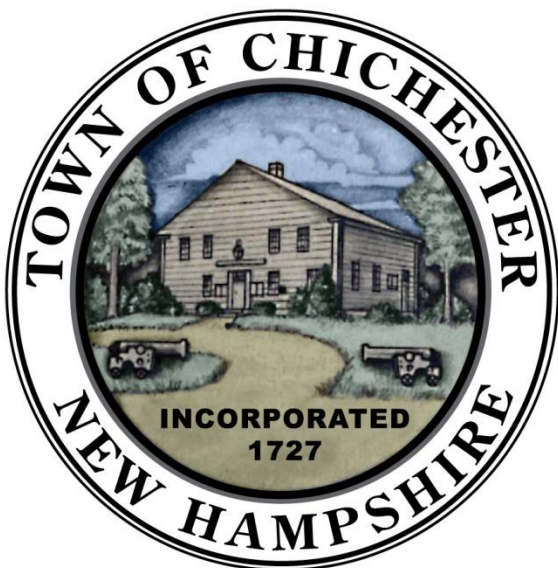


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2024

CHICHESTER ZONING ORDINANCE



As Amended March 16, 2024

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Adopted 3-13-1962, Amended 3-11-1986, Amended 3-12-1988, 3-12-2019

Article I. PREAMBLE:

Pursuant to authority conferred by chapter 672 et seq., NH Revised Statutes Annotated, and subsequent amendments thereto, and 674:17 et seq., NH Revised Statutes Annotated, 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.

Adopted 3-13-1962, Amended 3-14-1978, 3-10-1981, 3-11-1986, 3-12-1988, 3-12-1994, 3-8-2005, 3-9-2010, 3-12-2019

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 multiple districts.

Section 2.02 Designation of Districts:

- | | |
|--|-------|
| (a) Town Center Village | TC |
| (b) Rural-Agricultural | RA |
| (c) Residential | R |
| (d) Commercial-Industrial/Multi-Family | CI/MF |
| (e) Commercial Village | CV |
| (f) Backlands | BL |

Amended 3-12-1988, 3-12-2019

Section 2.03 Zoning Map:

The locations and boundaries of the zoning districts are shown on “The Zoning Map” of the Town of Chichester, NH, Dated March, 2019 and signed and certified by the Town Clerk, which is part of this ordinance.

Section 2.04 Purposes, Permitted Uses and Special Exceptions:

Amended 3-10-1981, 3-11-1986, 3-11-2008, 3-12-2019, 3-14-2023

(a) District TC: Town Center Village

(i) Authority

This Article is an innovative land use technique adopted in accordance with the authority granted under RSA 674:21, as may be amended from time to time. In accordance with RSA 674:21, the Planning Board is authorized by this Article to issue a Conditional Use Permit to ensure compliance with the provisions of this Article. All proposals within this District require the issuance of a Conditional Use Permit.

- 1) Conditional Use Permit: 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.
- 2) Waivers: The purpose of granting waivers from the provisions of this Article 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. Requested waivers must be done so in writing.

(ii) Purpose

- 1) The Purpose of this District is to allow for mixed use development/redevelopment in the Old Town Center at a density higher than found in other sections of the corridor. The intent of these regulations is to implement in part the vision created in the Main Street Land Use Charrette from 2014. The standards herein are intend to promote a more pedestrian friendly environment, to allow for a range of residential uses not normally found along Main Street, and to allow non-residential uses compatible with rural residential nature of the corridor.

(iii) Dimensional Requirements

Minimum Lot Size.....	1 Acres with one half buildable acre (21,780 SF)
Minimum Building Setbacks.....	Front: 25 feet, Rear: 20 feet, Side: 10 feet
Minimum Building Separation.....	20 feet
Wetland Setback (no disturbance allowed).....	Refer to Wetlands Protection District section of this Ordinance
Impervious Surface Coverage.....	50% for parcels more than 2 acres; 75% for parcels under 2 acres
Building Height*.....	35 feet
Landscape Setbacks **.....	10' front, 5' side, 10' rear
Land Unit Condominium.....	As approved by the Planning Board
Building Unit Condominium.....	As approved by the Planning Board
Lot Frontage.....	75'

* The Planning Board may grant a Conditional Use Permit to allow a greater height for unoccupied portions of building and structures provided that the design is compatible with the proposed construction and nearby properties. Such a request must include an opinion, in writing, from the Fire Chief, stating that the proposal will be consistent with life safety requirements with regard to fire protection. Opposition from the Fire Chief shall be grounds for denial of the Conditional Use Permit by the Planning Board.

(iv) ** No parking, or other hard surfaces are allowed in the buffers, with the exception of driveways leading from the site to adjacent roads, or abutting properties, and manholes or other access to any underground utilities. Interconnected parking lots are allowed and encouraged. Where parking lots on abutting properties are combined, the landscape setbacks are then measured from the outer edge of the combined parking areas. Multiple Use Allowed
More than one use may be allowed on a single property, or within a single building, subject to Site Plan Review and Approval by the Planning Board. Condominium ownership is allowed and encouraged including condominium building and land units.

(v) Allowable Uses

The following uses are permitted by right in the Town Center District.

Permitted Uses	Density/Use Restrictions
1. Single Family Residential.....	1 unit per 21,780 Square Feet of buildable land
2. Duplex Residential.....	1 unit per 21,780 Square Feet of buildable land
3. Townhouses (attached single family) Residential.....	1 unit per 21,780 Square Feet of buildable land
4. Accessory Residential to a Non-residential Use.....	1 unit accessory to each non-residential use
5. Accessory Office to a residential Use.....	Up to 1,500 square feet per residential dwelling unit
6. Retail.....	Up to 1,000 square feet

7. Elderly Housing..... 1 unit per 21,780 Square Feet of buildable land
8. Assisted Living..... Up to 15 Residents
9. Churches or House of Worship.....Up to 3,000 square feet
10. Business and Professional Offices..... Up to 3,000 square feet
11. Non-residential Accessory Uses* Up to ten (10) percent of the gross floor area
12. Adaptive Reuse of Existing Structure** Existing structure only
- 13.

* Said accessory use must be directly related and incidental to the permitted use. Storage and retail uses must be not be visible from off-site and shall not be provided with any signage and lighting.

** Adaptive reuses must: 1) applies only to the existing structure; 2) any additions to the structure shall conform with other density and use restrictions as described in this Article; 3) the new use or uses shall comply with the Permitted or Conditional Uses as described in this Article; and, 4) a mix of uses is permitted.

The following uses are allowed by a Conditional Use Permit in the Town Center District

Conditional Permit Uses	Density/Use Restrictions
1. Personal or Service Establishments	Up to 3,000 square feet per use
2. Daycare Center	Up to 3,000 square feet per use
3. Elderly Daycare Center	Up to 5,000 square feet per use
4. Community Center	Up to 10,000 square feet
5. Similar Uses*	Up to 3,000 square feet per use
6. Café/Deli/Restaurant	Up to 1,000 square feet per use
7. Banks or ATM	Up to 1,000 square feet per use
8. Larger Uses**	Permitted or Conditional Uses up to 10,000 square feet per use

*The Planning Board may allow, via Conditional Use Permit, those uses not listed above provided the Board finds that the use proposed is similar in nature to a permitted use or conditional use land use category, and proposed use will have no adverse traffic impacts, no adverse environmental impacts, nor adverse impacts to abutting properties, and the proposed building and site will be compatible with those in the district.

** Excluding the “Prohibited Uses” as described in Section vi below, the Planning Board may allow via Conditional Use Permit, those uses larger than the maximum size listed for either a permitted use or conditional use land use category, and the proposed use will have no adverse traffic impacts, no adverse environmental impacts, nor adverse impacts to abutting properties, and the proposed building and site will be compatible with those in the district.

