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2011

CHICHESTER ZONING ORDINANCE



As Amended March 8, 2011

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Article I. PREAMBLE:

Pursuant to authority conferred by chapter 672 et seq., NH Revised Statutes Annotated, and subsequent amendments thereto and for the purpose of preserving the values and character now attached to the Town, and to promote the health, safety, and welfare of the inhabitants, and secure safety from fires, panic, and other dangers; also to minimize congestion in the streets, and prevent the overcrowding of the land, and to avoid undue concentration of population, and facilitate the adequate provision of water, sewerage, schools, transportation, and recreational facilities and to assure the proper use of natural resources, the following ordinance is hereby adopted as amended by the Town of Chichester, New Hampshire, in Town meeting convened.

Article II. ESTABLISHMENT OF DISTRICTS:

Section 2.01 General:

- (A) In the interest of public health, convenience, safety, and welfare, the town of Chichester is hereby divided into seven (7) districts.


Section 2.02 Designation of Districts:

- | | | |
|-----|--------------------------------------|-------|
| (A) | Conservation-Open Space – Wetlands | OSW |
| (B) | Conservation-Open Space – Steeplands | OSS |
| (C) | Rural-Agricultural | RA |
| (D) | Residential | R |
| (E) | Commercial-Industrial/Multi-Family | CI/MF |
| (F) | Commercial Village | CV |
| (G) | Backlands | BL |

Section 2.03 Zoning Map:

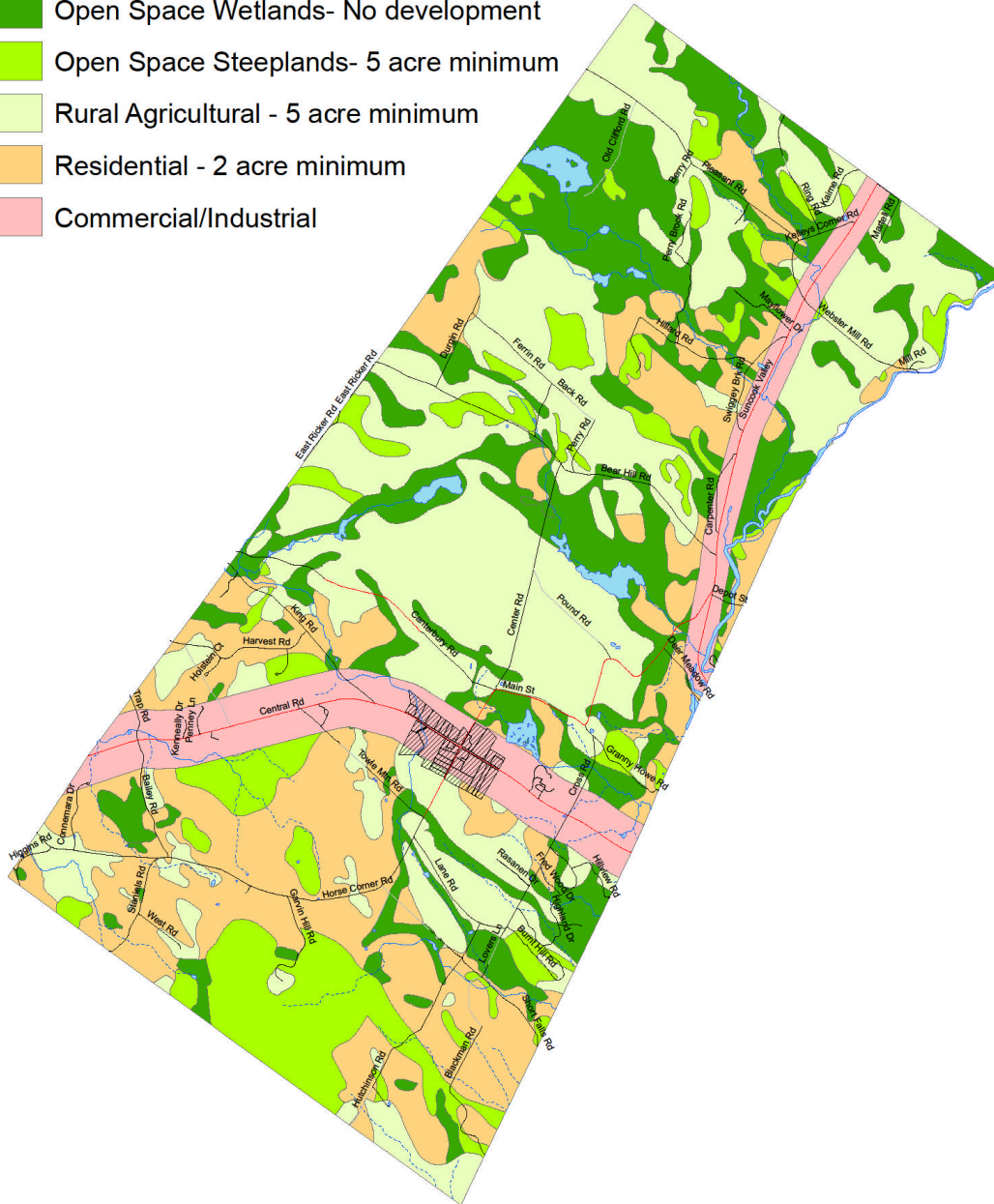
- (A) The locations and boundaries of the zoning districts are shown on “The Zoning Map” of the Town of Chichester, NH, Dated March, 1978 and signed and certified by the Town Clerk, which is part of this ordinance. The locations of boundaries of the zoning districts OSW, OSS, RA and R are taken from and coincide with the soil lines shown in the Merrimack County Soil Survey, Issued June, 1965.

Town of Chichester Zoning March 8, 2011

 Commercial Village District

Zones

-  Open Space Wetlands- No development
-  Open Space Steeplands- 5 acre minimum
-  Rural Agricultural - 5 acre minimum
-  Residential - 2 acre minimum
-  Commercial/Industrial



0 0.5 1 2 Miles
0 2,500 5,000 10,000 Feet

This map is intended for planning purposes only.
Data sources: Town of Chichester, NH GRANIT,
NH DOT, CNRPC

Central New Hampshire
Regional Planning Commission
28 Commercial Street
Concord, NH 03301
603.226.6020
www.cnhrpc.org



Adopted 3-12-1988

(B) **OSW - CONSERVATION - OPEN SPACE – WETLANDS**

- (I) AgA - AgB -Au Gres fine sandy loam, 0 to 8% slopes
- (II) AuB -Au Gres loamy sand, 0 to 8% slopes
- (III) Lc -Limerick silt loam, high bottom
- (IV) Mh -Marsh
- (V) Mn -Mixed alluvial land
- (VI) Mp -Muck and peat
- (VII) Of -Ondawa fine sandy loam
- (VIII) Oh -Ondawa fine sandy loam high bottom
- (IX) Po -Podunk fine sandy loam
- (X) RdA & RdB -Ridgebury and Whitman very stony loam 0 to 8% slopes
- (XI) Ru -Rumney fine sandy loam
- (XII) Sa -Saco silt loam
- (XIII) Sc -Scarboro fine sandy loam
- (XIV) Sy -Suncook loamy sand

Adopted 3-12-1988

(C) **OSS - CONSERVATION - OPEN SPACE - STEEPLANDS**

- (I) GrD -Gloucester sandy loam, 16 to 25% slopes
- (II) GrD & GrE -Gloucester very stony sandy loam, 15 to 60% slopes
- (III) HrE -Hinckley gravelly loamy sand, 15 to 60% slopes
- (IV) PnD & PnE - Paxton very stony loam, 15 to 60% slopes
- (V) ShD -Shapleigh-Gloucester very rocky sandy barns, 15 to 25% slopes
- (VI) SoD & SoE -Shapleigh-Gloucester extremely rocky sandy loam, 8 to 60% slopes
- (VII) WdF -Windsor loamy sand, 15 to 60% slopes

Adopted 3-12-1988

(D) **RA - RURAL AGRICULTURAL**

- (I) AcB -Acton fine sandy loam, 0 to 8% slopes
- (II) AdB & AdC -Acton very stony fine sandy loam, 0 to 15% slopes
- (III) PaB & PaC -Paxton loam, 0 to 15% slopes
- (IV) PnB & PnC -Paxton very stony loam, 3 to 15% slopes
- (V) SgB & SgC -Shapleigh-Gloucester sandy loam, 3 to 15% slopes
- (VI) SuA & SuB -Sudbury fine sandy loam, 0 to 8% slopes
- (VII) WoB & WoC -Woodbridge loam, 0 to 15% slopes
- (VIII) WvB & WyC -Woodbridge very stony loam, 0 to 15% slopes

Adopted 3-12-1988

(E) **R - RESIDENTIAL**

- (I) CcB & GcC - Gloucester sandy loam, 3 to 15% slopes
- (II) GrB & GrC - Gloucester very stony loam, 3 to 15% slopes
- (III) HsA & HsB & HsC - Hinckley loamy sand, 0 to 15% slopes
- (IV) MmA & MmB - Merrimack sandy loam, 0 to 8% slopes
- (V) WdA & WdB & WdC - Windsor loamy sand, 0 to 15% slopes

***If the actual soil type shall be in conflict with the Zoning Map,
the actual soil type shall determine the Zoning District.***

Town of Chichester Zoning Ordinance

Section 2.04 Purposes, Permitted Uses and Special Exceptions:

Amended 3-10-1981, 3-11-1986

(A) District OSW: Conservation Open Space Wetlands

- (I) Purpose: To reserve those areas of wetlands, including poorly drained and very poorly drained soils, marshlands, flood plains and streams as mapped in the Merrimack County Soil Survey, issued June, 1965, for primarily conservation, agriculture, forestry, wildlife, scenic, and recreational purposes. No residential uses or permanent housing of domestic livestock will be allowed in this district.
- (II) Permitted Uses: Farming, and forestry, including sale of products produced on the premises, wildlife management and improvement measures. Public and private open space and passive recreational uses
- (III) Special Exceptions: Public utility transmission lines and portable sawmills.

Amended 3-10-1981, 3-11-1986, 3-11-2008

(B) District OSS: Conservation Open Space Steeplands

- (I) Purpose: To reserve from intensive development those areas of steep slope (over fifteen (15) percent) and related soils limitations as mapped in the Merrimack Country Soil Survey, issued June 1965, primarily for conservation, agriculture, forestry, wildlife, scenic, and recreational purposes. These areas shall serve as open space and natural areas to protect the scenic qualities and watershed of the town from encroachment. Residential uses shall be limited to one dwelling unit per five (5) acres, with a minimum road frontage of three-hundred (300) contiguous feet. Only soil classified one-hundred (100) percent OSS or better (RA, R) shall be counted towards meeting the minimum five (5) acre lot size.
- (II) Permitted Uses: Farming, and forestry, including sale of products produced on the premises, wildlife management and improvement measures. Single family dwellings, Public (and private) open space and passive recreational uses (including camping and tenting areas as a private use) and home occupations.
- (III) Special Exceptions: Public utility transmission lines. portable sawmills and commercial campgrounds.

(C) **District RA: Rural Agricultural**

- (I) Purpose: To provide areas suitable for development within the limitations of the soils to accommodate individual on-site water supply and sewage disposal systems, to preserve the rural character of the community and to protect the better agricultural soils from intensive development. Minimum lot size for single family and two family (residential uses) dwellings shall be five (5) acres, with minimum road frontage requirements of three-hundred (300) contiguous feet. Up to ten (10) percent of the minimum five (5) acre residential lot may contain soil not classified RA or R.
- (II) Permitted Uses: Farming and forestry including the sale of products produced on the premises, single family and two family dwellings, accessory uses and buildings, home occupations, recreational buildings and land.
- (III) Special Exceptions: Public utility transmission lines, portable sawmills, public places of assembly, public community buildings, and public recreational buildings and lands.

(D) **District R: Residential**

- (I) Purpose: To provide areas of well-drained soils suitable for development as residential units, with minimum lot size of two (2) acres and a minimum road frontage of two-hundred (200) contiguous feet for a single family dwelling and a minimum lot size of three (3) acres and a minimum road frontage of three-hundred (300) contiguous feet for a two family dwelling. Up to ten (10) percent of the minimum residential lot size may contain soil not classified as R.
- (II) Permitted Uses: Single family and two family dwellings, farming of land including keeping of livestock or poultry for personal use, home occupations, and sale of products produced on the premises, management of the land for forestry and wildlife, accessory uses and buildings.
- (III) Special Exceptions: Public utility transmission lines, sawmills, animal husbandry and keeping of poultry provided that all such uses shall not be offensive or unsightly; as determined by the Board of Adjustment, public places of assembly, public community buildings, public recreational buildings and lands.

