shall be sent on or before January 15, March 15, July 15, and October 15 to the Board of Selectmen, covering the previous calendar quarter. An annual summary shall accompany the January 15 submission.
- d) The Board of Selectmen shall forward copies of any health-related complaints to the Ashland Health Officer and the State Board of Health.
- e) The Board of Selectmen may designate a person to seek a complaint resolution that is acceptable to the complainant, the Board of Selectmen, and the Applicant. If such a resolution cannot be obtained, the Board of Selectmen may take action as authorized by Section H: Enforcement and Penalties.
- f) The Board of Selectmen may at any time determine that a complaint shall be subject to enforcement and penalties as defined in Section H: Enforcement and Penalties.

9A.9. ENFORCEMENT AND PENALTIES

1. The enforcement of this Section shall be the responsibility of the Ashland Board of Selectmen or its agent, who is hereby authorized to cause any LWES, building, place, premises, or use to be inspected, and to order in writing the remedying of any condition found to exist in violation of this Section.

2. An Applicant not responding to the following conditions in the manner specified shall be considered to be in violation of this Section.

- a) Unsafe. If a Wind Turbine or the LWES presents an imminent physical threat of danger to life or significant threat to property, as determined by the Planning Board, the Board of Selectmen, or one of their designated agents, it shall be deemed unsafe and immediately shut down. It shall then be repaired or

otherwise made safe and certified so by a NH licensed Professional Engineer selected by the Planning Board prior to resumption of operation. Costs for the NH licensed Professional Engineer shall be the responsibility of the Applicant. The Board of Selectmen, or its designee, shall have the right to access the LWES site to verify conditions and/or repair progress.

- b) Serious Violations. The Applicant of the LWES is responsible for mitigating any serious violations of standards within ten business days upon receipt of written notification of determination of any cause attributed to the operation of the LWES. A serious violation is defined as any of the following:
 - i. Sound Pressure Level exceeding the levels specified in Subsection C. 5 of this ordinance, for anything other than a freak occurrence.
 - ii. The occurrence of Shadow Flicker, Tower Shadowing, or Blade Glint exceeding the standards specified in Subsection C. 6 of this Ordinance.
 - iii. Degradation or contamination exceeding US Environmental Protection Agency standards of any surface or subsurface water resource. (In the case of degradation or contamination of a well, the obligation for mitigation shall be deemed satisfied if the Applicant provides the affected well owner with a reasonable emergency water supply and within thirty (30) days commences implementation of corrective measures to the satisfaction of the well owner and subject to the approval of the Planning Board.)
 - iv. Any hazardous-substance spill.
 - v. Communication/electromagnetic interference (other than emergency communication).
- c) Emergency Communication. Interference with emergency communications must be mitigated within 24 hours.
- d) Other Violations. If the Board of Selectmen determines that a violation of this Section has occurred, and the violation is determined to be neither unsafe nor a serious violation, or to interfere with emergency communications, the Board of Selectmen shall provide written notice to the Applicant, and the Applicant shall be responsible for mitigating the problem within 30 days. Mitigation involving significant construction or physical modification may take up to 90 days to be completed.

3. An Applicant failing to comply with any provision of this Section by failing to resolve a violation before the expiration of the mitigation periods defined in this Subsection may be subject to:

- a) Revocation of Site Plan Approval, requiring shutdown and removal of any Wind Turbine(s) and restoration of the site as described under Subsection J;
- b) Fines pursuant to RSA 676:17;
- c) Any other remedies the Board of Selectmen deems necessary to assure the safe operation of the LWES and the protection of residents;
- d) Reimbursement to the Town of Ashland for expenses incurred in obtaining relief, including but not limited to reasonable attorney fees.

9A.10. DECOMMISSIONING

1. The Applicant shall, at his or her expense, complete decommissioning (including site restoration) of the LWES, or individual Wind Turbine(s), within twelve (12) months after it is deemed unsafe, abandoned, or at the end of its useful life.