(vi) Prohibited Uses

Uses not listed as either permitted or conditional uses are prohibited. The Planning Board is not authorized to issue a Conditional Use Permit for the Uses described in this Section, and, relief sought from this provision of this Section shall be in accordance with the powers granted to the

Chichester Zoning Board of Adjustment as described elsewhere in this Zoning Ordinance. In particular the following uses are deemed incompatible to the district:

1. Manufacturing and warehousing
2. Retail Sales over 1,000 square feet
3. Motor Vehicle Sales and Service
4. Drive up facilities
5. Sexually Orientated Businesses
6. Open Lot Storage, Sales or Display
7. Indoor and Outdoor Commercial Recreation Facilities
8. Private Clubs or Lodges
9. Nursing Homes
10. Hospitals and/or Medical Clinics
11. Assisted living facilities with 15 or more residents

(vii) Parking, Driveways and Sidewalks

- 1) The Planning Board may require the installation of various off-site improvements based on the proposal. These may include, but may not be limited to: sidewalks, curbing and drainage features, landscaping, public road improvements, street lighting, signage, or on-street parking. Parking shall be on-site unless the Planning Board deems on-street parking appropriate. There shall be adequate parking for staff and for patrons visiting the site, as deemed acceptable by the Planning Board or Building Inspector, as appropriate.
- 2) All or some of the required parking for any development may, with the approval of the Board and NH DOT, be constructed on the abutting street right-of-way. If additional, right-of-way is needed to construct said improvements then the front setback may be reduced to 5' with approval of the Board from the expanded right-of-way.

(viii) Appearance

- 1) Any new or redeveloped building or structure shall be compatible with traditional New England village design including, but not limited to, the use of peaked roofs, clapboard sidings, facias and soffits, corner boards, contrasting trim boards, and shingled roofs. Artificial materials and bright and neon colors shall not be used. The use of natural materials, classic color combinations, and traditional materials are recommend, however modern materials such as composite clapboard siding, and windows with inserted interior mullions.
- 2) No internally lit signs, neon signs, electronic signs, temporary signs or signs with moving parts and letters are allowed. Signs if illuminated should utilized goose neck down lighting or similar types of down lighting. All proposals shall also comply with those provisions of the Chichester Sign Ordinance and the Chichester Outdoor Lighting Ordinance that are not addressed in this Article. If a conflict exists between this Article and the Sign Ordinance or the Outdoor Lighting Ordinance this Article shall control.
- 3) Site landscaping shall be provided including street trees, foundation plantings, and trees adjacent to the parking areas. It is recommended that flower beds or planters be used to

highlight the properties. Wherever possible, grass or landscape cover should be provided rather than bark mulch or landscape stone wherever possible.

Definitions Associated with the District: refer to the DEFINITION Section of this Ordinance.

Amended 3-12-2019, 3-10-2023, 3-12-2024

(b) District RA: Rural Agricultural

- (i) Purpose: To provide areas suitable for development that preserve the rural character of the community and to protect rural areas from intensive development.
- (ii) Minimum Lot and Frontage Requirements: Minimum lot size for single family and two family (residential uses) dwellings shall be five (5) contiguous acres, with minimum road frontage requirements of three-hundred (300) contiguous feet.
- (iii) 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, and Commercial /Large Commercial Solar.
- (iv) Special Exceptions: Public utility transmission lines, portable sawmills, public places of assembly, public community buildings, and public recreational buildings and lands.
- (v) Lot Configuration: Each lot shall contain one Buildable Acre and shall be reasonably symmetrical (i.e. opposing lot lines are generally parallel with each other) in nature as determined by the Planning Board in the Chichester Subdivision Regulations.
- (vi) No new building shall be located nearer than fifteen (15) feet to an abutter's property line and thirty (30) feet from the edge of the State or town maintained highway's Right-of-Way.

Amended 3-10-1981, 3-11-1986, 3-11-2008, 3-12-2019

(c) District R: Residential

- (i) Purpose: To provide certain rural areas more suitable for development as residential units with density greater than may be found in the Rural Agricultural Zone.
- (ii) Minimum Lot and Frontage Requirements: Minimum lot size of two (2) contiguous acres and a minimum road frontage of two-hundred (200) contiguous feet for a single family dwelling and a minimum lot size of two and a half (2.5) contiguous acres and a minimum road frontage of two-hundred and fifty (250) contiguous feet for a two family dwelling.
- (iii) 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. Additionally, all uses that are permitted by right within the Rural-Agricultural (RA) Zone are permitted by right on lots that are five (5) acres in size or greater in the Residential (R) Zone.

- (iv) Special Exceptions: Public utility transmission lines, portable 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.
- (v) Lot Configuration: Each lot shall contain one Buildable Acre and shall be reasonably symmetrical (i.e. opposing lot lines are generally parallel to each other) in nature as determined by the Planning Board in the Chichester Subdivision Regulations.
- (vi) No new building shall be located nearer than fifteen (15) feet to an abutter's property line and thirty (30) feet from the edge of the State or town maintained highway's Right-of-Way.

Adopted 3-10-1981, Amended 3-11-1986, 3-18-1989, 3-12-1994, 3-14-1995, 3-16-1996, 3-9-1998, 3-14-2000, 3-12-2002, 3-12-2019

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

Amended 3-11-1986, 3-12-1994, 3-12-2024

- (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, 3-12-2019, 3-10-2023

(iii) General Requirements

- 1) Lot Configuration: Each lot shall contain one Buildable Acre and shall be reasonably symmetrical (i.e. opposing lot lines are generally parallel to each other) in nature as determined by the Planning Board in the Chichester Subdivision Regulations. Multi-family units shall also include one half acre (.5) for each additional unit beyond the first; and, non-residential units shall have additional buildable land as may be necessary to ensure that all development (i.e. building, paving, drainage areas, etc.) is located solely on buildable land.
- 2) 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:
 - 1) Site Plan review by the Planning Board
 - 2) Public Hearing
 - 3) Building Permit as required

- 4) Occupancy permit
- 3) 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.
- 4) All Commercial use shall have a minimum of fifty (50) feet of road frontage on 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. Interconnectivity between abutting sites is permitted in general.
- 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 or adjacent building unless a firewall shall be constructed.
- 7) No Commercial or Multi-family building or structure may be erected closer than forty (40) feet to an adjacent zoning district.
- 8) No Industrial building or structure may be erected closer than one-hundred (100) feet to an adjacent property located in the Residential or Rural-Agricultural zoning districts.
- 9) No building or structure may be erected closer than forty (40) feet from the edge of State Right-of-Way of any State or Town maintained road.
- 10) 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.
- 11) 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
- 12) All Commercial and Industrial uses must have an appropriate buffering zone from abutters and highways as determined by site plan review.
- 13) Parking Requirements:
 - 1) Each place of public assembly shall have one (1) parking space, with a surface suitable to the circumstances as determined by the Planning Board, 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) parking space, with a surface suitable to the circumstances as determined by the Planning Board, for each

twenty (20) seating spaces and for each three-thousand two-hundred (3200) square feet of floor area in public use

- 2) Each Commercial use, except food and lodging, shall have at least one (1) parking space, with a surface suitable to the circumstances as determined by the Planning Board, 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.
- 3) Each Industrial use shall have at least one (1) parking space with a surface suitable to the circumstances as determined by the Planning Board on the lot within the CI/MF zone, for each on-duty employee.
- 4) Each hotel, motel or lodging house shall have one (1) parking space with a surface suitable to the circumstances as determined by the Planning Board, on the lot and within the CI/MF zone, for each lodging unit and on-duty employee.
- 5) Each fast food and or drive-in restaurant shall have one (1) parking space, with a surface suitable to the circumstances as determined by the Planning Board, 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.
- 6) All quality and family style restaurants shall have at least one (1) parking space with a surface suitable to the circumstances as determined by the Planning Board, 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.
- 7) All uses other than residential, shall provide adequate parking with a surface suitable to the circumstances as determined by the Planning Board, 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.
- 8) 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
- 14) Residential uses- No new single family or duplex homes shall be permitted. Existing single family or duplex homes shall be grandfathered non-conforming uses. The use will be considered discontinued when there is a change of use. Developments of three or more units shall contain road frontage of two-hundred and fifty (250) contiguous feet and an additional contiguous one half (.5) acre for each additional unit. Additionally, each multi-family dwelling lot shall contain two (2) contiguous buildable acres for the first (3) units and an additional one half (.5) contiguous acre for each additional unit.