(E) District CI/MF: Commercial-Industrial Multi-Family

Amended 3-11-1986, 3-12-1994

- (I) Purpose: To concentrate Commercial-Industrial and Multi-Family growth near the major Transportation corridors thereby reducing congestion and helping to maintain the rural character of the other areas in Town. To attract business use to the Town in order to enhance socio-economic development and to broaden the property tax base.
- (II) The Commercial-Industrial zone as designated on "The Zoning Map" of the Town of Chichester, dated march, 1978 and amended to include Multi-Family use on March 1986, and as amended March 1994, shall extend one-thousand (1000) feet beyond the State of New Hampshire Right-of-Way of Route 4, 202 and 9 and shall extend five-hundred (500) feet beyond each side of the State of New Hampshire Right-of-Way of Route 28.

Amended 3-11-1986, 3-18-1989, 3-12-1994, 3-14-1995, 3-14-2000, 3-12-2002, 3-11-2008

(III) General Requirements

- 1) Any development or expansion or change in impact (as determined by the Planning Board) of use of the tracts for any other use than a single family residence shall require:
 - a) Site Plan review by the Planning Board
 - b) Public Hearing
 - c) Building Permit as required
 - d) Occupancy permit
- 2) For the purpose of increasing density and to provide for an efficient use of land in the CI/MF zone, shared development will be allowed for commercial and industrial development only.
- 3) All Commercial use shall have a minimum of fifty (50) feet deeded driveway access to State Routes 4, 202 and 9 or State Route 28 or to an intersecting State or Town maintained road. All driveway access must enter the road within the CI/MF Zone. The design and maintenance of the road must be suitable to handle the proposed use. All shared driveways will be maintained by land owners, and will not become the responsibility of the town.
- 4) All new or altered uses shall have adequate on-site sewage disposal, approved by the State of New Hampshire Department of Environmental Services for the specified use, if public sewage disposal is not available. State approved shared or common disposal systems may be allowed.

- 5) No building or structure shall be erected closer than fifteen (15) feet to any lot line or adjacent building unless a firewall shall be constructed.
- 6) No Commercial or Multi-family building or structure may be erected closer than forty (40) feet to an adjacent zoning district.
- 7) No Industrial building or structure may be erected closer than one-hundred (100) feet to an adjacent zoning district.
- 8) No building or structure may be erected closer than ninety (90) feet to the center line of State of New Hampshire right-of-way of Route 4, 202 and 9 and the State of New Hampshire right-of-way of Route 28, but must have a minimum set back of forty (40) feet from the edge of State Right-of-Way of any State or Town maintained road
- 9) For all Commercial or Industrial use, no more than ninety (90) percent of the land within the CI/MF zone may be covered by buildings, structures and parking.
- 10) No wall, fence or other structure, temporary or permanent, or no tree, shrub or other growth on the property shall obstruct the view as to cause danger to traffic in the street
- 11) All Commercial and Industrial uses must have an appropriate buffering zone from abutters and highways as determined by site plan review.
- 12) Parking Requirements:
 - a) Each place of public assembly shall have one (1) paved parking space on the same lot or on land adjacent thereto within three-hundred (300) feet, for each five (5) available seating spaces and for each eight-hundred (800) square feet of floor area in public use, except schools through the tenth grade shall have at least one (1) paved parking space for each twenty (20) seating spaces and for each three-thousand two-hundred (3200) square feet of floor area in public use
 - b) Each Commercial use, except food and lodging, shall have at least one (1) paved parking space on the lot or land adjacent thereto and within the CI/MF zone, for each two-hundred (200) square feet of first floor area and for each four-hundred (400) square feet of floor area above the ground floor.
 - c) Each Industrial use shall have at least one (1) paved parking space on the lot within the CI/MF zone, for each on-duty employee
 - d) Each hotel, motel or lodging house shall have one (1) paved parking space, on the lot and within the CI/MF zone, for each lodging unit and on-duty employee.

- e) Each fast food and or drive-in restaurant shall have one (1) paved parking space, on the lot within the CI/MF zone, for each fifty (50) square feet of floor space devoted for patron use with a minimum of ten (10) spaces. This category includes restaurants that have no or limited sit-down facilities and whose food is generally prepared to be taken out to be consumed outside the restaurant.
 - f) All quality and family style restaurants shall have at least one (1) paved parking space, on the lot and within the CI/MF zone, for each one-hundred (100) square feet of floor space devoted to patron use with a minimum of ten (10) spaces. This category includes restaurants whose food is generally prepared and served at sit-down facilities.
 - g) All uses other than residential, shall provide adequate paved space off the road or street and outside the public right of way for vehicles delivering, loading, or taking away goods, materials, supplies or waste in connection with the use.
 - h) Parking requirement for separate uses shall be met independently. However, when separate uses can demonstrate that the parking will be used at separate times, the Planning Board may approve shared parking
- 13) Residential uses shall have a minimum lot size determined in the same manner as with the zoning district outside the Commercial/Industrial Multi-Family Zone (Section 2.03) that is to coincide with the soil lines shown in the Merrimack County Soil Survey issued June 1965.
- 14) Home occupation permits in the CI/MF zone will meet the same criteria as any business venture in the CI/MF zone.

Amended 3-18-1989, 3-12-1994, 3-16-1996, 3-9-1998, 3-11-2008

(IV) Permitted Uses and Special Exceptions

- 1) Permitted Uses:
 - a) Hotels
 - b) Motels
 - c) Restaurants and snack bars whose primary purpose is serving food.
 - d) Professional establishments such as: Dental/Medical, Law, Engineering and Accounting
 - e) Hotels
 - f) Motels

- g) Restaurants and snack bars whose primary purpose is serving food.
- h) Professional establishments such as: Dental/Medical, Law, Engineering and Accounting
- i) Service establishments such as: Real Estate, Barber Shops and Financial Institutions
- j) Retail sales establishments such as: Drug Stores, Grocery Stores, Lumber Yards, Hardware and Clothing Stores
- k) Automotive uses such as: Service Stations, Repair Garages, Car Washes and Vehicle Sales.
- l) Office and Administrative Buildings
- m) Funeral Homes
- n) All uses allowed in District R (residential)
- o) Restaurants with entertainment or nightclub facilities
- p) Plaza, Malls, Multiple use businesses
- q) Warehouses or Distribution centers
- r) Recreational facilities
- s) Commercial parking lots
- t) Manufacturing, Assembly, Processing, Packing and Research facilities
- u) Sawmills
- v) Auto body shops
- w) Public & Institutional facilities
 - i) Hospitals
 - ii) Nursing Homes & Elderly Housing
 - iii) Churches
 - iv) Schools
 - v) Libraries

- vi) Museums
- x) Multi-Family uses (such as apartments and condominiums) are subject to the following conditions.
 - i) The lot shall have a minimum road frontage of two-hundred (200) contiguous feet.
 - ii) The lot shall have, within the CI/MF zone, a minimum of two (2) acres for the first two family dwelling unit with an additional one-half (1/2) acre for each additional family dwelling unit.
 - iii) The development shall be adapted to the site so as to preserve and reflect the topography and actual natural features of the land. Steep slopes, unique or outstanding natural features including streams, drainage swells, wetlands and ponds shall be preserved.
 - iv) A minimum of twenty-five (25) percent of the lot shall be set aside for common open space and shall be suitable for active outdoor recreation such as commons or playgrounds. Steep slopes, streams, drainage swells, wetlands, ponds, driveways, parking areas, vehicle access facilities, utility service areas, and perimeter buffer strips shall not be considered as part of the common open space.
 - v) The lot shall have adequate onsite sewage disposal if public sewage disposal is not available. Onsite sewage disposal must meet or exceed the requirements of the New Hampshire Water Supply and Pollution Control Commission to assure to the greatest extent possible that the site can sustain sewage disposal indefinitely. Whenever any modifications, additions to, or replacement of an existing building would result in a substantial increase in the sewage load, as determined by the Board, plans and specifications must be submitted to the NHWS&PCC for approval.
 - vi) The lot shall have adequate on-site water supply if public water supply is not available. (Proof of adequate on site water supply must be provided to the board prior to final approval.)
 - vii) Each dwelling unit shall have a minimum of five-hundred (500) square feet of living space.
 - viii) Any building shall not exceed three (3) stories and shall not exceed a maximum height of thirty-five (35) feet from its foundation at ground level to the highest point on the building.

- ix) No cellar dwelling units shall be permitted; although a dwelling unit may have a cellar provided the cellar is not included in meeting the minimum requirements for living space.
- x) There shall be provided off-street, on-site parking with a minimum of one and one-half (1½) spaces for each one (1) bedroom living unit with an additional one-half (1/2) space for each additional bedroom.
- xi) All driveways and parking areas shall be graveled or paved with adequate provisions for surface drainage and snow removal.
- xii) All driveways and parking areas shall have adequate lighting.
- xiii) An appropriate buffering zone from abutters and highways must be provided as determined by the Board.

Amended 3-12-1994

- 2) Special Exceptions: The following uses may be permitted by approval of the Board of Adjustment as special exceptions providing they meet the following conditions.
 - a) The use shall meet the intent of Article I - Preamble of the Zoning Ordinance
 - b) The use shall meet the intent of the Purpose of the zoning district CI/MF
 - c) The use shall meet all the applicable General Requirements of the zoning district CI/MF
 - d) The use shall meet all the applicable General Provisions of Article III of the Zoning Ordinance with special consideration given to General Provisions H. (Obnoxious Uses):
 - i) Salvage Yards, Junk Yards, Auto Grave Yards
 - ii) Cemeteries
 - iii) Excavation, Sand & Gravel
 - iv) Public Service Utilities

Adopted 3-8-2005, Amended 3-13-07

(F) District CV: Commercial Village

- (I) Authority: The CV Zone is adopted pursuant to the authority granted under RSA 674:17, Purposes of the Zoning Ordinance and RSA 674:21, Innovative Land Use Controls, Performance Zoning. The Planning Board is authorized to administer the provisions of this section.

- (II) Purpose: To provide for a mix of land development opportunities in the vicinity of the Main Street/Horse Corner Road intersection.
- (III) Intent: The intent of this section is to implement the recommendations set forth in the "Route 4 Corridor Study" dated March 2, 2004 and prepared by the Central NH Regional Planning Commission and Vanasse Hangen Brustlin, Inc. The intent is to create a village zone, which promotes a change in the development patterns in the area and creates an attractive center for service, retail, and commercial opportunities. It is also the intent of the district to encourage development with architectural features that reflect the traditional New England character of smaller village areas.

Amended 3-10-2009, Amended 03-08-2011

- (IV) District Boundaries: The CV Zone, as designated on "the Zoning Map" of the Town of Chichester dated March 1978 et seq. includes 33 parcels and covers approximately 136 acres.
- (V) Includes the following map and lot numbers, Map 3, Lots 10, 11, 12, 12A, 13, 13A, 14, 15 and Map 4, Lots 25, 26, 27, 28, 29, 30, 31, 34, 35, 36, 37, 37A, 38, 161, 161A, 162, 163, 164, 165, 166, 167, 167B, 167C, 168, 168A.

Amended 3-11-2008

- (VI) General Requirements:
 - 1) Any development or expansion or change in impact (as determined by the Planning Board) of use of tracts for any other use than a single family residence shall require:
 - a) Site Plan Review by the Planning Board
 - b) Conditional Use Permit from the Planning Board, if applicable
 - c) Public Hearing
 - d) Building Permit as required
 - e) Occupancy Permit
 - 2) For the purpose of increasing density and to provide for an efficient use of land in the CV zone, planned commercial developments will be allowed by Conditional Use Permit from the Planning Board. Planned commercial development is a form of development which is planned, operated and maintained by a single entity on one site and contains one or more structures to accommodate retail, service, commercial or office uses, and appurtenant common areas and accessory uses.

- 3) All driveway access must enter the road within the CI/MF or CV zone. The design and maintenance of the road must be suitable to handle the proposed use. All shared driveways will be maintained by the landowners, and will not become the responsibility of the town.
- 4) Residential uses shall have the minimum lot size determined in the same manner as with the Zoning Districts outside the CI/Mf or CV zones; that is, to coincide with the soil lines shown in the Merrimack County Soil Survey, issued June, 1965.
- 5) All new or altered uses shall have adequate on-site sewage disposal, approved by the State of New Hampshire Department of Environmental Services for the specified use if public sewage disposal is not available. State approved shared or common disposal systems may be allowed.
- 6) No building or structure shall be erected closer than fifteen (15) feet to any lot line.
- 7) No Commercial or Multi-Family building may be erected closer than forty (40) feet to an adjacent zoning district other than the CI/MF zone.
- 8) For all commercial uses, no more than seventy (70) percent of the land within the CV zone may be covered by buildings, structures and parking.
- 9) No wall, fence or other structure, temporary or permanent, or no tree shrub or other growth on the property shall obstruct the view as to cause danger to traffic in the street.
- 10) Parking requirements:
 - a) Each place of public assembly shall have one (1) parking space on the same lot for each five (5) available seating spaces and for areas without seating, one (1) parking place for each eight-hundred (800) square feet of floor area in public use.
 - b) Each commercial use, except food and lodging, shall have at least one (1) paved parking space for each two-hundred (200) square feet of floor area.
 - c) Each bed & breakfast or inn shall have one (1) paved parking space on the lot for each lodging unit and on-duty employee.
 - d) All restaurants, including fast food, shall have at least one (1) paved parking space on the lot for each one-hundred (100) square feet of floor space devoted to patron use with a minimum of ten (10) spaces. This category includes all restaurants where food is generally prepared and served at sit-down facilities, and where food is prepared to be taken out and consumed outside the restaurant.