2. Site Restoration shall include:

- a) Removal of Wind Turbines, buildings, cabling, electrical components, foundations, and any other associated facilities to a depth of two feet below the ground surface. Conduits buried deeper than two feet may remain in place, but all cables must be removed, and any pull boxes, junction boxes, transformer vaults, and other structures within two feet of the surface must be removed and remaining conduit ends permanently sealed and capped.
- b) Removal from the property of all items in outdoor storage.
- c) On-site-road and open-work-area removal, if any, to preconstruction conditions, excepting portions of roads useful for the proposed use of the site. If any roads are retained, excess paving and gravel shall be removed back to an appropriate width approved by the Planning Board, and the remaining areas loamed and seeded.
- d) Regrading and revegetation necessary to return the subject property to the condition existing prior to establishment of the LWES. The restoration shall reflect the site-specific character including topography, vegetation, drainage, and any unique environmental features. If, in the opinion of the Planning Board, grades and vegetation existing at the time of decommissioning are sufficiently stable and well established, they may be allowed to remain.
- e) Implementation of the post-decommissioning storm-water runoff plan.

9A.11. FINANCIAL ASSURANCE

1. As a condition precedent to Site Plan Approval for an LWES, the Applicant must submit an acceptable form of financial assurance such as cash, performance bond, certificate of deposit, or irrevocable letter of credit. The amount of the financial assurance shall be established by the Planning Board and be based on what it would cost for the repair of public infrastructure and for the decommissioning of the LWES and reclamation of the site in the event the Applicant fails to do so.
2. The amount of financial assurance shall be reviewed periodically by the Board of Selectmen to ensure that it equals outstanding decommissioning costs. Financial assurance may be adjusted, upwards or downwards, when required by the Board of Selectmen. For instance, the Board of Selectmen may adjust financial assurance based upon prevailing or projected inflation rates, or the latest cost estimates for decommissioning.
3. Such financial assurance shall be kept in full force and effect during the entire time a LWES facility exists or is in place. Such financial assurance shall be irrevocable and non-cancelable until such time as the Board of Selectmen certifies that decommissioning and reclamation are complete and releases the obligation. If the Applicant fails to remove the LWES and reclaim the site, the Town of Ashland may remove or cause the removal of the LWES and the reclamation of the site. The Town may recover the cost of decommissioning and reclamation from any financial assurance provided by the Applicant. Any decommissioning and reclamation cost incurred by the Town that is not recovered from the Applicant will become a lien on the property where the removal or reclamation takes place and may be collected from the landowner in the same manner as property taxes.
4. If the Applicant fails to complete decommissioning within the periods prescribed above, then the Town may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to the Town shall constitute agreement and consent of the parties to the agreement, and of their respective heirs, successors, and assigns, that the Town may take such action as necessary to implement the decommissioning plan.
5. The escrow agent shall release the decommissioning funds when the Applicant has demonstrated and the Board of Selectmen concurs that decommissioning has been satisfactorily completed, or upon written approval of the Town in order to implement the decommissioning plan.
6. The entry into and submission of evidence of a Participating Landowner agreement to the Town shall constitute agreement and consent of the parties to the agreement, and of their respective heirs, successors and assigns, that the Town may take such action as necessary to implement the decommissioning Plan.

9A.12. LAW

All references to the New Hampshire RSAs include the Statute in effect at the time of enactment of this Section or as subsequently amended or revised.

9A.13. WARNING AND DISCLAIMER OF LIABILITY

This Section shall not create a duty or liability on the part of or a cause of action against the Town of Ashland, its officers, or employees thereof, for any damages that may result from administration of or reliance on this Section.

9A.14. SEVERABILITY:

The invalidity of any provision of this Section shall not affect the validity of any other provision, nor any prior decisions made on the basis of the valid provisions of this Section.

9A.15. EFFECTIVE DATE:

This Section shall take effect upon its passage, and as amended.