(iv) Permitted Uses and Special Exceptions

1) Permitted Uses:

- 1) Hotels
- 2) Motels
- 3) Restaurants and snack bars whose primary purpose is serving food.
- 4) Professional establishments such as: Dental/Medical, Law, Engineering and Accounting
- 5) Service establishments such as: Real Estate, Barber Shops and Financial Institutions
- 6) Retail sales establishments such as: Drug Stores, Grocery Stores, Lumber Yards, Hardware and Clothing Stores
- 7) Automotive uses such as: Service Stations, Repair Garages, Car Washes and Vehicle Sales.
- 8) Office and Administrative Buildings
- 9) Funeral Homes
- 10) All uses allowed in District R (residential)
- 11) Restaurants with entertainment or nightclub facilities
- 12) Plaza, Malls, Multiple use businesses
- 13) Warehouses or Distribution centers
- 14) Recreational facilities
- 15) Commercial parking lots
- 16) Manufacturing, Assembly, Processing, Packing and Research facilities
- 17) Sawmills
- 18) Auto body shops
- 19) Public & Institutional facilities
 - i) Hospitals
 - ii) Nursing Homes & Elderly Housing
 - iii) Churches
 - iv) Schools
 - v) Libraries
 - vi) Museums
- 20) Multi-Family uses (such as apartments and condominiums) will require a Conditional Use Permit (CUP) issued by the Planning Board, in addition to any requirement for site plan approval. The CUP shall be processed concurrently with the site plan application.

This Ordinance is adopted under the authority of RSA 674:21, Innovative Land Use Controls and authorizes the Planning Board to approve Conditional Use Permits (CUP) to allow multi-family uses. A complete application shall include the following items:

- i) The Planning Board shall process all CUP applications at a public hearing of the board. Applications shall be made on an application form provided by the Planning Board. Incomplete applications shall not be considered by the Planning Board. A complete application shall include the following items:
 - a. Completed CUP application.
 - b. A project narrative, including the following:
 - i. Number of units proposed, including bedrooms and square footage for each unit;
 - ii. Access, including handicapped access, for each unit;
 - iii. Provision of sewer and water;
 - iv. Parking spaces for each unit, including details about handicapped spaces;
 - v. Fire protection provisions;
 - vi. Type of building materials/siding to be used; and,
 - vii. Any other information the Board requests pertaining to business operations.
 - c. A complete application for site plan approval
 - d. Fees as identified by the Planning Board on the CUP application, including third party review, abutter notification, and newspaper escrow amounts.
 - e. Waiver request in writing, if applicable.
- ii) All of the following must be demonstrated to the Planning Board in order to secure a CUP for a multi-family development. If all are met in the opinion of the Planning Board the CUP shall be issued concurrently with an accompanying site plan approval; failure to demonstrate compliance with one or more criteria shall result the permit being denied:
 - a. The lot shall have a minimum road frontage of two-hundred and fifty (250) contiguous feet.
 - b. The lot shall have, within the CI/MF zone, a minimum of two and one half (2.5) contiguous acres for the first two family dwelling unit with an additional one-half (.5) contiguous acre for each additional family dwelling unit. Additionally, developments of two or more units shall contain one contiguous buildable acre for the first unit and an additional one half (.5) contiguous acre for each additional 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 onsite sewage disposal if public sewage disposal is not available. Onsite 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 onsite 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 of living space.
- h. 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.
- 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 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.
- 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.
- m. An appropriate buffering zone from abutters and highways must be provided as determined by the Board.

iii) Appeals: Appeals made to the Planning Board's decision regarding this Section shall be made to the New Hampshire Superior Court within thirty days of the Planning Board's decision.

21) Large/Commercial Solar is permitted in the Commercial Zone on Route 28

22) Large/Commercial Solar is not permitted on Route 4, except for accessory use only

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.

1) The use shall meet the intent of Article I - Preamble of the Zoning Ordinance

2) The use shall meet the intent of the Purpose of the zoning district CI/MF

3) The use shall meet all the applicable General Requirements of the zoning district CI/MF

4) 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 Graveyards

ii) Cemeteries

iii) Excavation, Sand & Gravel

iv) Public Service Utilities

Adopted 3-8-2005, Amended 3-13-07, 3-12-2019

(e) 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 shall be the sole authority authorized to administer the provisions of this section. Any appeal from the Planning Board decision shall be filed in accordance with RSA 677:15.

(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, 3-12-2019

- (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:
 - 1) Site Plan Review by the Planning Board
 - 2) Conditional Use Permit from the Planning Board, if applicable
 - 3) Public Hearing
 - 4) Building Permit as required
 - 5) 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) Lot Configuration: Each lot shall contain one Buildable Acre and shall be reasonably symmetrical (i.e. opposing lot lines are generally parallel to each other) in nature as determined by the Planning Board in the Chichester Subdivision Regulations. Multi-family units shall also include one half acre (.5) for each additional unit beyond the first; and, non-residential units shall have additional buildable land as may be necessary to ensure that all development (i.e. building, paving, drainage areas, etc.) is located solely on buildable land.
 - 5) Residential uses shall have the minimum of two (2) contiguous acres and a minimum road frontage of two-hundred (200) contiguous feet for a single family dwelling and a minimum lot size of two and a half (2.5) contiguous acres and a minimum road frontage of two-hundred and fifty (250) contiguous feet for a two family dwelling. Additionally, each

single-family dwelling lot shall contain one (1) contiguous buildable acre. Developments of two or more units shall contain one contiguous buildable acre for the first unit and an additional one half (.5) contiguous acre for each additional unit.

- 6) 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.
- 7) No building or structure shall be erected closer than fifteen (15) feet to any lot line.
- 8) 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.
- 9) 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.
- 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) Parking requirements:
 - 1) 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.
 - 2) Each commercial use, except food and lodging, shall have at least one (1) parking space, with a surface suitable to the circumstances as determined by the Planning Board, for each two-hundred (200) square feet of floor area.
 - 3) Each bed & breakfast or inn shall have one (1) parking space, with a surface suitable to the circumstances as determined by the Planning Board, on the lot for each lodging unit and on-duty employee.
 - 4) All restaurants, including fast food, shall have at least one (1) parking space, with a surface suitable to the circumstances as determined by the Planning Board, 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.
 - 5) All uses, other than residential, shall provide adequate parking with a surface suitable to the circumstances as determined by the Planning Board, 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.