- e) All uses, other than residential, shall provide adequate paved space off the road or street and outside the public right-of-way for vehicles delivering, loading, or taking away goods, materials, supplies or waste in connection with the use.
- f) Parking requirements for separate uses shall be met independently. However, when separate uses can demonstrate that the parking will be used at separate times, the Planning Board may approve shared parking.
- g) In computing total parking requirements for a land use or structure, fractional numbers shall be rounded up for any fraction equal to one-half ($\frac{1}{2}$) or over.
- h) Each required parking space shall not be less than nine (9) feet in width and nineteen (19) feet in length.
- i) Parking spaces shall be so arranged as not to necessitate backing of automobiles onto any street.
- j) Handicapped parking spaces shall be at least nineteen (19) feet in length by nine (9) feet in width together with an access way of five (5) feet in width immediately adjacent to the parking space. Two adjoining handicapped parking spaces may share one access way. Handicapped spaces are required to be in conformance with the Americans with Disabilities Act (ADA) requirements.
- k) The minimum setback for parking spaces from any structure shall be five (5) feet.
- l) A landscaped area of not less than five (5) feet in width along the frontage of the parcel and within parking areas as appropriate. The landscape material shall consist of no less than one (1) live shade tree or ornamental tree for every one-thousand (1,000) square feet of parking area. Such trees shall have a minimum trunk diameter (measured twelve (12) inches above the ground level) of not less than two (2) inches and shall be planted not more than fifty (50) feet apart within each contiguous landscaped area. All landscaped areas shall contain shrub and ground cover plantings, and shall not be paved except for walkways necessary for pedestrian safety. Landscaping shall be placed so that it does not obstruct traffic views and circulation when fully matured.
- m) The design of parking lots shall provide for pedestrian circulation between the parking lot and the principal use. When crosswalks are necessary, they should be clearly demarcated.

- 11) Home Occupation permits in the CV zone will meet the same criteria as any business venture within the CV zone.
 - 12) No structure within the CV zone shall have a footprint greater than five-thousand (5,000) square feet.
- (VII) Architectural Standards: The intent of this zone is to create a New England village atmosphere that is attractive for a variety of commercial and business uses. Therefore, the following architectural standards shall apply to new developments and additions.
- 1) No exterior building surface visible from a public right-of-way or abutting residential property shall be constructed of any material except face brick, stone, stucco, architecturally treated concrete, cast in place or pre-cast panels, decorative block, glass, clapboards, vinyl siding, metal or a combination thereof. Metal may be used on a maximum of twenty (20) percent of the visible exterior building surface unless otherwise approved by the Planning Board.
 - 2) Subtle, neutral colors shall be used and paint colors shall relate to natural material colors found on buildings such as brick, stucco, terra cotta, stone, or ceramic tile and existing elements such as signs or awnings. Contrasting colors, and accent architectural details, are encouraged.
 - 3) Roof form is an important visual element and can have a significant impact on a building's form and silhouette. New roof forms shall relate to the roof forms of adjacent structures where appropriate, by duplicating the shape, pitch, and materials. A pitched roof shall be provided for all structures in order to have new development better fit with the rural and residential character of the community.
 - 4) To ensure the development of commercial and industrial structures that improve the architectural character of the Commercial Village District, varied offsets, roof heights and forms, and window placement shall be incorporated into all new structures, or additions to existing structures.
 - 5) All signs within the CV zone shall be appropriately designed to complement the New England style architecture within the zone. Sign bases or structures should be constructed with the materials listed in paragraph 1) above. No sign shall be greater than twenty (20) feet in height, and shall otherwise comply with the provisions of Section 3.07: Signs, of this Ordinance.

Amended 3-11-2008

(VIII) Permitted Uses

- 1) Bed & Breakfasts and Inns
- 2) Restaurants and snack bars whose primary purpose is serving food.

- 3) Professional establishments such as: Dental/Medical, Law, Engineering and Accounting.
- 4) Personal and Business Service establishments such as: Real Estate, Barbershops and Financial Institutions.
- 5) Retail sales establishments such as: Drug, Grocery, Hardware, or Clothing stores.
- 6) Public facilities such as: Clinics, Elderly Housing, Churches, Schools, Libraries, and Museums.
- 7) Theater
- 8) Childcare facility
- 9) Single Family and Two Family Dwellings
- 10) Home Occupations
- 11) Multi-Family uses subject to the following conditions:
 - a) The lot shall have a minimum road frontage of fifty (50) contiguous feet.
 - b) The lot shall have a minimum of two (2) acres for the first two family dwelling unit with an additional ½ acre for each additional family dwelling unit.
 - c) The development shall be adapted to the site so as to preserve and reflect the topography and actual natural features of the land. Steep slopes, unique or outstanding natural features including streams, drainage swells, wetlands and ponds shall be preserved.
 - d) A minimum of twenty-five (25) percent of the lot shall be set aside for common open space and shall be suitable for active outdoor recreation such as commons or playgrounds. Steep slopes, streams, drainage swells, wetlands, ponds, driveways, parking areas, vehicle access facilities, utility service areas, and perimeter buffer strips shall not be considered as part of the common open space.
 - e) The lot shall have adequate on-site sewage disposal if public sewage disposal is not available. On-site sewage disposal must meet or exceed the requirements of the New Hampshire Department of Environmental Services (NHDES) to assure to the greatest extent possible that the site can sustain sewage disposal indefinitely. Whenever any modifications, additions to, or replacement of an existing building would result in a substantial increase in the sewage load, as determined by the Board, plans and specifications must be submitted to the NHDES for approval.

- f) The lot shall have adequate on-site water supply if public water supply is not available. (Proof of adequate on-site water supply must be provided to the Board prior to final approval).
 - g) Each dwelling unit shall have a minimum of five-hundred (500) square feet living space.
 - h) Any building shall not exceed three stories and shall not exceed a maximum height of thirty-five (35) feet from its foundation at ground level to the highest point on the building.
 - i) No cellar dwelling units shall be permitted although a dwelling unit may have a cellar provided the cellar is not included in meeting the minimum requirements for living space.
 - j) There shall be provided off-street, on-site parking with a minimum of two (2) spaces for each one-bedroom living unit with an additional one-half ($\frac{1}{2}$) space for each additional bedroom. Fractional numbers shall be rounded up for any fraction equal to one-half ($\frac{1}{2}$) or over.
 - k) All driveways and parking areas shall be graveled or paved with adequate provisions for surface drainage and snow removal.
 - l) All driveways and parking areas shall have adequate lighting, governed by the lighting regulations in this Ordinance.
 - m) An appropriate buffer zone from abutters and highways must be provided as determined by the Board.
- (IX) Performance Incentives: The following bonus incentives are offered to applicants who voluntarily develop their properties in a manner consistent with the intent of this zone, the Route 4 Corridor Study, and the Chichester Master Plan.
- 1) Common Open Space requirements may be reduced up to ninety (90) percent where alternative impervious pavement materials other than asphalt and concrete are utilized. Appropriate alternatives would include brick, cobblestone, or permeable asphalt or concrete products.
 - 2) Where a structure is designed to face the street and parking areas are placed at the rear of the structure, an applicant may increase the building footprint up to ten (10) percent.
 - 3) Where additional landscaping is proposed, an applicant may increase the permitted size of the sign up to ten (10) percent.

(X) Conditional use Permits: The Planning Board by a Conditional Use Permit may approve the following uses, provided they meet the conditions described in this section:

(XI) Planned Commercial Developments

- 1) Restaurants with entertainment or drive through facilities
- 2) Conditional Use Criteria: Following a public hearing on the proposed use, the Planning Board shall issue a conditional use permit if it finds, based on information and testimony submitted with respect to the application that:
 - a) If completed as proposed by the applicant, the development in its proposed location will comply with all requirements of this Article, and with the specific conditions or standards established in this Ordinance for the particular use;
 - b) The use will not materially endanger the public health or safety;
 - c) The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located;
 - d) The use will not have a substantial adverse impact on highway or pedestrian safety; and
 - e) The use will not have a substantial adverse impact on the natural resources of the town.
 - f) Drive-through businesses shall meet the following requirements and standards:
 - i) There shall be an off-street approach lane of two-hundred (200) feet for drive through facilities that shall not conflict with parking spaces;
 - ii) There shall be adequate internal and external traffic circulation in order to promote traffic safety. In determining the adequacy of the circulation, the Planning Board may consider the number of curb cuts and the orderly flow of traffic entering and exiting the site. With respect to corner lots, the exits of the site shall be located on the less busy or secondary street and at least one-hundred (100) feet from the intersection.
 - iii) Minimum lot width: one-hundred fifty (150) feet;
 - iv) The site plan shall contain suitable landscaping which shall include maintenance of a suitably landscaped area between the drive-through business and any contiguous lot in a residential zone.

- (XII) Conditions of Approval: In granting a conditional use permit, the Planning Board may attach reasonable conditions to its approval, including, but not limited to performance guarantees and the phasing of a development, where such conditions are shown to be necessary to further the objectives of this Article to be satisfied. Representations made at a public hearing or in material submitted to the Planning Board by an applicant to obtain a conditional use permit shall be deemed conditions of the issuance of the permit. All other conditions of approval shall be stated in writing in the permit. The Planning Board may require that such conditions be annotated on a site plan or subdivision plan, or otherwise recorded at the Merrimack County Registry of Deeds
- (XIII) Waivers: The purpose of granting waivers from the provisions of this section is to recognize that strict conformance to these regulations as presented may not be necessary or practical in all cases and circumstances. Therefore, the Planning Board may waive particular requirements set forth in this section where the Planning Board finds that a development is better served by not adhering strictly to the provisions of this section and where the applicant demonstrates that granting a waiver would: Not be detrimental to the public safety, health or welfare, or cause injury or damage to other property or fail to promote public interest; Not vary the intent of the Town of Chichester Master Plan; Substantially ensure that the goals, objectives, standards, and requirements of this section are not compromised; Be reasonable and appropriate due to the scale and size of the proposed project; and/or Protect natural features that would otherwise be impacted.
- (XIV) Appeals: Any decision made by the Planning Board under this innovative land use control ordinance may be appealed directly to NH Superior Court in the same manner provided by statute for appeals from the Planning Board, as set forth in RSA 676:5,III and RSA 677:15.

Adopted 3-10-1981

(G) District BL: Backlands

- (I) Purpose: Land, which if subdivided would not contain the minimum road frontage required for a developable lot under this ordinance, may be subdivided only if the plot and deed contain restrictions which clearly state that such land is not a buildable dwelling lot and that such land contains at least a fifty (50) foot Right-of-Way to a Town or State road. The purpose of this provision is to allow for wood lots and other agricultural uses such as farming; provided no structures, other than those used for agricultural or forestry purposes, shall be built thereon.
- (II) Permitted Uses: Wood lots and related farming or forestry for homeowners use
- (III) Special Exceptions: None

Adopted 3-9-2010, Repealed 03-08-2011

(H) District WFH: Workforce Housing Overlay District

Article III. General Provisions:

The following shall apply to the entire town:

Adopted 3-13-1962, Amended 3-10-1981, 3-16-1996, 3-11-2008

Section 3.01 Rebuilding After A Fire:

No owner or occupant of land shall permit fire ruins to be left. The owner within one year of the fire shall remove, rebuild or replace the structure, upon the issuance of any and all applicable permits; unless the insurance adjuster(s) requires, in writing an extension beyond a year. Any development or expansion or change in impact (as determined by the Planning Board) of the use of the tract in CI/MF and CV zones shall require site review.

Adopted 3-13-1962, Amended 3-10-1981, 3-13-2004

Section 3.02 Junkyards:

Any Junk yard or place for storage of discarded machinery, vehicles, or other scrap, material shall be maintained in accordance with the Standards set and enforced buy the NH Revised Statutes Annotated, 1955, Chapter 236:111-236:129. And subsequent amendments to said chapter with the further provisions that junkyards shall be restricted to the commercial and industrial zone district by special exception.