ARTICLE 10 DEFINITIONS

10.1 For the purpose of this Ordinance, the following terms are defined:

- | | |
|--------------------|---|
| Abutter | Any person whose property adjoins or is directly across the street or stream from the land under consideration. For the purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. |
| Accessory Building | A subordinate building incidental to and on the same lot occupied by the main buildings or use. The term “accessory |

	building”, when used in connection with a farm, shall include all buildings customarily used for farm purposes.
Animated Sign	Any sign with moving parts and/or flashing lights.
Applicant	Any person or group of people.
Bed and Breakfast	Bed and Breakfast, referred to as B&B, is a business providing sleeping accommodations and a breakfast prior to check out time, for its overnight guests.
Building	Any structure having a roof and intended for the shelter, housing, or enclosure of persons, animals, or property.
Cluster Development	A pattern of subdivision development, which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.
Communication Device	Any structure or other apparatus used to receive and/or transmit wireless communications, which shall include personal wireless service facilities within the meaning of <i>The Telecommunications Act of 1996, 47 U.S.C. § 151 et seq.</i> , as the same may be amended from time to time.
Communication Tower	Any tower or other structure that is greater than 35 feet in height and is designed, constructed or used primarily to support one or more Communication Devices.
Community Water System	As defined in RSA 485:1-a (Amended March 11, 2008)
Dwelling, Single-Family	A detached residential building other than a mobile home, designed for and occupied by one family only.
Dwelling, Multi-Family	A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided or permitted.
Dwelling Unit	One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental, or lease, physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, sanitary and sleeping facilities. It shall include sectional homes and modular units, provided these units meet the standards of the local building code: but it shall not include mobile homes, motels, hotels, lodging houses, or similar structures.
Green Space	Land not covered by impervious cover, which is capable of growing grass, plants, shrubs, trees, or similar ground cover. Such land, which does not have any of the above listed landscaping, shall be developed and maintained with these landscaping features. The use of wood chips shall be limited to beneath trees or shrubs, or to areas where the maintenance of grass would be prohibitive.
Height	The height above ground level from the natural grade of a site to the highest point of a structure.

Home Occupation	Any use that is customarily conducted within a dwelling by the inhabitants thereof which is secondary to the use of the dwelling for residential purposes and does not change the character of the building or the character of the neighborhood.
Junk Yard	Any lot used for the purpose of storing or reclamation of automobiles, their parts, unwanted appliances, scrap metal, and other material.
Lot	A parcel of land of sufficient size to meet minimum zoning requirements for use, building coverage, setback, and area.
Lot Frontage	Lot width measured at the street. When a lot faces more than one street, it must have the minimum width on each street.
Manufacturer Housing/ Mobile Home	A detached, complete, and transportable structure (with plumbing, heating, and electrical systems contained therein) built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation. Sectional homes, modular homes, and prefabricated homes are excepted and do not apply.
Mobile Home Park	A lot with three or more mobile homes.
Municipal Water Supply	Potable water supplied by town or municipality (Amended March 11, 2008)
Non-conforming	A structure, use or lot that does not conform to the structure, use or lot regulations of the zone in which it is carried on or located.
Parking Space	An off-street space available for the parking of one motor vehicle.
Shore Frontage	The measured distance along the natural shoreline at high water.
Sign	An advertizing device that shall include any billboard, outdoor sign, notice poster, display figure, painting, message, placard or any other device which is designated or intended to attract the attention of the public and which is erected and maintained on any property with the purpose to set forth the name of the business or profession conducted on any property, or to identify the goods or services produced or sold on any property. [added by official ballot vote – March 12, 2013]

Special Exception	Use of land or buildings that is permitted, subject to specific conditions that are set forth in this Ordinance.
Structure	<p>Anything constructed or erected, the use of which requires location on the ground or attachment. Something having location on the ground. It shall not include a minor installation, such as a fence less than 6 feet high, a mailbox, or a flagpole.</p> <p>Any building occupied or unoccupied, but shall not, for purposes of §9.2(a)(2)(A) include a building used exclusively to house the Communication Tower control apparatus.</p>
Public Street	A public right-of-way which the town or state has the duty to maintain regularly, or a right-of-way shown on a subdivision plat approved by the Planning Board, recorded with the county Register of Deeds, and providing the principal means of access to abutting property.
Variance	Waiver or relation of particular requirements of an ordinance when strict enforcement would cause undue hardship because of circumstances unique to the property.
Waterfront Access Lot	A waterfront lot with right of use granted to owners or users of other lots, dwelling units, campsites, or lodging units.