- 6) 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.
 - 7) 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.
 - 8) Each required parking space shall not be less than nine (9) feet in width and nineteen (19) feet in length.
 - 9) Parking spaces shall be so arranged as not to necessitate backing of automobiles onto any street.
 - 10) 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.
 - 11) The minimum setback for parking spaces from any structure shall be five (5) feet.
 - 12) 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.
 - 13) 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.
 - 12) Home Occupation permits in the CV zone will meet the same criteria as any business venture within the CV zone.
 - 13) 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, 3-12-2019

(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 will require a Conditional Use Permit (CUP) issued by the Planning Board, in addition to any requirement for site plan approval. The CUP shall be processed concurrently with the site plan application. This Ordinance is adopted under the authority of RSA 674:21, Innovative Land Use Controls and authorizes the Planning Board to approve Conditional Use Permits (CUP) to allow multi-family uses. A complete application shall include the following items:

- 1) The Planning Board shall process all CUP applications at a public hearing of the board. Applications shall be made on an application form provided by the Planning Board. Incomplete applications shall not be considered by the Planning Board. A complete application shall include the following items:
 - i) Completed CUP application.
 - ii) A project narrative, including the following:
 - a. Number of units proposed, including bedrooms and square footage for each unit;
 - b. Access, including handicapped access, for each unit;
 - c. Provision of sewer and water;
 - d. Parking spaces for each unit, including details about handicapped spaces;
 - e. Fire protection provisions;
 - f. Type of building materials/siding to be used; and,
 - g. Any other information the Board requests pertaining to business operations.
 - h. A complete application for site plan approval.
 - i. Fees as identified by the Planning Board on the CUP application, including third party review, abutter notification, and newspaper escrow amounts.
 - j. Waiver request in writing, if applicable.
- 2) All of the following must be demonstrated to the Planning Board in order to secure a CUP for a multi-family development. If all are met in the opinion of the Planning Board the CUP shall be issued concurrently with an accompanying site plan approval; failure to demonstrate compliance with one or more criteria shall result the permit being denied:
 - i) The lot shall have a minimum of two and one half (2.5) contiguous acres for the first two family dwelling unit with an additional .5 acre for each additional family dwelling unit. Additionally, each single-family dwelling lot shall contain one (1) contiguous buildable acre. Developments of two or more units shall contain one contiguous buildable acre for the first unit and an additional one half (.5) contiguous acre for each additional unit.
 - ii) 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.

- iii) 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.
 - iv) 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.
 - v) 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).
 - vi) Each dwelling unit shall have a minimum of five-hundred (500) square feet living space.
 - vii) 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.
 - viii) 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.
 - ix) 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.
 - x) All driveways and parking areas shall be graveled or paved with adequate provisions for surface drainage and snow removal.
 - xi) All driveways and parking areas shall have adequate lighting, governed by the lighting regulations in this Ordinance.
 - xii) An appropriate buffer zone from abutters and highways must be provided as determined by the Board.
- 3) Appeals: Appeals made to the Planning Board's decision regarding this Section shall be made to the New Hampshire Superior Court within thirty days of the Planning Board's decision.

(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:

- 1) Planned Commercial Developments
- 2) Restaurants with entertainment or drive through facilities
- 3) Conditional Use Permit Application Elements: The following are required for a Conditional Use Permit application to be considered complete by the Planning Board:

- 1) A completed application form, made on an application form as provided by the Planning Board;
- 2) Fees as set by the Planning Board, including application fees, any third-party review escrow, abutter notification, and newspaper notification fees;
- 3) A plan of the proposal depicting property boundaries, existing and proposed drainage areas, parking, traffic flow, delivery locations, existing and proposed buildings, signage, lighting, solid waste, driveway access, and sewer/water provisions;
- 4) A narrative describing the project, addressing the following elements:
 - i) A description of the existing and proposed uses;
 - ii) Signage;
 - iii) Hours of operation;
 - iv) Number of employees;
 - v) Discussion of how business will interact with customers and patrons;
 - vi) Discussion about how deliveries will occur;
 - vii) Description of any chemical/hazardous material usage;
 - viii) Restroom accommodations; and,
- 5) Any studies or additional materials as may be required by the Planning Board.

- 4) 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:
 - 1) 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;
 - 2) The use will not materially endanger the public health or safety;
 - 3) The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located;
 - 4) The use will not have a substantial adverse impact on highway or pedestrian safety; and
 - 5) The use will not have a substantial adverse impact on the natural resources of the town.
 - 6) 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.
- 5) 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

- 6) 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.
- 7) 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, Amended 3-12-2019

(f) District BL: Backlands

(i) Purpose: Though the District is not depicted on the Town Zoning Map, it is a Town-wide district consisting of 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

(g) 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.

Section 3.02 Junkyards:

Excluding specific requirements listed in this Section, 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 by 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. The following criteria shall apply to junkyards:

- (a) The Chichester Board of Selectmen shall be the authority to consider licensing of junk yards in accordance with NH RSA 236:118. The Board of Selectmen shall develop appropriate applications and fees for said permitting process.
- (b) A completed application for a junk yard permit would include: a completed application, a plan or other graphic depiction of the property, appropriate fees, and a project narrative.
- (c) In accordance with NH RSA 236:118.II, in no case may a license be granted for a new junk yard or automotive recycling yard located less than 1,000 feet from the right-of-way lines of an interstate highway.
- (d) A three hundred (300) no-disturbance buffer shall be maintained at all property lines. No more than two access ways from a public highway to the operation are permitted through this buffer, and a screen of off-set evergreen trees eight to ten feet tall shall be maintained along the rear of the buffer. Access point(s) shall be from a Class V or better highway and, said access ways shall be properly permitted by the Town of Chichester Highway Department or New Hampshire Department of Transportation as may be applicable.
- (e) An unbroken security fence shall be located around the whole operation. The fence shall be situated between the operation behind the evergreen screening trees described above. The fence shall be at least eight feet tall and include via locking gates at access points. No more than two access ways are permitted through the fence. Where the topography, natural growth of timber, a natural barrier, or other considerations accomplish the purposes of this subdivision in whole or in part, the fencing requirements hereunder may be reduced by the local governing body, upon granting the license in accordance with RSA 236:123.
- (f) Existing operations seeking a permit renewal shall demonstrate, via photographic evidence that the vegetative buffer and fence are in place and in working order. Further, the photos must demonstrate to the Board of Selectmen that the site is screened to the greatest extent possible and that the facility is secure.

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) For the temporary occupancy of a recreational vehicle outside of a licensed campground, the following requirements shall apply:

1) Recreational vehicles shall not be rented for commercial gain.

2) It shall be unlawful for any person to occupy a recreational vehicle on a temporary basis, who does not possess a permit from the Building Inspector. A permit is not required for the storing or parking of a recreational vehicle during periods of nonuse on the premises of the owner, or for a period of occupancy not to exceed 10 days per year;

3) A property owner or lessee (excludes Commercial) may accommodate one recreational vehicle of a nonpaying guest for a period not in excess of 120 days in any one year; and

4) A recreational vehicle may be maintained as living quarters by a person employed in adjoining construction work or for whom a residence is being built, or as an office, storeroom or shop in connection with construction work, provided, that such is shown to be a temporary expedient, and also that the use will conform with the U.S. Department of Health, Education, and Welfare Publication manual of septic tank practice.

5) Occupants of a recreational vehicle outside of a licensed campground must comply with applicable state health and sanitary disposal regulations, including but not limited to Title X, Public Health, Chapter 147 for the State of New Hampshire, as amended. No more than one (1) Recreational Vehicle is permitted to be occupied on a lot with an existing dwelling unit for no more than 120 days in a calendar year. If a Recreational Vehicle is occupied on a lot with an existing dwelling unit for more than ten (10) consecutive days, then the property owner shall obtain a permit from the Building Department. Such occupied Recreational Vehicle must have and show sufficient proof of a domestic water supply and adequate provision for wastewater disposal, including sewerage, septage and gray water. A waiver request can be granted from the Building Inspector for more than 1 recreational vehicle for special events or occasions for short term stays not to exceed 10 days.

(iii) 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, 3-14-2023

Section 3.04 Campgrounds:

Campgrounds in Chichester shall comply with the following:

a) Purpose and Intent.

It is the purpose of this Ordinance to allow and promote the operation of recreational campgrounds within the Town which are for the recreation and temporary accommodation of visitors. It is also the intent of this Ordinance to discourage and prohibit the use of campgrounds for purposes other than temporary and recreational. Campsites located within campgrounds do not meet the local and state requirement for single-family dwellings, such as lot size, frontage, setback, sewage disposal and water source. The use of a campsite as a residential dwelling devastates the environment, adversely impacts the surrounding property, is contrary to the rural character of the Town, and is unseemly. This illegal use over uses sewage disposal systems not designed for such intensive usage and constitutes a hazard against public health and safety. The illegal occupancies area strain on the Town's treasury budget and services intended for lawful residents.

b) Permitted Zones.