Adopted 3-13-1962, Amended 3-1972, 3-10-1981, 3-13-1982, 3-18-1989, 3-14-2000, 3-11-2008

Section 3.03 Trailers, Mobile Homes, and Trailer Parks:

The use of land for the accommodation of manufactured housing including trailers and/or mobile homes shall be permitted. The following provisions shall apply:

- (A) A building lot shall have a minimum area of 87,120 square feet (2 acres), with a minimum frontage of two-hundred (200) contiguous feet, on a State or Town maintained highway.
- (B) No manufactured housing shall be located nearer than fifteen (15) feet to abutter's property line and thirty (30) feet from edge of the State or Town maintained highway.
- (C) All Commercial-Industrial/Multi-family uses must meet the applicable General Requirements as set forth within the CI/MF or CV zones respectively.
- (D) The use of land for expansion of existing mobile home parks or creation of new parks is prohibited
- (E) The Building Inspector may permit:
 - (I) Single trailers and/or mobile homes owned by residents and stored or parked during periods of non-use on the premises of the owner. Recreational trailers and vehicles are exempt.

- (II) The temporary use of a trailer or mobile home for one year to be maintained as living quarters by a person for whom a residence is being built, or as an office, storeroom or showroom, in connection with construction work or in connection with logging operations, Providing that such use is shown to be a temporary expedient and also that the use will conform with sanitary protection requirements
- (III) More permanent use of a house trailer or mobile home to an existing residence as a temporary accessory solely for the purpose of elderly housing for relations, permitted during life of occupant, and thereafter removed.
- (IV) Storage trailers will be limited to one (1) in the residential zone and two (2) in the CI/MF zone, for a limit of 6 months to enable adequate time to add appropriate storage facility

Adopted 3-13-1962

Section 3.04 Portable Camps:

The location of portable camps for a permanent residence is banned; Exceptions may be the use of portable camps for logging operations.

Adopted 3-13-1962 Amended 3-14-1969, 3-10-1970, 11-5-1974, 3-10-1981, 3-11-1986, 3-12-1994, 3-11-2008

Section 3.05 Area, Frontage, and Yard Requirements:

- (A) A building lot shall have a minimum area of 87,120 square feet (2 acres) with a minimum frontage of two-hundred (200) contiguous feet on a State or Town maintained highway. Where a lot of record at the time of passage of this ordinance does not conform to the area and frontage requirements, such lot may be occupied by any use permitted by this ordinance, in the zoning district in which it lies with the following exceptions:
 - (I) A two family building lot must meet the minimum acreage requirements for a two family dwelling
 - (II) An industrial use must meet the minimum frontage and acreage requirements for an industrial use
 - (III) All Commercial-Industrial/Multi-family use must meet General Requirements under District CI/MF
- (B) No new building shall be located nearer than fifteen (15) feet to abutter's property line and thirty (30) feet from the edge of the State or Town maintained highway. Except in district CI/MF all general requirements must be met
- (C) In all districts except CI/MF no building lot shall have more than one (1) two family dwelling thereon and will be known as a two family building lot. A two family building lot must contain a minimum area of three (3) acres with a minimum frontage of 300 contiguous feet on a State or Town maintained highway.

Section 3.06 Home Occupation:

Any occupation that is customary, incidental and subordinate to the use of the premises as a dwelling unit. Farming and Forestry including the sale of products produced on the premises are exempt from this ordinance.

(A) Home Occupation Requirements

- (I) Obtain a permit from the Planning Board
- (II) The home occupation shall be operated by an inhabitant of the dwelling unit on the premises in which the occupation will be operating.
- (III) No more than two (2) non-inhabitant employees are permitted.
- (IV) The proposed Home Occupation must meet any and all zoning requirements within the district in which it will be operating.
- (V) A Public Hearing shall be held prior to the initial issuance of the Home Occupation Permit.
- (VI) Permits shall expire five (5) years following issuance. Re-issuance may require a Public Hearing following an administrative review.

Section 3.07 Signs:

The following provisions shall apply to all signs;

- (A) Signs within the CI/MF district shall be limited to on-site locations only and to two (2) per business enterprise, one of which must be attached to the building. Total signage shall not exceed sixty-four (64) square feet in area, unless one or more of the following conditions are met. (Note exception to this paragraph for multi-use business):
 - (I) The increases that may be authorized by the existence of the following conditions may be cumulative. The Planning Board shall have the authority to grant these increases and the increases may be granted only after the Board has determined that the approval meets the intent of the Zoning Ordinance. Site Plan Review by the Planning Board shall determine the existence of any of the following conditions. No increases shall be authorized unless the applicant notifies the Board in writing, when he or she submits the application for site plan review, that the applicant believes that one or more of the conditions exist and the applicant provides the Board with plans depicting the size, location, and form of illumination of the proposed signs, factors that the Board will take into consideration prior to granting increased signage.
 - (II) If the frontage of the lot exceeds four hundred (400) feet, the maximum signage allowable may be increased by up to an additional sixteen (16) square feet.

- (III) If the total interior ground floor space of the business exceeds ten thousand (10,000) square feet, the maximum signage allowable may be increased up to an additional sixteen (16) square feet.
- (IV) If the topography of the lot includes factors that decrease normal visibility, such as hills, curves, and associated traffic patterns, the maximum signage allowable may be increased up to an additional twenty four (24) square feet.
- (V) In the case of a multi-use business, each independent business use may place one sign on the building not to exceed twelve (12) square feet. The total area of all such signs shall be included in the maximum signage allowable under the above general conditions.
- (B) Portable signs shall only be allowed for a period of one month following the granting of an occupancy permit to a new business use; except that, non-profit organizations may erect temporary signs relating to special events with the permission of the Selectmen and under conditions to be set by the Selectmen.
- (C) Under all conditions, no more than sixty four (64) square feet of any allowable sign shall be illuminated by means of internal illumination.
- (D) No sign shall be placed at a height that exceeds by ten (10) feet the height of the associated building and in no case shall a sign exceed the maximum building height allowed by the Building Regulations.
- (E) After approval by the Planning Board, signs associated with Home Occupations that are located in a District other than the CI/Mf shall be limited to one on-site and one off-site sign each with a maximum signage of eight (8) square feet.
- (F) No sign shall be placed in such a position as to endanger traffic on a street or highway by obstructing a clear view, or by confusion with official road signs or signals, or by excessive glare of signs illuminated at night.
- (G) Every sign permitted shall be constructed of durable materials and shall be maintained in good condition and repair at all times.
- (H) Businesses located within CI/Mf District without frontage on Route 4-202-9 and 28, may apply to the Planning Board for an off premises sign.

Adopted 3-14-1978, Amended 3-12-1994

Section 3.08 Obnoxious Uses:

Land shall not be used in any manner that is noxious, offensive, or detrimental to the public or to owners or occupants of adjacent property or prejudicial to the general welfare of the community. Noxious, offensive or detrimental uses may be caused by the emission of odor, fumes, dust, smoke, vibration, noise, light, or other cause. Unsightly or extensive topographic alterations to the land may be considered detrimental to the general welfare of the community. The board of Adjustment, after public hearing by the Board of Adjustment shall determine whether a use shall be prohibited under the provisions of this section.

Adopted 3-10-1981

Section 3.09 Hazardous Waste Dumps:

No hazardous waste dumps or facilities will be allowed within the town's borders without a town referendum vote.

Adopted 3-10-1981

Section 3.10 Dwelling Conversions:

No single family dwelling shall be converted into a two family dwelling without a permit from the Planning Board.

Adopted 3-12-1988, Amended 3-14-2000

Section 3.11 Driveways (and other accesses to town roads):

It shall be unlawful to construct or alter any driveway in any way that substantially affects the size or grade, entrance, exit, approach or drainage within the limits of the Right-of-Way of any Town maintained road without first obtaining a permit issued by the Selectmen or their duly designated agent. All new construction shall obtain a Driveway Permit from the Selectmen or their appointed agent showing access from a Town maintained Class V or better road to the new construction. No Certificate of Occupation shall be issued until the driveway is constructed.

Adopted 3-14-2000, Amended 3-8-2005, 3-14-2006, 3-11-2008, Expired 03-9-2010

Section 3.12 Growth Management Ordinance:

- (A) Authority and Purpose: This ordinance is enacted pursuant to authority granted by NH RSA 674:22. It is intended to regulate and control the timing of the residential development in accordance with the objectives of both the Master plan and the Capital Improvements Program adopted by the Chichester Planning Board. These two documents assess and balance the community development needs of the Town of Chichester and consider regional development needs.
- (B) Building Permit Limitations

(I) Annual limitation

- 1) The number of building permits for new residential dwelling units that are issued in a calendar year by the Town of Chichester shall be limited to an amount not to exceed an annual growth rate of 1.50%. Except that the number of building permits for new residential dwellings on lots in Open Space Conservation Developments that are permanently deeded for elderly housing shall be limited to an amount that is not to exceed annual growth rate of 2.2% excepted as stated in Section 2(a)ii.
- 2) Issuance of building permits: The Town shall issue building permits for its new residential dwelling units on a first come first served basis, subject to the limitations set forth herein, which are designed to promote fairness in distributing permits throughout the year.
- 3) Allocation: No one person, corporation or entity shall be entitled to more than three building permits in any one calendar year, except that up to ten building permits may be issued for lots in open space conservation developments that are permanently deeded for elderly housing.
- 4) Application: A person may apply for a building permit for the new residential dwelling at any time. The Building inspector shall maintain a waiting list of all applications, and applicants shall be placed on a waiting list in chronological order, based on the date of receipt of completed application. The building Inspector shall determine what constitutes a completed application.
- 5) Issuance Dates: The Town shall issue building permits for new residential dwelling units on a yearly basis beginning January First (1st) of each year.
 - a) Carry Forward of Surplus: If on December Thirty-First (31st) of any year there is a surplus of un-issued building permits for new residential dwelling units, the surplus shall be made available in the following calendar year, only after all the permits allowed of that year are issued. If the surplus of un-issued building permits is not issued in the year immediately after they are surplus, they shall expire
 - b) Unused Permits: Permits for new residential dwelling units that are issued but not utilized shall be issued to the first person on the waiting list of completed applications.
 - c) Administrative Procedure: The Selectmen are hereby authorized to establish administrative procedures necessary to implement this Article. All such procedures shall be posted.

Subdivisions - Repealed 3-11-2008

- (c) Conflicts: In matters governed by this Ordinance, this ordinance shall supersede conflicting local ordinances and regulations.

- (C) Severability: Should a court hold any part of this ordinance invalid or unconstitutional, such holding shall not affect, impair or invalidate any other part of this ordinance, and, to such end. All articles, sections and provisions of this ordinance are declared to be severable.
- (D) Effective Date: Adoption of this ordinance includes the repeal of all prior growth management ordinances currently in effect. This ordinance becomes effective upon adoption and shall be reviewed by the Planning Board annually, to determine if the ordinance shall be relaxed or ended. This ordinance shall remain in effect until Town Meeting in March 2010, unless readopted by the town at that meeting; the Planning Board shall make recommendations as to the necessity of readopting prior to said town meeting.

Adopted 3-14-2000 Amended 3-15-2003, 3-13-2004

Section 3.13 Impact Fees:

- (A) Purpose: The 1997 Chichester Master Plan, in accordance with RSA 675:6, was approved by the Chichester Planning Board on March 6, 1997 and a Capital Improvement Program (CIP) was subsequently approved in accordance with RSA 675:21 (l)(m) permits the Chichester Planning Board to assess impact fees on any development requiring the upgrade and/or improvement of municipal facilities as identified in the Town's CIP and as provided for pursuant to RSA 674:24(v)
- (B) Definitions
 - (I) Capital Improvements Plan (CIP): A plan developed by the town consistent with RSA 674:5-7, which identifies the need for public facility capital improvements, the estimated cost of such improvements, and proposed funding sources. The Plan shall specify the level of service standards adopted by the town for each type of facility, which is to be the subject of an impact fee, and such standards shall apply equally to existing and new development. A CIP shall cover a six (6) year period. The CIP shall assess the following:
 - 1) The need for capital improvements required to serve new development
 - 2) Any current deficiencies in capital facilities serving existing developments, in light of service standards, and the means by which such existing deficiencies will be eliminated within a reasonable period of time by means other than impact fees.
 - 3) Any additional demands anticipated to be placed on specified capital facilities by the new development.

- (II) Capital Improvement: Only public facilities or assets that are owned or operated by the town of Chichester, whether individually or cooperatively with other government entities, e.g. School Administrative Unit #53 and the B.C.E.P Solid Waste Facility, are considered for Town capital improvement. Such facilities include, but are not limited to:
- 1) Town owned and maintained road systems
 - 2) Public school facilities
 - 3) Town buildings and facilities
 - 4) Conservation areas (other than open space)
- (III) Capital improvement is further limited to those improvements that are treated as fixed assets, and that have an expected useful life of no less than five years. Capital improvement does not include costs associated with the operation, repair, or maintenance of capital facilities or with capital improvement replacements, which do not increase the capacity or level of services. It does include reasonable costs for planning, design, engineering, land acquisitions, and other costs directly associated with the capital improvements mentioned above.
- (IV) Impact Fee: Any charge, fee, or assessment imposed upon new development by the Chichester Planning Board to fund all or a proportionate share of the Town facilities/services improvements reasonably related to the capital needs created by the new development from which the fee is collected, or to recoup the cost of existing capital improvements made in anticipation of the needs of new development. Land dedications or provision of capital improvements that exclusively benefit new development are not considered as credit against impact fees.