Adopted: March 12, 1985

Amended:	March 11, 1986	March 13, 1993	March 14, 2000	March 9, 2004
	November 4, 1986	June 12, 1993	March 11, 2003	March 8, 2005
	March 10, 1987	March 8, 1994	March 13, 1990	March 13, 2007
	March 8, 1988	March 12, 1996	March 10, 1998	March 11, 2008
	March 10, 2009	March 9, 2010	March 12, 2013	March 11, 2014

Group 1 Excessively drained and somewhat excessively drained soils with rapidly or very rapidly permeable receiving layer	Group 2 Well-drained soils with moderately permeable surface and subsoil layers and having a moderate to rapidly permeable receiving layer	Group 3 Somewhat poorly drained or moderately well drained soils, and well drained soils with a slowly or very slowly permeable receiving layer		Group 4 Soils with bedrock with 4 feet of the soil surface.	Group 5 Poorly drained soils	Group 6 Very poorly drained soils
Adams	Abenaki	Acton	Melrose	Canaan	Au Gres	Biddeford
Boscawen	Agawam	Acton Variant	Metacomet	Cardigan	Bemis	Borohemists
Cesar	Allagash	Becket	Metallak	Chatfield	Binghamville	Bucksport
Champlain	Bangor	Belgrade	Millis	Elliotsville	Brayton	Burnham
Colton	Berkshire	Barnardston Variant	Montauk	Glebe	Cabot	Chocorua
Gloucester	Bice	Boxford	Mundal	Hogback	Charles	Greenwood
Glover	Canton	Buckland	Newfields	Hollis	Cohas	Ipswich
Hermon	Charlton	Buxton	Nicholville	Kearsarge	Grange	Matunick
Hinckley	Dutchess	Canterbury	Nicholville Variant	Lyman	Kinsman	Maybid
Hoosic	Fryeburg	Chatfield	Ninigret	Macomber	Leicester	Medomak Variant
Masardis	Groveton	Chesuncook	Paxton	Millsite	Leicester Variant	Muck
Merrimac	Hadley	Colonel	Peru	Monson	Lim	Ossipee
Success	Hartland	Colonel Variant	Pittstown	Pennichuck	Limerick	Pawcatuck
Suncook	Haven	Croghan	Pittstown Variant	Rawsonville	Limerick Variant	Peacham
Sunday	Houghtville	Dartmouth	Plaisted	Ricker	Lyme	Peat
Redstone	Lombard	Deerfield	Plaisted Variant	Saddleback	Monarda	Pondicherry
Warwick	Monadnock	Dixmont	Podunk	Shapleigh	Moosilauke	Saco
Windsor	Occum	Duane	Podunk Variant	Stratton	Naumberg	Saco Variant
Windsor Variant	Ondawa	Eldridge	Poocham	Thorndike	Pemi	Scarboro
	Salmon	Elmwood	Potaluck	Tunbridge	Pillsbury	Searsport
	Salmon Variant	Finch	Roundabout	Winnecook	Pillsbury Variant	Vassalboro
	Stetson	Henniker	Scio	Woodstock	Pipestone	Waskish
	Unidilla	Hitchcock	Shaker		Raynham	Westbrook
		Howland	Sheepscot		Raynham Variant	Whitman
		Lanesboro	Sisk		Raypole	Wonsqueak
		Machais	Skerry		Ridgebury	
		Madawaska	Sudbury		Pippowam	
		Marlow	Suffield		Roundabout	
			Sunapee		Rumney	
			Sutton		Rumney Variant	
					Saugatuck	

Scantic
Scitico
Shaker
Squamscott
Stissing
Swanton
Walpole
Warham

Pursuant to RSA 674:57, by resolution of the Town of Ashland Board of Selectmen, all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Grafton, NH" dated February 20, 2008, together with the associated Flood Insurance Rate Maps dated February 20, 2008, are declared to be part of the Town of Ashland Zoning Ordinance and hereby incorporated by reference.