Campgrounds are permitted in Rural/Agricultural Zone and the CI/MF Zone, and only after Non- Residential Site Plan Review by the Planning Board and the issuance of a Special Exception from the Zoning Board of Adjustment.

c) Definition.

Refer to the "Definition" section of this Ordinance.

d) Recreational or Temporary.

- i. The location of portable camps for a permanent residence is banned. Exceptions may be the use of portable camps for logging operations.
- ii. "Temporary" shall mean no more than six consecutive months in a calendar year between May and October.

e) Conditions Suggesting A Site Is Used As A Permanent Residence (i.e. Prima Facie Evidence).

Any of the following conditions shall constitute first impression evidence that a site at a campground is being used for permanent residential purposes and not temporary, recreational uses:

- i. If any occupant of a campsite at any campground runs for or occupies public office relying on his residential address at the campground.
- ii. If any occupant of a campsite at any campground registers to vote as a resident of the Town relying on his residential address at the campground.
- iii. If any occupant of a campsite at any campground:

1. Registers a vehicle in Chichester, or
 2. Obtains a driver's license relying on his residential address at the campground, or
 3. Applies for a license or permit of any kind from any state, local or federal agency relying on his residential address at the campground.
- iv. If any occupant of any campsite at any campground receives, claims eligibility for or applies to receive any federal, state or local benefit, entitlement, assistance, grant, loan or award relying on his residential address at the campground, or disclosing the campground as his address.
 - v. If any occupant of a campsite at any campground attends or enrolls to attend Chichester public schools (including Pembroke Academy) relying on his residential address at the campground.
 - vi. If any occupant of a campsite at any campground files any action at any court or enters into any contract or attempts to enter into any contract relying on his residential address at the campground or disclosing the campground as his address.
 - vii. If any occupant of a campsite at any campground does not have, keep or maintain a primary dwelling for his use and as his residence at the time of his occupation of the campsite.

f) Occupation of Campsites.

No person who owns, manages or has charge of any campground may allow, or cause to be allowed, the occupation of any campsite at a campground contrary to this Ordinance, nor allow any person to reside at a campsite within a campground for other than recreational and temporary purposes. No person may operate a campground in Chichester, without the necessary permits and approvals, nor contrary to or in breach of any conditions imposed as a part of such approvals. No person may occupy a campsite in Chichester for other than temporary and recreational purposes.

g) Application of Restrictions.

The provisions of this Ordinance attempt to clarify and accommodate the application of the restrictions imposed on campgrounds. This Ordinance is intended to and shall apply to all pre-existing campgrounds in operation as of March 4, 2023, except to the extent a Site Plan Review or a special exception shall not be required of a pre-existing campground which:

- i. commenced its operation legally and in conformity with all local and state regulations, and
- ii. has been in continuous operation since the lawful commencement of the use and up to the effective date of this Ordinance, and
- iii. has not substantially changed or enlarged the operation since the commencement of the use.

Such campgrounds as described above, shall be exempted from the new restrictions of this Ordinance and shall be governed by the 2022 Zoning Ordinance, unless:

- i. the business or occupation ceases to be in continuous operation for any (1) one-year period, or

- ii. the business or occupation has substantially changed or enlarged, or
- iii. the business or occupation is engaged in conduct which is hazardous to public health and safety or has become a nuisance.

At which time, all restrictions of this Article shall become applicable.

h) Campground Standards.

- i. All campgrounds shall comply with the following:
Density shall be driven by the ability to ensure all sites can contain two vehicles and a tent or camper (motorcoach or trailer);
- ii. Adequate provisions for sanitary sewer services;
- iii. Potable water on the property (not necessarily at each camp site);
- iv. Site amenities and common facilities are permitted provided that all permanent buildings and structures shall conform with the setbacks and other dimensional requirements of the zoning district(s) in which the campground is to be located; and,
- v. That the campground complies with any other applicable federal, state, or local requirements.

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, 3-12-2019

Section 3.05 Area, Frontage, and Yard Requirements:

Refer to the requirements for each zoning district, as described in this Ordinance, for area, frontage, and yard requirements.

Repealed and Readopted 3-11-2008

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) Authority and Purpose: This Ordinance is adopted under the authority of RSA 674:21, Innovative Land Use Controls and authorizes the Planning Board to approve Conditional Use Permits (CUP) to allow Home Occupations.

(b) Home Occupation CUP Requirements:

(i) The Planning Board shall process all CUP applications at a public hearing of the board. Applications shall be made on an application form provided by the Planning Board. Incomplete applications shall not be considered by the Planning Board. A complete application shall include the following items:

- 1) Completed CUP application.
- 2) A project narrative, including the following:
 - 1) Type of business;

- 2) Signage;
 - 3) Hours of operation;
 - 4) Number of employees (max of 2);
 - 5) Description of how the business will interact with customers (i.e. on site, online, etc.);
 - 6) How delivery to and from the business will occur;
 - 7) Description of any chemical/hazardous material usage;
 - 8) Restroom accommodations for employees and/or customers or patrons;
 - 9) Whether or not product will be stored outside;
 - 10) Type of building materials/siding to be used; and,
 - 11) Any other information the Board requests pertaining to business operations.
- 3) A plan, depicting the following:
 - 1) Property boundaries;
 - 2) Existing structures and buildings;
 - 3) Proposed additions or structures, if any;
 - 4) Sketches or pictures of existing facades and proposed additions, as applicable;
 - 5) Parking, delineating between employee, customer, homeowner;
 - 6) Any drainage areas;
 - 7) Proposed traffic flows and driveway entrances;
 - 8) Delivery locations;
 - 9) Lighting;
 - 10) Signage;
 - 11) Landscaping;
 - 12) Raw material/product storage (outside only); and,
 - 13) Any other elements requested by the Board.
 - 4) An abutters list not more than five (5) days old including all property owners of and within 200' of any property line, professionals involved in the development of the application or plan, and any easement holders.
 - 5) Fees as identified by the Planning Board on the CUP application, including third party review, abutter notification, and newspaper escrow amounts.
 - 6) Waiver request in writing, if applicable.
- (ii) All of the following must be demonstrated to the Planning Board in order to secure a CUP for a Home Occupation. If all are met in the opinion of the Planning Board the CUP shall be issued for a complete application; failure to demonstrate compliance with one or more criteria shall result the permit being denied:
- 1) The home occupation shall be operated by an inhabitant of the dwelling unit on the premises in which the occupation will be operating.
 - 2) No more than two (2) non-inhabitant employees are permitted.
 - 3) The proposed Home Occupation must meet any and all zoning requirements within the district in which it will be operating.
 - 4) Permits shall expire five (5) years following issuance. Re-issuance may require a Public Hearing following an administrative review.

(c) Appeals: Appeals made to the Planning Board's decision regarding this Section shall be made to the New Hampshire Superior Court within thirty days of the Planning Board's decision.

Adopted 3-13-1962, Amended 3-14-1978, 3-11-1986, 3-12-1988

Section 3.07 Signs:

The following provisions shall apply to all signs:

Purpose: The intent of this ordinance is to permit effective signs in town while maintaining the commitment to reduce light trespass and sky glow, therefore this ordinance shall be implemented, as applicable, in conjunction with Section 3.18 entitled Outdoor Lighting.

The following provisions shall apply to all signs:

(a) Permits: No sign within the CI/MF district or Commercial Village District, shall be erected, displayed, altered or enlarged until an application has been filed, and a permit for such action has been issued.

(i) Applications shall be made on forms as prescribed by the Building Inspector.

(b) Signs within the CI/MF district or Commercial Village 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.