Amended 3-15-2003

- (V) New Development: New development for the purpose of impact fees as defined as a new structure creating a new residential address. Commercial and industrial development is not covered under this ordinance; any specific capital investment required by such development will be addressed during the Planning Board's Site Plan Review process.

Amended 3-11-2008

- (C) Administration: The Planning Board shall be authorized to impose and assess impact fees, and shall give each applicant written notification of the assessed fee, The Chichester Board of Selectmen, or their duly authorized agent, shall collect, administer and disperse impact fees. Reasonable costs to the Town of determining and administering the impact fee for the new development may be included in the fees assessed.

- (D) Proportionate Share: Impact fees shall not exceed a proportionate share of the cost of providing capital improvements for which the need is reasonably attributable to those developments that pay the fee. New developments must receive a reasonable benefit from capital improvements financed by the impact fees. In determining proportionate share of capital improvements costs, the following factors, when applicable, shall be addressed:
- (I) The need for capital improvements required to serve new development, as reflected in the CIP.
 - (II) The availability of other means or sources of revenue to fund capital improvements including, but not limited to user charges, taxes, inter-governmental transfers, and other revenues including special taxation or assessment districts.
 - (III) The extent to which new developments required to pay impact fees will also contribute to the cost of the existing and planned capital improvements in the future through taxes, user fees, or debt service payments. Credits or offsets that may be due to new development because of such payments shall be estimated and included in the calculations of the impact fee assessment.
 - (IV) Offsets or credits, which may be due because of new development, are required to construct or dedicate capital improvements of which the total benefit does not accrue to the development.
- (E) Municipal Contributions: Provisions of this ordinance notwithstanding, the Chichester Planning Board may waive all or part of the impact fee assessed against new development that achieves public purposes pursuant to RSA 674:21 (v) (g), including, but not limited to the provision of long-term affordable housing, the retention of existing employment, or the preservation of open space. These public purposes must be associated with the needs identified in the Master Plan. Payment of public capital facilities impact fees by applicants does not restrict the Town or the Planning Board in requiring other payments from the fee payer, including such payments relating to the construction of roads, streets or any other infrastructure and facilities specifically benefiting the development as required by the subdivision or site plan review regulations.
- (F) Timing of Assessment:
- (I) All impact fees imposed pursuant to this ordinance shall be assessed to new development prior to, or as a condition for, the granting of subdivision or site plan approval, or, in the case of an existing lot, issuance of a building permit. As noted RSA 674:21 (V)(d) impact fees shall normally be collected as a prior condition to the issuance of a Certificate of Occupancy. Collection will be accomplished by the Building Inspector, or other person issuing the Certificate of Occupancy, advising the applicant that the assessed impact fee must be paid to the Selectmen's Office prior to the issuance of the required Certificate of Occupancy. In the interim between assessment and collection, the Selectmen may require that a bond be posted, a

letter of credit issued, a lien given, or that other suitable measures of surety be provided so as to guarantee future payment of assessed impact fees.

- (II) The provisions of paragraph (F)(I) notwithstanding, in projects where off-site improvements are to be constructed simultaneously with a project's development, and where the Town has appropriated the necessary funds to cover its portion of such improvements, the Selectmen may advance the time of collection of the impact fee to the date of the issuance of a building permit. Nothing in this ordinance shall prevent the Selectmen and the assessed party from establishing an alternate mutually acceptable schedule of payment.

(G) Accounting System and Disbursement of Impact Fees

- (I) Impact fee revenue shall be earmarked for the specific purpose for which it is assessed and shall be accounted for in a separate municipal impact fee fund. Impact fees shall be held in the custody of the Town Treasurer, subject to the same investment limitations as other municipal funds pursuant to RSA 41:29. Impact fees shall be held in a separate, non-lapsing, interest-bearing account and not commingled with other municipal funds.
- (II) Impact fees shall be expended only for the purpose for which they are assessed in conformance with the CIP, Master Plan, Zoning Ordinance, Subdivision Regulations and Site Plan Review Regulations. Impact fees shall be expended after appropriation by the appropriate Town authority. After approval of the CIP and appropriation, impact fee expenditures shall be paid by the Town Treasurer upon order of the Board of Selectmen or its designated agent, without further approval of the Town. Impact fees may be used to reimburse any account from which an amount has been expended in the anticipation of receipt of such fees. Impact fees assessed to recoup the cost of existing capital improvements made in the anticipation of new development needs shall be applied as revenue against any outstanding debt for those capital improvements.
- (III) As stated in RSA 674:21(V) (c). Impact fees received shall be expended or encumbered within six years of receipt or refunded to the current landowner.

(H) Method of Calculating Impact Fees

- (I) The amount of the capital improvements facilities/services impact fee shall be determined by an Impact Fee Schedule (IFS) prepared in accordance with the methodology described in "A Handbook on Impact Fee Development", Southern New Hampshire Planning Commission, October 1992 and subsequent editions. The IFS shall be approved and adopted by the Selectmen.
- (II) In the case of new development created by a change of use, redevelopment, or expansion or modification of an existing use, the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to that which was, or would have been, assessed for the previous use.

- (III) The Planning Board shall review the Impact Fee Schedule annually. Such review may result in recommended adjustments in one or more of the fees based on the most recent data as made available from the Bureau of Census, the Office of State Planning, local property assessment records, market data reflecting interest and discount rates, current construction cost information for public capital facilities, etc. The Board of Selectmen shall approve adjustments no more frequently than annually, based on such data. The Planning Board shall make schedule adjustments, which would change the methodology.
- (I) Refund of Unexpended Impact Fees
- (I) Conditions under Which Refund is due: Impact fees received shall be expended or encumbered within six years of receipt, or shall be refunded.
- (II) Procedure: The current owner of property on which an impact fee has been paid may apply for a refund of such fees plus any accrued interest. The refund shall be owed when the Town has failed within the time period established in paragraph (h) to expend or encumber impact fees on capital improvements intended to benefit the development that has paid the fees. The Town shall notify the owner of record according to the Town tax records that they are eligible for an impact fee refund. Such notification shall be by publication in a newspaper of local circulation and by certified mail deposited with the United States Postal Service to said owner's last known address. Only the current owner of the property may apply for a refund. Application for the refund shall be submitted to the Town within one year of the date that the right to claim the refund arises. All refunds due and not claimed shall be retained as special impact fee funds and expended or encumbered for capital improvements occasioned by other developments as identified in the CIP. This right to claim the refund may be limited by the provisions of section 4
- (III) Unencumbered Funds: If the Town, by vote pursuant to RSA 675:2-5, rescinds its action authorizing impact fees, all unexpended or unencumbered funds, plus any accrued interest, shall be refunded pursuant to paragraph (I)(II). Upon the finding that any or all fee requirements are to be terminated, the Town shall place notice of such termination and the availability of refunds in a newspaper of general community circulation at least twice and shall notify all eligible claimants by certified mail deposited with the United States Postal Service to the last known address of the claimants. All funds eligible for refund shall be made available to potential claimants for a period of one year from the date that the ordinance is rescinded. At the end of one year, any remaining funds shall be transferred to the Town's general fund un-appropriated surplus. The Town is released from this notice requirement if there are no unexpended or unencumbered balances within a fund being terminated.

- (J) Elderly Waiver of Impact Fees: The Selectmen will grant a waiver if all of the following apply:
 - (I) You have lived in the Town of Chichester, NH for the last ten (10) consecutive years.
 - (II) You are sixty two (62) years old or older
 - (III) You are building a primary residence for yourself
- (K) Appeal of Assessment of Impact Fees: An impact fee that has been assessed to new development under this ordinance may be appealed in the following manner (see RSA 674:21(V)): Within twenty (20) days of receipt of written notification of an assessed impact fee, an applicant or its agent, may submit to the Board of Selectmen, in writing, a notice of appeal specifying the grounds for appeal. The applicant or agent's appeal shall include an independent fee calculation study for the new development activity, which is proposed. A copy of the appeal shall also be submitted simultaneously to the Board or Officer from whose decision the appeal is sought. The Board or Officer, from whose decision the appeal is sought, shall transmit to the Board of Selectmen all pertinent documentation relative to the impact fee assessment. Within thirty days of the receipt of a written notice of appeal, the Board of Selectmen shall hold a duly noticed public hearing on the appeal. Expenses related to the public hearing, including review of applicant provided independent fee calculation studies shall be paid by the applicant. The Board of Selectmen shall provide a decision, in writing, to the applicant no later than fourteen days after the date of the public hearing. The applicant may waive the requirement for a decision within fourteen days and consent to such extension as may be mutually agreeable. No decision shall be rendered on an impact fee assessment appeal without a duly noticed public hearing.
- (L) Additional Assessments: Payment of public capital facilities/services impact fees does not restrict the Town or the Planning Board in requiring other payments from the fee payer, including such payments relating to the construction of roads and streets or other infrastructure, facilities and services specifically benefiting the development as required by the Subdivision or Site Plan Review Regulations.

Section 3.14 Telecommunications Facilities:

- (A) Purpose and Goals: This ordinance establishes general guidelines for the siting of telecommunications towers, antennas and supporting facilities to enhance and support the following goals.
 - (I) Preserve the authority of Chichester, New Hampshire to regulate and provide for reasonable opportunity for the siting of telecommunications facilities, by enhancing the ability of providers of telecommunications services to provide such services to the community efficiently and effectively.
 - (II) Reduce adverse impacts such facilities may create, including, but not limited two, impacts on esthetics, historically significant locations and prosperity through protection of property values.

- (III) Towers shall not be artificially lighted, unless required by the Federal Aviation Authority (FAA) or other applicable authority.
- (IV) Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representative of any kind.
- (V) Security fencing and tower access. Security fencing, no less than six feet in height shall enclose towers and the access to actual tower will be restricted by using a system that prevents unassisted human access to a height of at least fifteen (15) feet.
- (VI) The following factors will be considered during the Planning Board approval process.
 - 1) Height of proposed tower or structure
 - 2) Proximity of tower to residences and commercial establishments.
 - 3) Surrounding topography, tree coverage and foliage.
 - 4) Tower design features that reduce visual obstructive.
 - 5) Access road location
 - 6) Availability of alternative locations and existing structures and facilities
 - 7) Visual impacts on view sheds, ridgelines, and other impacts by means of tower location, tree foliage clearing and placement of incidental structures.

(B) Definitions

- (I) Alternative tower structure: Addresses innovative siting techniques, which include, but are not limited to, man-made trees, church steeples, light poles, telephone pole stub antennas, and similar alternative design mounting structures that effectively provide electromagnetic radiation coverage in selected areas while camouflaging or concealing the presence of antennas or towers.
- (II) Antenna: Means any exterior apparatus designed for the sending/receiving of electromagnetic wavelengths at any frequency and with any bandwidth.
- (III) Average tree canopy height: Means the average height found by inventorying the height above ground level of all trees over twenty (20) feet in height for a radius of one-hundred fifty (150) feet.
- (IV) Height: Means the height above ground level from the natural grade of a site to the highest point of a structure.
- (V) Personal Service Wireless Facility (PSWF): Means a facility for providing any type of service using electromagnetic waves propagation to and from a propagation facility.

Such service includes cellular telephone, radiotelephone, paging, e-mail connectivity, computer connectivity and similar activities.

- (VI) Telecommunications facilities: Means any structure, antenna, tower, or any device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), personal communications service (PCS), common carrier wireless exchange access services and any other commercial electromagnetic propagation such as radio and television. Personal service wireless facilities are included in this definition.

(C) Site Standards

- (I) When allowed by this Ordinance and after approval by the Planning Board, a telecommunications facility may be placed on a property as a primary or secondary use of the property on which it is located. A different primary use of the property shall not preclude use of the property for an antenna or tower; any support facilities are subject to all other pertinent requirements of the Zoning Ordinance and the Town Building Code. When such tower and/or support facilities are located on a leased parcel within the lot, the dimensions of the entire parent lot shall control. Telecommunications towers and facilities will not be considered an accessory use.
- (II) This ordinance shall not govern the amateur, non-profit and publicly owned radio and telecommunications facilities. Such facilities must meet the structure height limitations of thirty-five (35) feet unless permitted by the Board of Adjustment.