- (c) Temporary signs shall only be allowed with the permission of the Selectmen and under conditions to be set by the Selectmen.
- (d) Under all conditions, no more than sixty-four (64) square feet of any allowable sign shall be illuminated by means of internal illumination.
- (e) 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.
- (f) After approval by the Planning Board, signs associated with Home Occupations that are located in a District other than the CI/Mf or Commercial Village District shall be limited to one on-site and one off-site sign each with a maximum signage of eight (8) square feet.
- (g) 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.
- (h) Every sign permitted shall be constructed of durable materials and shall be maintained in good condition and repair at all times.
- (i) Businesses located within CI/Mf District or Commercial Village District without frontage on Route 4-202-9 and 28, may apply to the Planning Board for an off-premises sign.
- (j) Fixtures used to illuminate signs shall be located, aimed, and shielded so as to minimize glare perceptible to drivers, pedestrians, bicyclists, and other passersby within adjacent streets or rights-of-way. Light sources shall utilize energy efficient fixtures to the greatest extent practicable. Light fixtures, including bulbs or tubes, used for sign illumination shall be selected and positioned to achieve the desired brightness of the sign while ensuring compliance with applicable requirements of this chapter.
- (k) Illuminance of a sign face shall not exceed the following standards:
 - (i) External illumination: Illumination suspended or located on the exterior of a sign, such as gooseneck fixtures, shall be limited to 50 foot-candles as measured on the sign face.
 - (ii) Internal illumination: Illumination of signs from within, but with no graphic displays, shall be limited to 10,000 nits (candelas per square meter measured perpendicular to the rays from the source) during daylight hours and 500 nits between dusk and dawn, as measured at the sign's face.
 - (iii) Direct illumination: No more than 10,000 nits during daylight hours and 500 nits between dusk and dawn, as measured at the sign's face.
 - (iv) All electronic changing signs shall be equipped with automatic dimming controls, so the brightness level will be highest during the day and lowest at night. Manufacturer specifications shall be submitted at the time of the sign permit specifying maximum sign brightness.
- (l) Electronic message center (EMC). All permitted EMCs shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions at all times of the day or night. Electronic changing signs

may be freestanding or building mounted, one- or two-sided, may be a component of a larger sign or billboard, and shall conform to the following minimum requirements, along with all other requirements for signage within this chapter:

- (i) Electronic message center portion of the sign shall not make up more than 75% of the actual sign surface. In no case shall an electronic message center exceed 32 square feet.
- (ii) Animation on static EMCs shall be limited to the actual changing of the message. No flashing, blinking, or pulsating of lights shall be allowed. Electronic message centers must be equipped to freeze in one position or discontinue the display in the event that a malfunction occurs.
- (iii) Minimum display time. All illumination elements on the face of static electronic changing signs shall remain at a fixed level of illumination for a period of not less than five minutes.
- (iv) No more than one EMC will be allowed per lot.
- (v) Software for operating the EMC must be able to show current and factory brightness levels upon request. The owner/installer of electronic message displays shall certify as part of the application that signs will not exceed the brightness levels specified in this section.
- (m) The placement of plain directional, traffic, or safety signage (of no more than six square feet in size) on a site, building, or location visible from a public way or street is permitted in the CI/MF or Commercial Village District zones. Further, the Planning Board may require the placement of such signage as a condition of approval for Site Plan, Subdivision, or Conditional Use Permit applications that may fall under their jurisdiction for approval.

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:

- (a) Purpose: No single-family dwelling shall be converted into a two-family dwelling without a Conditional Use Permit (CUP) from the Planning Board.
- (b) Authority: This Ordinance is adopted under the authority of RSA 674:21, Innovative Land Use Controls and authorizes the Planning Board to approve Conditional Use Permits (CUP) to allow Dwelling Conversions.

(c) Dwelling Conversion CUP Requirements:

- (i) The Planning Board shall process all CUP applications at a public hearing of the board. Applications shall be made on an application form provided by the Planning Board. Incomplete applications shall not be considered by the Planning Board. A complete application shall include the following items:
- 1) Completed CUP application.
 - 2) A letter from the Building Inspector indicating that the building will be able to comply with current Life Safety Code requirements.
 - 3) A project narrative, including the following:
 - i) Current number of units and proposed, including bedrooms and square footage for each unit;
 - ii) Access, including handicapped access, for each unit;
 - iii) Provision of sewer and water;
 - iv) Parking spaces for each unit, including details about handicapped spaces;
 - v) Fire protection provisions;
 - vi) Type of building materials/siding to be used; and,
 - vii) Any other information the Board requests pertaining to business operations.
 - 4) A plan, depicting the following:
 - i) Property boundaries;
 - ii) Existing structures and buildings;
 - iii) Proposed additions or structures, if any;
 - iv) Sketches or pictures of existing facades and proposed additions, as applicable;
 - v) Parking, delineating;
 - vi) Any drainage areas;
 - vii) Proposed traffic flows and driveway entrances; and,
 - viii) Any other elements requested by the Board.
 - 5) An abutters list not more than five (5) days old including all property owners of and within 200' of any property line, professionals involved in the development of the application or plan, and any easement holders.
 - 6) Fees as identified by the Planning Board on the CUP application, including third party review, abutter notification, and newspaper escrow amounts.
 - 7) Waiver request in writing, if applicable.
- (ii) All of the following must be demonstrated to the Planning Board in order to secure a CUP for a Dwelling Unit Conversion. If all are met in the opinion of the Planning Board the CUP shall be issued for a complete application; failure to demonstrate compliance with one or more criteria shall result the permit being denied:
- 1) Compliance with the parking requirements as required by the Chichester Zoning Ordinance.
 - 2) Adequate septic or sanitary sewer service.
 - 3) Adequate well or public water service.
 - 4) Access to a Class V highway.
 - 5) Letter from the Building Inspector indicating that the building will be able to comply with current Life Safety Code requirements.

Adopted 3-12-1988, Amended 3-14-2000, 3-10-2023

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

- (a) 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.
- (b) No lot may have more than one driveway accessing the site from a Town-maintained road. Lots of record with multiple driveways to a Town-maintained road in existence prior to March 14, 2022, may continue to do so provided that the driveway is not abandoned for a period more than one (1) year. This Section does not apply to lots fronting on state roads, streets or highways.

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

Section 3.12 Growth Management Ordinance:

Adopted 3-14-2000 Amended 3-15-2003, 3-13-2004 Repealed 03-10-2015

Section 3.13 Impact Fees:

Adopted 3-14-2000

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:
 - 1) Scenic roads
 - 2) View corridors
 - 3) View sheds
 - 4) Historic Districts
 - 5) 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:
 - 1) Construction completion and eventual removal of structures
 - 2) Security requirements
 - 3) Accident or damage.
 - 4) 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:
 - 1) Topography and other site features.
 - 2) Availability of alternative site locations

- 3) Geographic location of property
- 4) 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, 03-09-2010, 3-12-2019

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 Wetlands District shall be those areas delineated on a property as wetlands by a New Hampshire certified wetland scientist.

(ii) 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 and shall be delineated by a New Hampshire certified wetlands scientist. Plans shall be stamped and signed by said wetland scientist, and, should no wetlands be present on the site, a letter of documentation shall be submitted to the Planning Board and signed and stamped by a New Hampshire certified wetlands scientist.

(iii) All wetland delineation fees shall be paid for by the applicant.

(iv) 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, 3-12-2024

Section 3.17 Floodplain Development Ordinance:

- (a) Authority: The ordinance adopted pursuant to 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 (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) Base Flood Elevation (BFE): the elevation of surface water resulting from the "base flood."

 - (iv) Basement: Means any area of building having its floor subgrade on all sides.

 - (v) Building: See "structure"

 - (vi) 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.

 - (vii) FEMA: Means the Federal Emergency Management Agency.

 - (viii) 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.

- (ix) Flood Insurance 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.
- (x) 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.
- (xi) Flood Opening: Means an opening in a foundation or enclosure wall that allows automatic entry and exit of floodwaters. See FEMA “Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures.”
- (xii) Floodplain or Flood-prone Area: Means any land area susceptible to being inundated by water from any source (see definition of “Flooding”).
- (xiii) 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.
- (xiv) Floodway: See “Regulatory Floodway”
- (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, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- (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) **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.

- (xxiii) Regulatory floodway: Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- (xxiv) Special flood hazard area: See “Area of Special Flood Hazard”
- (xxv) 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.
- (xxvi) 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.
- (xxvii) 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.
- (xxviii) Substantial Improvement: Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
or

Any alteration of a “historic structure,” provided that the alteration will not preclude the structure's continued designation as a “historic structure.”

- (xxix) 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.
- (xxx) Water Surface Elevation: Means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.
- (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 mean sea level) 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 mean sea level) 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 base 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 base 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). Where a base flood elevation is not available or not known for Zone A, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.
 - (ii) The Building Inspector's base 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 base 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 base flood elevation; or together with attendant utility and sanitary facilities shall:
 - a) Be flood proofed so that below the base 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, on wheels or jacking system, attached to the site only by a quick disconnect type utilities and security devices, and have no permanently attached additions; or
 - c) Meet all standards of this ordinance and the elevation and anchoring requirements for “manufactured homes” in this ordinance.
 - 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 flood 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, 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, Amended 03-11-2014, Amended 3-8-2016, Amended 3-17-2018

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 fasciae of the canopy shall not be illuminated.

(iv) Lighted Advertising Signs:

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.
- (v) The illumination of Flags (Except ones that serve as commercial advertising).

Adopted 3-14-2006, Ratified 03-08-11, 3-12-2019

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. The Planning Board is authorized by this Article to issue a Conditional Use Permit to ensure compliance with the provisions of this Article. All Open Space Conservation Developments shall require the issuance of a Conditional Use Permit from the Planning Board in order to be permissible.

- (i) Conditional Use Permit: 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.

(ii) Waivers: The purpose of granting waivers from the provisions of this Article 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. Requested waivers must be done so in writing.

(c) Definitions: refer to the DEFINITION Section of this Ordinance.

(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.

Amended 3-11-2008, 3-12-2019

(e) Specific Requirements:

- (i) Parent Tract Minimum Lot Size: Open space conservation developments shall meet the following requirements for the minimum lot size of parent tracts: .
 - 1) Lots in zoning districts that are subject to a minimum lot size of five (5) acres or greater shall have a parent tract size of twenty (20) contiguous acres and two hundred (200) feet of frontage.
 - 2) Lots in zoning districts that are subject to a minimum lot size between two (2) acres and five (5) acres shall have a parent tract size of fifteen (15) contiguous acres and one hundred and fifty (150) feet of frontage.
 - 3) Lots in zoning districts that are subject to a minimum lot size of less than two (2) acres shall have a parent tract of ten (10) contiguous acres and one hundred (100) feet of frontage.
- (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. Condominium land units are also permitted.

(iii) Density: The number of lots permitted in an Open-Space Conservation Development shall be determined in the following manner:

- 1) Yield Plan: A “Yield Plan” shall be developed to identify the approximate number of dwelling units that could be created as a conventional subdivision. Yield Plans shall be developed in the following manner:
 - 1) Step One: Deduct the acreage of delineated wetlands, wetland buffers, land in the 100-year flood zone, and all steep slopes of fifteen (15) degrees or greater from the total acreage of the parent tract.
 - 2) Step Two: After completing Step One above, divide the remaining acreage (i.e. land that does not include wetlands, 100-year flood plain, and steep slopes 15% or greater) by the minimum lot size of the zoning district in which the parent tract is located. The resulting number of units shall be the “Yield Plan.”
- 2) Density Incentives: The Planning Board may award the development a density bonus that increases the maximum number of dwelling units beyond the number of units identified in the Yield Plan. Bonuses may be awarded from any combination of the following criteria, but in no case shall the bonus result in more than a 25% increase in dwelling units. The number of units generated by the Yield Plan process shall serve as the starting point for determine the overall number of units permitted on the site using the methods described below. All fractional numbers of 0.5 or greater shall be rounded up to the nearest whole number; those fractional numbers less than 0.5 shall be rounded down to the nearest whole number.
 - 1) Additional Open Space Bonus: 10% where the proposed development shows 60% or more of the tract as open space protected as such in perpetuity, OR 20% where the proposed development shows 70% or more of the tract as open space protected as such in perpetuity.
 - 2) Trail Bonus: 5%, where there is a linking of existing/proposed trails or open space networks with trail corridors through the site, and the general public is granted access to these trails in perpetuity. The minimum nature of public access required to trigger this bonus is pedestrian traffic. The instrument granting access, acceptable to the planning board, shall restrict the use of motorized vehicles where appropriate.
 - 3) Agricultural Land and Use Bonus: 10% where the development protects agriculturally valuable lands and provides permission for their use as such in perpetuity. If the portion preserved for agricultural use is equal to 25% or more of the tract, then the full bonus may be awarded, with a smaller bonus awarded for smaller percentages, but also taking into consideration the importance of the land for preserving the rural character of the Town. The instrument granting use, acceptable to the Planning Board, may reasonably restrict the type of intensity of farming to occur to prevent nuisances. This provision only requires that permission is available; the fact that agricultural uses are not pursued at any particular time does not affect the validity of the bonus;

however, at a minimum, fields should not be allowed to become overgrown, but kept open by mowing.

- 4) Forest Management Bonus: 15%, on sites where the open space to be preserved is mostly mature forest (70% or greater), where 30% or less of the basal area will be cut, and where the cutting is well distributed and will be based on a management plan developed by an NH Licensed Forester and approved by the Planning Board.
 - 5) View Shed and Viewpoint Bonus: 5%, if the development protects in perpetuity view sheds and associated viewpoints, which are lands or corridors of land that contribute to the visual landscape of the Town, including items such as open fields containing stone walls and forested hillsides. View sheds and viewpoints identified in the Master Plan and the Town's Natural Resource Inventory will be given priority consideration. For the purposes of this Section, a "view shed" is a visually sensitive area that is visible from a defined observation point. Their significance shall be determined by the Planning Board on a case-by-case basis.
 - 6) Historic Features Bonus: 5%, if the development protects in perpetuity historically significant buildings and landscapes, identified as such in the Master Plan that include buildings and associated uses that are maintained and visually separated from the developed portion of the development. Structures or landscapes not identified as such through the Master Plan may be determined by sufficient evidence presented to the Planning Board during review of the development. Such evidence may include comment from the Heritage Commission or Historical Society, listing or eligibility for listing on the National Register of Historic Landmarks, or other qualified statements of historic value.
- (iv) Homestead Lot Size and Configuration: 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 (.5) acre. All homestead lots shall also contain one-half (.5) acres of Buildable Land.
 - (v) Frontage: Residential lots shall have at least fifty (50) feet of roadway frontage on an internal roadway. No units shall have direct access to the existing public roadway outside of the parent tract.
 - (vi) Buffers: Open space conservation developments shall provide a buffer of at least one hundred (100) feet from all parent tract property lines. 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 twenty 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 by covenants, easements, and/or restrictions running with the land, which must be approved by the Planning Board and Town Counsel before conveyance to the landowner(s).
- (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, Amended 3-12-2019

(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. All common open space and facilities shall be permanently protected by covenants, easements, and/or restrictions running with the land, which must be approved by the Planning Board and Town Counsel before conveyance to the land owner(s).
- (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,
 - 1) A homeowners association, providing all the requirements in paragraphs (E) (XI) and (G) are met
 - 2) 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
 - 3) 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, 3-12-2019

(g) Homeowners Associations or Condominium Association:

- (i) Open space conservation developments that include any form of common ownership shall have either a homeowners association or condominium 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 or condominium 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:
 - 1) 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,
 - 2) 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 prorated 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

(e) The levels specified may be exceeded by 10 decibels for a single period, no longer than 15 minutes, in any one day.