(D) Zoning Requirements

- (I) Telecommunication's towers will project no higher than ten (10) feet above the average tree canopy or the height of existing buildings, whichever is greater, within a radius of one-hundred fifty (150) feet from the tower.
- (II) RSA 12-J:6 will be complied with when towers are constructed within conservation land, historic districts, or the boundaries of scenic areas as described in RSA 12-J:6, 1-VII.
- (III) Fall zones will be defined and identified to provide for public safety by protecting from falling ice, hardware and debris. The fall zone shall be an area at ground level with a radius equal to the highest point of the tower, including any antennas or appurtenances, the minimum distance shall be that to any property line, public highway right-of-way, habitable business or residence, or public recreation area.
- (IV) Town public safety, public utility, educational and community telecommunications requirements will be met by co-location on approved telecommunication towers.
- (V) The applicant is responsible for the following:
 - 1) Provide an overlay map identifying location's relationship to, within the Town and immediately abutting Towns:

- a) Scenic roads
 - b) View corridors
 - c) View sheds
 - d) Historic Districts
 - e) Ridgelines and mountaintops.
- 2) Provide a location map of Chichester and the immediately abutting Towns, i.e. Loudon, Pittsfield, Epsom and Pembroke, identifying all similar telecommunications facilities, existing and planned, as documented by the Federal Communications Commission (FCC) and related State of New Hampshire regulatory offices.
 - 3) When a proposed location for tower and antennas will be visible from any other village, town or city, such village, town or city shall receive a written notification from the applicant, prior to Planning Board consideration, describing the proposed facility and proposed use.
 - 4) The expenses of the Town required to hire experts to testify, or show that less intrusive facilities than tall towers, i.e. more than ten (10) feet above the tree canopy or close-in structures is required where the burden to show that other deployment technologies will meet the applicant's needs is on the Town.
 - 5) The costs of the Town to determine that the applicant's requested facility complies with radio frequency emission regulations of the FCC. Such costs may include independent pre-employment readings to establish a baseline from which the radio frequency radiation produced by the antenna(s) may be measured.
 - 6) The cost of the Town for unannounced and unaccompanied monitoring on a regular basis to measure compliance with FCC electromagnetic radiation standards.
 - 7) Bonding is required for:
 - a) Construction completion and eventual removal of structures
 - b) Security requirements
 - c) Accident or damage.
 - d) Any Antenna or tower that is not used for a period of twelve (12) months will be considered abandoned and removed within ninety (90) days.

(E) Waivers

(I) Where the Planning Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with this ordinance, or the purpose and intent of the ordinance would be served by an alternative proposal, it may approve waivers to this ordinance. No waiver will be approved unless a majority of the Planning Board, as assembled, finds that all of the following apply:

- 1) The granting of the waiver will not be detrimental to the public health, safety or welfare or injurious to other property and will promote the public interest.
- 2) The waiver will not, in any manner, violate the provisions of the Chichester Zoning Ordinances, Master Plan or Official Maps.
- 3) Waivers can address particular and identifiable hardships. Some factors included in identifying hardship are:
 - a) Topography and other site features.
 - b) Availability of alternative site locations
 - c) Geographic location of property
 - d) Size and magnitude of the project being evaluated

(F) Saving Clause: Where any provision of this ordinance is found to be unenforceable, it shall be considered savable and shall not be construed to invalidate the remainder of the ordinance.

Section 3.15 Sexually Oriented Businesses:

No sexually oriented businesses shall be allowed within the Town's borders without a town referendum vote.

Adopted 3-15-2003, Amended 3-8-2005, 3-14-2006

Section 3.16 Wetlands and Wetland Buffers:

- (A) Purpose: To regulate the use of wetlands and the land surrounding wetlands, in order to provide areas for, among other things, flood water storage and control, wildlife habitat, maintenance of water quality and groundwater recharge.
- (B) Authority: The Provisions of Wetlands and Wetland Buffers are adopted as authorized by RSA 674:55 and other Statutes.
- (C) Wetland Delineation:

- (I) The Chichester "Zoning Map" delineates wetlands based only on soil type and is considered only a guide for determining wetland areas.
 - (II) Site specific delineation of wetlands shall be based on the statutory definition of wetlands, currently RSA 482-A:2, X.
 - (III) All plats submitted to the Planning Board for approval in accordance with RSA 676:4 et seq., shall delineate and quantify wetlands sufficiently to ensure conformance with this ordinance. Specific wetland soil types are not required on submitted plans.
 - (IV) All plats submitted to the Planning Board for approval in accordance with RSA 676:4 et seq., shall be signed by a New Hampshire certified wetlands scientist. Should no wetlands be present, a letter of documentation shall be submitted to the Planning Board and signed by a New Hampshire certified wetlands scientist.
 - (V) All wetland delineation fees shall be paid for by the applicant.
 - (VI) Drainage systems built for the purpose of conveying or treating storm water runoff from public and private roadways and driveways, including roadside ditches, grass or rock lined swales and detention ponds are not considered wetlands and are excluded.
- (D) Wetland Buffers: Wetland buffers shall be:
- (I) One-hundred (100) feet from second and higher order streams (as determined by United States Geological Survey) and from any ponds located on or within one-hundred (100) feet of the thread of said streams.
 - (II) Fifty (50) feet from wetlands greater than or equal to one-quarter (0.25) acre, including areas of contiguous wetlands on adjacent parcels.
 - (III) Twenty-five (25) feet from wetlands less than one-quarter (0.25) acre, including areas of contiguous wetlands on adjacent parcels.
- (E) Permitted Uses in Wetlands and/or Wetland Buffers: The following permitted uses must meet the requirements and approval of the New Hampshire Department of Environmental Services ("NHDES"), if necessary.
- (I) Forestry activities and agriculture, including tree farming, using best management practices.
 - (II) Wildlife and fire ponds.
 - (III) Recreational uses consistent with the intent of this Ordinance.
 - (IV) Docks and beaches on private ponds.

- (V) Necessary access roads that meet the criteria for "Minimum Impact Project," as defined by the NHDES Wetlands Bureau.
 - (VI) Pre-existing uses, however, alterations to pre-existing non-permitted uses shall require a Special Exception from the Board of Adjustment.
 - (VII) In wetland buffers only, septic systems, leach fields, and other waste disposal facilities that meet the requirements of the NHDES Subsurface Systems Bureau.
 - (VIII) Water supply wells, in wetland buffers only.
- (F) Roads and drainage systems in Wetlands and Wetland Buffers that do not meet the criteria for "Minimum Impact Project": Planned roads and drainage systems in wetlands and wetland buffers that do not meet the criteria in (E)(V) above shall meet the following conditions:
- (I) The proposed road shall be essential to the productive use of the land not part of the wetland area.
 - (II) Road design, construction, and maintenance methods shall minimize detrimental impact upon the wetland or wetland buffer, and shall maintain the site as close to the original grade and condition as possible.
 - (III) No feasible alternative route which has less of a detrimental impact is available. Financial impacts and constraints may be considered when determining feasibility.
 - (IV) Drainage systems shall be designed to minimize impacts on the wetlands and wetlands buffers.
- (G) The Conservation Commission shall have the opportunity to review and comment on the proposal prior to Planning Board approval. At the discretion of the Planning Board, the Town Engineer, at the applicant's expense, shall review all plans that contain roads and drainage systems in wetlands and wetland buffers.

Repealed and Readopted 3-11-2008, amended 2-23-2010

Section 3.17 Floodplain Development Ordinance:

- (A) Authority: The ordinance, adopted pursuant of the authority of RSA 674:16, shall be known as the Town of Chichester Floodplain Management Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Chichester 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.
- (B) Application: The following regulations in the ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency

Town of Chichester Zoning Ordinance

(FEMA) in its “Flood Insurance Study for the County of Merrimack, N.H.” dated April 19, 2010 or as amended, together with the associated Flood Insurance Rate Maps dated April 19, 2010, which are declared to be a part of this ordinance and are hereby incorporated by reference.

- (C) Definition of Terms: The following definitions shall apply only to this Floodplain Development Ordinance and shall not be affected by the provisions of any other ordinance of the Town of Chichester.
- (I) Area of Special Flood Hazard: Is the land in the flood plain within the Town of Chichester subject to a one-percent or greater chance of flooding in any given year. The area is designated as Zones A and AE on the Flood Insurance Rate Map.
 - (II) Base Flood: Means the flood having a one-percent possibility of being equaled or exceeded in any given year.
 - (III) Basement: Means any area of building having its floor subgrade on all sides.
 - (IV) Building: See “structure”
 - (V) 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 operations or storage of equipment or materials.
 - (VI) FEMA: Means the Federal Emergency Management Agency.
 - (VII) 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, or the unusual and rapid accumulation or runoff of surface waters from any source.
 - (VIII) Flood Elevation Study: Means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination of determination of mudslide or flood– related erosion hazards.
 - (IX) Flood Insurance Rate Map (FIRM): Means the official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Chichester.
 - (X) Flood Insurance Study: See “Flood elevation study”.
 - (XI) Floodplain or Flood-prone Area: Means any land area susceptible to being inundated by water from any source (see definition of “Flooding”).
 - (XII) 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.

(XIII) Floodway: See “Regulatory Floodway”

(XIV) 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.

(XV) Highest Adjacent Grade: Means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(XVI) Historic Structure: Means any structure that is:

- 1) 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;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district;
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which has been approved by the Secretary of the Interior; or
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs 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.

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

(XVIII) 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 attached to the required utilities. For floodplain management purposes the term “manufactured home” includes park trailers, travel trailers, and other similar vehicles placed on site for greater than one-hundred eighty (180) consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

- (XIX) 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.
- (XX) 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.
- (XXI) 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 21, 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.
- (XXII) 100-year flood: See “base flood”
- (XXIII) Recreational Vehicle is defined as:
- 1) Built on a single chassis;
 - 2) Four-hundred (400) square feet or less when measured at the largest horizontal projection;
 - 3) Designed to be self-propelled or permanently tow able by a light duty truck; and
 - 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- (XXIV) 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 increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.
- (XXV) Special flood hazard area: See “Area of Special Flood Hazard”
- (XXVI) 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 manufactured home.

(XXVII) Start of Construction: Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one-hundred (180) days of the permit date. The actual starts means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

(XXVIII) Substantial Damage: Means damage of any origin sustained by a structure whereby the cost of restoring the structure to it before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

(XXIX) Substantial Improvement: Means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:

- 1) The appraised value prior to the start of the initial repair or improvement, or
- 2) In the case of damage, the value of the structure prior to the damage occurring.

(XXX) For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures, which have incurred substantial damage, regardless of actual repair work preformed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designations as a “historic structure”.

(XXXI) 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 paragraphs (G), (J)(II)2) or (I)(III-IV) is presumed to be in violation until such time as that documentation is provided.

(XXXII) 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.

(D) Permits: All proposed development in any special flood hazard areas shall require a permit.

(E) Construction Requirements:

(I) 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:

(II) 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;

(III) Be constructed with materials resistant to flood damage;

(IV) Be constructed by methods and practices that minimize flood damages; and

(V) Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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

(G) Certification:

(I) For all new or substantially improved structures located in Zones A, or, AE, the applicant shall furnish the following information to the building inspector:

(II) The as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.

(III) If the structure has been flood proofed, the as-built elevation (in relation to NGDV) to which the structure was flood proofed.

(IV) Any certification of flood proofing.

- (V) The Building Inspector shall maintain the aforementioned information for public inspection, and shall furnish such information upon request.
- (H) Other Permits: 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.
- (I) Watercourses
 - (I) 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, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.
 - (II) The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
 - (III) Along watercourses with a designed Regulatory Floodway no, encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.
 - (IV) Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone 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.
 - (V) 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:
 - (VI) 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.

(J) Special Flood Hazard Areas

(I) In special flood hazard areas the Building Inspector shall determine the 100-year flood elevation in the following order of precedence according to the data available:

- 1) In Zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
- 2) In Zone A the Building Inspector shall obtain, review, and reasonably utilize any 100 year flood elevation data available from any federal, state, or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).

(II) The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in Zones A and AE that:

- 1) All new construction or substantial improvements 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:
 - a) Be flood proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
- 3) All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist 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.
- 4) All recreational vehicles placed on sites within Zones A, and AE shall either:
 - a) Be on the site for fewer than one-hundred (100) consecutive days;
 - b) Be fully licensed and ready for highway use; or

- c) Meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” in Paragraph (c) (6) of Section 60.3.
- 5) For all new Construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
 - a) The enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
 - b) The area is not a basement;
 - c) 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 minimum of two openings have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

(K) Variances and Appeals

- (I) 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.
- (II) If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law that:
 - 1) The variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
 - 2) If the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - 3) The variance is the minimum necessary, considering the flood hazard, to afford relief.

(III) The Zoning Board of Adjustment shall notify the applicant in writing that:

- 1) The issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance; and
- 2) Such construction below the base flood level increases risks to life and property.
- 3) Such notification shall be maintained with a record of all variance actions.

(IV) The community shall:

- 1) Maintain a record of all variance actions, including the justification for their issuance, and
- 2) Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

Adopted 3-13-2004, Amended 3-14-2006, Ratified 03-08-2011

Section 3.18 Outdoor Lighting:

(A) Purpose: The intent of this Ordinance is to improve visibility of the nighttime sky without impacting safety, by reducing lighting conditions including but not limited to, glare, light trespass and sky glow.

(B) Definitions:

(I) Luminaire: A lighting fixture that includes a lamp or lamps.

(II) Foot-candle: Illumination produced by one lumen uniformly distributed over one square foot of a surface.

(III) Fully-shielded lighting: Lighting in which the light rays emitted by the fixture are only projected below the horizontal plane that passes through the lowest part of the luminaire.

(IV) Glare: Light emitted by a lamp in direct line-of-sight contact with the viewer.

(V) Light Trespass: Light produced by a luminaire or luminaries beyond the property line on which they are located.

(VI) Sky Glow: Light from a luminaire that is emitted above the horizontal plane that passes through the lowest part of the luminaire.

(C) Regulations.

(I) Application: This Ordinance applies to the Commercial-Industrial / Multifamily Zone and the Village District, and to home occupations and businesses in all zones.

(II) General Lighting Restrictions.

- 1) All luminaries shall be fully shielded and shall not cause sky glow.
- 2) Light trespass greater than two-tenths (0.2) of a foot-candle at the line of any abutting property, not including public roadways, is prohibited.
- 3) No luminaire shall emit glare beyond a property line.
- 4) Total illumination shall be the lowest intensity possible for the intended use.
- 5) It is recommended that lighting be reduced after a business closes and that motion detector lighting is used.

(III) Gas Station-Type Canopies: Luminaries mounted on a canopy shall be recessed in the ceiling of the canopy so that the lens cover is recessed or mounted flush with the ceiling of the canopy and fully shielded. Luminaries shall not be mounted on the sides or top of the canopy, and the sides or fascias of the canopy shall not be illuminated.

(IV) Lighted Advertising Signs:

- 1) Moving, fluttering, blinking, or flashing lights or signs and electronic message signs are prohibited.
- 2) The outdoor operation of searchlights, lasers, or other high intensity beams for advertising purposes is prohibited.

(V) Pre-existing Outdoor Lighting:

- 1) Any luminaire that replaces a non-conforming, pre-existing luminaire, or any luminaire that is moved, shall meet the standards of this Ordinance.
- 2) Pre-existing luminaries that cause glare on any public roadways shall fully comply with this Ordinance immediately.
- 3) All pre-existing luminaries shall be in compliance with this Ordinance by January 1, 2016.

(D) Exceptions. The following are exempt from this Ordinance:

- (I) Temporary luminaries required for construction projects (not to exceed 30 days),
- (II) Luminaries related to police, fire, or other emergency services,
- (III) Hazard warning luminaries required by federal regulatory agencies, and
- (IV) Low intensity temporary seasonal lighting.

Section 3.19 Open-Space Conservation Development:

- (A) Purpose: To further the recommendations of the Chichester Master Plan by encouraging flexibility in the development of land in order to:
 - (I) Create permanently protected open space,
 - (II) Preserve and minimize negative impacts on environmental resources such as those identified in the current Chichester Natural Resources Inventory
 - (III) Protect water quality and quantity
 - (IV) Enhance the quality of life by providing for passive recreational space
 - (V) Provide for public recreational facilities, where appropriate,
 - (VI) Provide greater flexibility and efficiency in road design
 - (VII) Discourage sprawling, land-consuming forms of development.
- (B) Authority: The provisions of Open Space Conservation Development are adopted as an innovative land use control as authorized by RSA 674:21.
- (C) Definitions:
 - (I) Common area: Means land owned by all individual homeowners within the development, as tenants-in-common.
 - (II) Elderly housing: Means dwelling units that are owned and occupied solely by persons at least fifty five years of age.
 - (III) Homeowner's association: Means an organization of property or unit owners duly incorporated under New Hampshire law for the purpose of managing and maintaining common areas.
 - (IV) Open space: Means land in an open-space conservation development that is permanently preserved from future development.
- (D) General Requirements:
 - (I) Open space conservation developments shall comply with all provisions of this Ordinance and the Chichester Subdivision Regulations. If any conflicts arise, the provisions of this Ordinance shall apply.
 - (II) Open space conservation developments, including those containing elderly housing, are allowed in all zoning districts.

(E) Specific Requirements:

- (I) Minimum Tract Size: Open space conservation developments shall contain at least twenty contiguous acres.
- (II) Permitted Residential Uses: Open space conservation developments shall contain only single family residential dwellings, however lots in open space conservation developments that are permanently deeded for elderly housing may contain two-family dwellings. Accessory uses customarily incidental to residential uses such as garages and recreational facilities shall also be permitted.
- (III) Density: The number of lots permitted in an Open-Space Conservation Development shall be the sum of:
 - 1) The number of acres of Residential soils divided by 1.8, plus
 - 2) The number of acres of Open Space Conservation Steeplands soils and Rural-Agricultural soils divided by 4.5.
- (IV) Lot Size: Minimum lot size is three-quarter acre, except that minimum lot size for lots in open space conservation developments that are permanently deeded for elderly housing is one-half (1/2) acre.
- (V) Frontage: Residential lots shall have at least one hundred feet of roadway frontage, except that cul-de-sac lots may have fifty (50) feet of roadway frontage so long as the lot width one hundred feet from the roadway is at least one hundred feet.
- (VI) Buffers: Open space conservation developments shall provide a buffer of at least one hundred feet from pre-existing roadways and buildings. The buffer shall consist solely of open space. The Planning Board shall determine the composition of the buffer, in order to preserve rural character along existing roadways.
- (VII) Setbacks: All structures shall be at least thirty feet from the edge of the travel surface of a roadway, and at least fifteen feet from the side and rear lot property lines.
- (VIII) Driveways: Common driveways providing access to two residential lots shall be allowed.
- (IX) Roads: Open space conservation developments may contain either public or private roadways. Width and Right-of-Way requirements of roadways may be reduced if approved by the Planning Board, after review by the Town Engineer.
- (X) Open Space: Open Space associated with open space conservation developments shall be permanently preserved from future development through the deeding of

development rights to the Town of Chichester and/or through conservation easements.

- (XI) Common Ownership Limitation: Open space conservation developments of less than ten dwelling units shall not have any form of common ownership of common area or open space.

Repealed and Readopted 3-11-2008

(F) Open Space:

- (I) All land used in the density calculation that is not used for residential development, shall be preserved as open space. At least fifty (50) percent of the designate Open Space shall be designated as Conservation Area, shall be one (1) contiguous parcel, and shall remain in a natural and undisturbed condition, excepting permitted uses as allowed under paragraph (IV) of this section.
- (II) Open Space: shall be owned by one or a combination of the following:
- 1) A developer, so long as the developer holds, maintains, and manages the open space until all open space improvements are complete, then transfers the ownership, management, and maintenance of the open space to one of the below,
 - a) An individual landowner
 - b) A homeowners association, providing all the requirements in paragraphs (E) (XI) and (G) are met
 - c) A conservation trust or private nonprofit organization such as the Audubon Society, the Society for the Protection of New Hampshire Forests, and the Five Rivers Conservation Trust
 - d) The Town of Chichester, which shall maintain the land as open space for the benefit of Chichester's general public.
- (III) The following uses are permitted within the Open Space lands, exclusive of the Open Space lands designated as Conservation Area, and are subject to the review and final approval of the Planning Board;
- 1) Non-commercial active and passive recreation facilities/areas, such as parks, playgrounds, recreational ball fields, tennis courts, walking, hiking, and biking trails. Active recreation areas may include impervious surfaces.
 - 2) Agriculture and forestry management activities provided that all applicable best management practices are used to minimize environmental impacts.

- (IV) The following uses are permitted within the Open Space lands designated as Conservation Area;
- 1) Forestry management activities and pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, and passive recreation activities such as walking, hiking, bird watching, and snow shoeing.

Amended 3-11-2008

(G) Homeowners Associations:

- (I) Open space conservation developments of ten or more dwelling units that include any form of common ownership shall have a homeowners association.
- (II) All proposed association articles and by-laws must be approved in writing by the State of New Hampshire (if applicable) and by the Planning Board, and shall be filed with the Planning Board following final approval.
- (III) The association shall be obligated to maintain any associated open space, common areas, private roadways and private utilities.
- (IV) The association by-laws shall require the association to charge dues or levy assessments against the property owners in the open space conservation development, in order to cover the following, if applicable: expenses for open space, common areas, private roadways, and private utilities, including but not limited to tax liabilities, maintenance, improvements, etc.
- (V) Membership in the homeowners association shall be mandatory for all property owners in the open space conservation development, and shall be required by the association by-laws and in every deed issued to a property owner in the open space conservation development.
- (VI) The association shall not be dissolved, nor shall the association dispose of any open space, common area, or private roadways or utilities, by sale or otherwise, without written consent of the Chichester Board of Selectmen.
- (VII) The association by-laws shall recognize the right of the Town of Chichester to ensure the maintenance of the open space, common areas, and private roadways and utilities, as follows:
 - 1) In the event that the association or the homeowners shall, for any reason, fail to maintain the open space, common areas, or private roadways or utilities, the Selectmen shall serve written notice upon the association or the property owners in the open space conservation development, setting forth the deficiencies noted.

- 2) Such notice shall include a demand that the noticed deficiencies be cured within the time determined by the Selectmen, and that a statement of intent to comply and a date of compliance be filed with the Selectmen within thirty days of such notice.
- 3) If the association or property owners fail to cure the noted deficiencies within the time determined by the Selectmen:
 - a) The association and each of the property owners shall be liable for the fines and penalties provided for in RSA 676:17 et. seq. in addition to all other legal and equitable remedies,
 - b) The Selectmen may arrange to have the deficiencies cured at the expense of the property owners, and may record liens on each individual property until the property owner pays that property's prorata cost of the incurred expenses, including whatever fines and/or penalties are assessed, if any.

Amended 3-11-2008

(H) Document Review:

- (I) All agreements, easements, covenants, deed restrictions, articles of incorporation, by-laws, and organizational provisions for any of the above forms of ownership, management and maintenance of open space shall be subject to the review and approval of the Planning Board prior to final approval of the open space conservation development.
- (I) At the discretion of the Planning Board, the Town attorney and/or any other professional needed, at the applicant's expense, shall review any of the above-listed documents.

Adopted 3-10-2009, Ratified 03-08-2011

Section 3.20 Noise Abatement:

- (A) Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness or volume.
- (B) Noise shall be measured with a sound level meter meeting the standards of the American National Standards Institute (ANSI S 1.401961). "American Standard Specification for General Purpose Sound Level Meters." The instrument shall be set to the appropriate weight response scales and the meter to the slow response. Measurements shall be conducted in accordance with ANSI S 1.2-1962 "American Standard for the Physical Measurement of Sound."
- (C) Noise shall be measured at a distance of at least 50 feet from a noise source located within the public right-of-way, and if the noise source is located on private property or public property other than the public right of way, the noise shall be measured at or within the property boundary of the receiving land.

- (D) The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this Ordinance shall be established by the time period and type of land use district listed below.

| | Sound Pressure Level Limits Measured in Decibels | |
|--------------------------------------|---|------------------|
| | 7 a.m. – 10 p.m. | 10 p.m. - 7 a.m. |
| District | dB (A) | dB (A) |
| Commercial-Industrial / Multi-Family | 70 | 60 |
| Commercial Village | 70 | 60 |
| Home Occupations (Other Districts) | 60 | 50 |

- (I) The levels specified may be exceeded by 10 decibels for a single period, no longer than 15 minutes, in any one day.
- (e) No person shall engage in, cause, or permit to be engaged in very loud construction activities on a site abutting any residential use between the hours of 10 p.m. one day and 7 a.m. of the following day. Construction activities shall be subject to the maximum permissible sound level specified for commercial districts for the periods within which construction to be completed pursuant to any applicable building permit. The following uses and activities shall be exempt from the sound pressure level regulations:
- (II) Noises created by construction and maintenance activities between 7 a.m. and 10 p.m.
- (III) The noises of safety signals, warning devices and emergency pressure relief valves and any other emergency activity.
- (IV) Traffic noise on existing public roads.

Adopted 3-9-2010, Ratified 03-08-2011

Section 3.21 Accessory Dwelling Units:

- (A) Purpose: To provide expanded affordable housing opportunities, provide rental income potential, provide flexibility in household arrangements, and provide for the retention of Chichester's rural character; Accessory Dwelling Units shall be permitted in zones R (Residential) and RA (Rural-Agricultural).
- (B) Requirements:
- 1) Only one (1) Accessory Dwelling Unit shall be allowed per Principal Dwelling Unit.

- 2) The Accessory Dwelling Unit shall be located within the existing Principal Dwelling Unit, or within an Accessory Building and shall not alter the character or appearance of the structure.
 - 3) The Accessory Dwelling Unit shall be located on a property which is owner occupied.
 - 4) Any additional entrances or exits as necessitated by the Accessory Dwelling Unit should be located to the side or rear of the building.
 - 5) The Accessory Dwelling Unit shall have a minimum of five-hundred (500) square feet of living area and shall not exceed the lesser of; 1) forty percent (40%) of the total living area of the Principal Dwelling Unit or 2) nine-hundred (900) square feet.
 - 6) The Accessory Dwelling Unit shall have an independent address designation from the Principal Dwelling Unit.
 - 7) Suitable septic disposal facilities shall be provided and conform with State regulations.
 - 8) Adequate off-street parking shall be provided with at least two (2) spaces for the Principal Dwelling Unit and one (1) space for the Accessory Dwelling Unit.
 - 9) Adequate provisions must exist or be made for ingress and egress of the site.
 - 10) Such development shall conform to all requirements of this Ordinance, the respective Zoning District, and General Provisions including, but not limited to: lot size, frontage and yard requirements, and wetland setbacks.
 - 11) A permit for such development shall be applied for and be in conformance with the Chichester Building Code.
- (C) Limitations:
- 1) The Accessory Dwelling Unit shall only be permitted on a lot that meets the minimum required lot size for a single-family dwelling in the respective district.
 - 2) The Accessory Dwelling Unit shall not be permitted subordinate to a two-family or multi-family dwelling.
 - 3) The Accessory Dwelling Unit shall not be permitted subordinate to an existing non-conforming use.
 - 4) Accessory Dwelling Units shall not be permitted in Open-Space Conservation Subdivisions.

- 5) Accessory Dwelling Units shall not be segregated in ownership from the principal dwelling unit.

Adopted 3-13-1962, Amended 3-11-1986, 3-18-1989

Article IV. NON-CONFORMING USES:

The zoning ordinances as adopted and amended shall not apply to existing structures or to the existing use of any building which is non-conforming. It shall apply to any alteration or expansion of a non-conforming use or building, which by reason of such alteration or expansion is made substantially different from the non-conforming use or condition existing prior to the alteration or expansion. When an existing non-conforming use has been discontinued, the land and buildings shall thereafter be used only in conformity to this ordinance. For the purpose of this provision, a use will be considered discontinued when it has ceased for a period of twelve (12) consecutive months. The Board of Selectmen may approve an extension of the discontinuance if applied for in advance and if the reasons are justified and meet the intent and spirit of the ordinance.

Adopted 3-13-1962, Amended 3-11-1986, 3-11-2008, 3-10-2009

Article V. ENFORCEMENT:

It shall be the duty of the Board of Selectmen, and the Board is hereby given power of authority, to enforce the provisions of this ordinance.

The Board of Selectmen may or a Building Inspector or the Board of Selectmen's duly authorized agent shall issue any and all building permits required when such is in accordance with the provisions of this ordinance and of the Chichester Building Code.

Upon any well-founded information that this ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any legal action.

Before anyone may occupy for use any structure erected or altered under paragraph "B" of this article, the owner or occupant must first obtain an occupancy permit from the Board of Selectmen or the Building Inspector, or the Board of Selectmen's duly authorized agent.

Adopted 3-13-1962, Amended 3-10-1981, 3-8-2005

Article VI. BOARD OF ADJUSTMENT:

Within thirty (30) days after the adoption of this ordinance and thereafter as terms expire or vacancies occur, the Board of Selectmen shall make appointments to the Board of Adjustment of five (5) members conforming in duties to the provisions of Chapter 31 of the New Hampshire Revised Statutes Annotated, 1955. The Board of Adjustment shall have authority to allow slight variances from the specific terms of this Ordinance where it can be shown that unnecessary hardship would otherwise result. The Board of Adjustment shall issue variances and special exceptions in accordance with guidelines specified in the NH Office of State Planning Board of Adjustment Handbook, of September 1979 as amended.

The Board of Adjustment shall issue variances and special exceptions in accordance with guidelines specified in the NH Office of State Planning Board of Adjustment Handbook, as amended, and according to the following standards and requirements for Special Exceptions

In reviewing any application for a special exception, the Board of Adjustment shall make each of the following findings:

- (A) The special exception is specifically authorized by this ordinance.
- (B) The proposed use will not be injurious or detrimental to the neighborhood.
- (C) The proposed use will not make an excessive demand on municipal services.
- (D) The proposed use will not generate traffic volumes that will overburden existing roads and highways.
- (E) The proposed use will not have any adverse impact on the natural environment.
- (F) The proposed use will not adversely affect Chichester's groundwater resources.

In approving a special exception, the Board of Adjustment may attach appropriate conditions to assure that the general criteria can be met and enforced, including but not limited to:

- (G) Specifying the length of time for which the special exception is granted, the times of the year which rights granted by a special exception or variance may be exercised, and its hours of operation.
- (H) Front, side or rear yard setbacks or buffer areas which are greater than the minimum requirements of this Ordinance
- (I) Modifications of the external features of the building or structures.
- (J) Requiring suitable landscaping, screening and maintenance or restoration of natural buffer areas where necessary to reduced noise and glare, and to maintain the property in a character with the surrounding area
- (K) The removal or modification of non-conforming uses, signs, buildings, or structures as conditions precedent to the granting of a special exception or variance. These actions further the purposes of the ordinance and improve the compatibility of the proposed use with surrounding uses.
- (L) Professional studies or the funding there of, for the purposes of monitoring compliance with the conditions required subsequent to the board approval of a special exception or variance, to verify the impact of the use on municipal services, traffic, and public safety, noise, air quality, and ground and surface water quality.

- (M) Specifying the size of operation, number of occupants permitted within the approved use and extent of facilities required for use, and also specifying the numbers and locations of driveways and accesses for the approved use

Special exceptions and variances must be utilized within 12 months of the date of approval. If the approval time should lapse, the applicant must return to the Board again to renew the approval

Adopted 3-13-1962 Amended 3-12-1988

Article VII. AMENDMENTS:

This ordinance may be amended as provided for in Chapter 675 of New Hampshire Revised Statutes Annotated.

Adopted 3-13-1962 Amended 3-13-2004, 3-10-2009

Article VIII. PENALTY:

Pursuant to RSA 676:17; Any person who violates any of the provisions of this ordinance, or any provision or specification of any application, plat, or plan approved by, or any requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this ordinance shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person; and shall be subject to a civil penalty of \$275 for the first offense and \$550 for subsequent offenses for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the municipality that the violator is in violation, whichever is earlier.

Adopted 3-13-1962

Article IX. SAVING CLAUSE:

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

Adopted 3-13-1962

Article X. WHEN EFFECTIVE:

The Ordinance shall be effective upon its passage.

Adopted 3-13-2007, Amended 3-11-2008, 3-9-2010, Ratified 03-08-11

Article XI. DEFINITIONS:

ACCESSORY BUILDING: A subordinate structure, the primary use of which is not residential and is accessory to and incidental to that of a principal dwelling unit and which is located on the same lot.

ACCESSORY DWELLING UNIT: A single subordinate dwelling unit, constructed wither within an existing single-family dwelling unit, or within an accessory building.

ACCESSORY USE: A Subordinate use associated with, incidental to and on the same lot or site occupied by the primary use.

AFFORDABLE: Housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household's gross annual income.

APARTMENT: A dwelling unit located in a building with one or more additional dwelling unit(s).

CAMPGROUND or "Recreational Campground" or "Recreational Camping Park": A parcel of land on which two (2) or more campsites are occupied or are intended for temporary occupancy for recreational dwelling purposes only, and not for permanent year-round residency.

CAMPSITES: A portion of the land in a recreational campground or camping park for the placement of a tent, tow-able trailer, motorized recreational vehicle or travel home for the exclusive temporary use of its occupants.

CONDITIONAL USE PERMIT: A permit for a use administered by the Planning Board based on criteria outlined in the ordinance.

COMMERCIAL USE: As defined in this Ordinance, includes such retail and personal uses as motels, hotels, retail outlets, service stations, restaurants, professional services, garden nurseries, child care and convalescent homes, and recreation facilities; also includes small trade shops under seventy five-hundred (7,500) square feet such as electricians, plumbers, wood workers, or similar tradesmen as determined by the Planning Board.

CONDOMINIUM: A system of separate ownership of individual living units within a multiple unit building by which each purchaser received basically a fee simple or leasehold estate in an apartment and undivided interest in common areas and facilities.

DWELLING UNIT: Two or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping and sanitary facilities, provided within the unit.

FRONTAGE: The length of the lot bordering on a State or Town maintained highway.

FRONT YARD: A space extending for the full width of a lot between the extreme front line of a building and the nearest side of the right-of way.

HOME OCCUPATION: Home occupation is such an occupation that is customary, incidental and subordinate to the use of the premises as a dwelling.

JUNK: Any old metals; old bottles; all other solid textile mill waste; unfinished cloth; or other textile mill yarns; old paper products; old rubber products; old plastic products; used parts and materials for motor vehicles; and other secondhand or waste articles, the accumulation of which is detrimental or injurious to the neighborhood.

LOT OF RECORD: Land designated as a separate and distinct parcel in a legally recorded deed and/or plan filed in the records of Merrimack County, New Hampshire.

MOTEL/HOTEL: A multiple unit building which provides sleeping, and often eating, accommodations for travelers and others on a temporary basis. Not to be confused with apartments or condominiums which are for long term or permanent residence.

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

MULTI-FAMILY: A building containing three or more dwelling units.

MULTI-FAMILY HOUSING: For the purpose of Workforce Housing developments, means a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household.

NON-CONFORMING USE: A lawful use of buildings or land prior to the time this Ordinance became effective, which does not conform to the aforesaid use regulations.

OWNER-OCCUPIED HOUSING: Any dwelling unit intended to be conveyed in fee simple, condominium, or equity-sharing arrangement such as a community housing land trust and limited equity cooperatives.

PERMITER BUFFER STRIPS: The required setbacks around the boundaries of the property.

PAVEMENT: Impervious surfaces applied for the travel of vehicles or pedestrians.

PRINCIPAL DWELLING UNIT: An ascendant dwelling unit designed as the primary residential use upon a lot.

PUBLIC: (As in public building, public land, and public place) Open to or serving all the people, not private.

REASONABLE AND REALISTIC OPPORTUNITIES OF THE DEVELOPMENT OF WORKFORCE HOUSING: Opportunities to develop economically viable Workforce Housing within the framework of a Town's ordinances and regulations adopted pursuant to and consistent with RSA 672:1, III-e. The collective impact of all such ordinances and regulations on a proposal for the development of Workforce Housing shall be considered in determining whether opportunities for the development of Workforce Housing are reasonable and realistic. If the ordinances and regulations of a Town make feasible the development of sufficient Workforce Housing to satisfy the Town's obligations under RSA 674:59, and such development is not unduly inhibited by natural features, the Town shall not be in violation of its obligation under RSA 674:59 by virtue of economic conditions beyond the control of the Town that affect the economic viability of Workforce Housing development.

RENTAL HOUSING: Any dwelling unit intended to be leased or rented.

RIGHT-OF-WAY: A strip of land that is generally used for the location of a street, walkway, utility line, or other access way, that is separate and distinct from the lots and parcels adjoining such right of way and not included within the dimensions or areas of such other lots or parcels.

SECTIONAL HOUSING: Conventionally designed and constructed modules fabricated at a factory and transported to their destination on specially designed vehicles that are not an integral part of the dwelling. The modules are moved from the vehicle onto a permanent foundation and cannot be relocated without major structural modifications.

SEXUALLY ORIENTED BUSINESSES: Includes but is not limited to: X-rated or adult movie or book stores, nightclubs, lounges, show stages, hotels or any other business that may promote sexually oriented business.

SINGLE FAMILY DWELLING: A building containing a single principal dwelling unit.

STORAGE TRAILERS: Includes but are not limited to travel trailer, school bus, truck bodies or any container used primarily for storage of personal or business property.

STRUCTURE: Anything constructed or erected (the use of which requires location on the ground, or attachment to something located on the ground) except signs, walls, fences or ground level parking. Examples of structures include, but are not limited to: Buildings and Foundations.

TRAVEL TRAILER: A vehicular, portable structure designed to be used as a temporary dwelling.

TWO FAMILY DWELLING: A building containing two principal dwelling units.

WORKFORCE HOUSING: Housing which is intended for sale and which is Affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Workforce Housing also means Rental Housing which is Affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute Workforce Housing for the purposes of the Workforce Housing Overlay District.