(f) 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:

- (i) Noises created by construction and maintenance activities between 7 a.m. and 10 p.m.
- (ii) The noises of safety signals, warning devices and emergency pressure relief valves and any other emergency activity.
- (iii) Traffic noise on existing public roads.

Adopted 3-9-2010, Ratified 03-08-2011, Amended 3-16-2017

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 any zone in conformity with this section.

(b) Authority: The Chichester Building Inspector shall issue a building permit for an Accessory Dwelling Unit so long as each of the requirements in Section C and Section D below are satisfied.

(c) Requirements:

- (i) Only one (1) Accessory Dwelling Unit shall be allowed per Principal Dwelling Unit.

- (ii) The Accessory Dwelling Unit shall be located within or attached to the existing Principal Dwelling Unit, or, within or attached to an Accessory Building and shall not alter the character or appearance of the structure.
 - (iii) The Accessory Dwelling Unit shall be located on a property which is owner occupied.
 - (iv) An Accessory Dwelling Unit located with a Principal Dwelling Unit shall contain a common interior doorway, however, such doorway shall not be required to be unlocked. Any additional entrances or exits as necessitated by the Accessory Dwelling Unit should be located to the side or rear of the building.
 - (v) The Accessory Dwelling Unit shall:
 - 1) Have a minimum living area of five-hundred (500) square feet and shall not exceed the lesser of;
 - 2) Have a maximum living area of the greater of seven-hundred-fifty (750) square feet or forty percent (40%) of the total living area of the Principal Dwelling Unit provided such maximum living area shall not exceed nine-hundred (900) square feet.
 - (vi) The Accessory Dwelling Unit shall have an independent address designation from the Principal Dwelling Unit.
 - (vii) Suitable septic disposal facilities shall be provided and conform with State regulations.
 - (viii) 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.
 - (ix) Adequate provisions must exist or be made for ingress and egress of the site.
 - (x) 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.
 - (xi) A permit for such development shall be applied for and be in conformance with the Chichester Building Code.
 - (xii) Either the Accessory Dwelling Unit or the principal residence must be owner-occupied.
- (d) 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 dwelling, or multi-family dwelling, townhouses, and housing as defined in RSA 674:31.
 - 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 3-12-2024

Section 3.22 Solar Ordinance & Solar Definitions:

A. Authority, Purpose and Goals: This article is enacted in accordance with RSA 674:17(I)(j), 674:62-66 and the purposes outlined in RSA 672:1-III-a as amended. The purpose of this ordinance is to accommodate solar energy collection systems and distributed generation resources in appropriate locations, while protecting the public's health, safety, and welfare. The Town of Chichester intends to facilitate the State and National goals of developing clean, safe, renewable energy resources in accordance with the enumerated policies of NH RSA 374-G and 362-F and RSA 477:49-51. This ordinance aims to promote the accommodation of distributed, on-site residential, and non-residential solar energy systems, while maintaining Chichester's scenic vistas and rural character.

This article establishes guidelines for the siting of solar collection systems and fulfills the following goals:

1. Preserve the authority of Chichester to regulate and to provide for reasonable opportunity for the siting of solar collection systems.
2. Allow Residential Solar and Roof Mount Solar collection systems as defined in this ordinance by right.
3. Reduce any adverse impact such solar collection systems may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, agriculturally significant locations, health, and safety by injurious accidents to person and property, and prosperity through protection of property values.
4. Provide for minimal impact siting options through an assessment of locational options, technology, potential glare, and buffering options. 5. Provide for the removal of abandoned facilities that are no longer in operation.

B. Principal or Secondary Use

An existing use or an existing structure on the lot shall not preclude the installation of a solar collection system on such lot. Solar collection systems may be located on leased parcels within lots. Solar collection systems that are constructed in accordance with the provision of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure. Nor shall such facilities be deemed to be an accessory use.

C. Performance Requirements for Residential Solar Collection Systems

All residential solar collection systems are required to obtain a solar building permit.

Definitions:

Commercial Solar: A use of land that consists of one or more free-standing ground mounted solar collection systems that are greater than 5 acres in solar land coverage.

Ground Mount: A solar collection system and associated mounting hardware that is affixed to or placed upon the ground including, but not limited to fixed, passive or active tracking racking systems.

Small Scale Solar: Any solar photovoltaic system that produces up to 30 kilowatts (kw) per hour of energy and consists of one or more free-standing, ground or roof mounted solar arrays or modules, or solar related equipment, intended to primarily reduce on-site consumption of utility power which serves the building to which they are attached. -Solar energy collectors shall be permitted only to provide power for use by owners, lessees, tenants, resident, or other occupants of the premises on which they are erected, but nothing contained in the provision shall be construed to prohibit “collective solar” installations or the sale of excess power through a “net billing” or “net metering” arrangement in accordance with all applicable state and or federal laws.

Roof Mount: A solar collection system that is structurally mounted to the roof of a building or other permitted structure. For the purposes of calculating array sizes or solar land coverage under the solar definitions in this section, roof mounted portions shall not be included.

Solar Collection System (SCS): includes all equipment required to harvest solar energy to generate electricity or hot water. The Solar Collection System includes energy storage devices, power conditioning equipment, transfer equipment, and parts related to the function of those items. Solar Collection Systems include only equipment up to (but not including) the stage that connection is made to the utility grid or site service point.

Community Solar: a system on one property that provides electricity to a group of properties up to 100KW.

Large Commercial Solar: 5 to 25 acres producing energy for onsite usage and for distribution.

Municipal Solar: solar to provide Town facilities with power.

Solar Land Coverage: is defined exclusively for the purpose of calculating the footprint of the land area occupied by the components of a solar array. The Solar Land Coverage is the land area that encompasses all components of the solar collection system including but not limited to mounting equipment, panels and ancillary components of the system. This definition does not include access roads or fencing.

Nameplate Solar Panel Rating: equals the amount of solar the panels produce under industry standard test conditions.

Net metering/billing: The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer’s energy system that is fed back into the electric distribution system over a billing period.

Uses permitted by Right and Uses Permitted by Special Exception (SE):

Solar Collection Systems	Residential	Rural Agricultural	Commercial Rt.4	Commercial Rt.28	Town Center	Commercial Village
Roof Mount	Y	Y	Y	Y	Y	Y
Small Scale Solar	Y	Y	Y	Y	Y	SE
Commercial/Large Scale Solar	N	Y	N	Y	N	N
Community Solar	SE	SE	SE	SE	SE	N

The minimum front, side and rear setbacks shall be the same as building setbacks.

The total solar land coverage of the solar collection system shall not be considered in the calculation of the maximum lot coverage.

Ground mounted solar collection systems shall not rise more than 25 feet from the ground measured from the surface of the existing grade to the top of the collector at its highest point.

1. Setback and Height Requirements – Solar collection systems shall comply with the dimensional standards set forth in this ordinance.
2. Electrical Requirements –All systems not connected to the grid shall be inspected by a licensed Master Electrician at the applicant’s cost and approved by The Chichester Building Inspector.
3. Building Permit Requirements - All solar installations are required to obtain a solar building permit.

D. Performance Requirements for Community, Municipal and Commercial Solar Collection Systems

- 1. Setback and Height Requirements** – Solar collection systems shall comply with the dimensional standards set forth in this ordinance.
- 2. Electrical Requirements** – Grid-tied systems shall file a copy of a final approved utility interconnection agreement with the town of Chichester prior to operation of the system. All systems not connected to the grid shall be inspected by a licensed Master Electrician at the applicant’s cost and approved by the chief of the Franconia Fire Department.
- 3. Building Permit Requirements** - all community, municipal and commercial solar collection systems are required to obtain a solar building permit.
- 4. Utilities** – Unless specifically waived by the Zoning Board, all electrical lines associated with the system will be underground or mounted on standard wood utility poles with a maximum height of 35 feet.

5. Storm water

- a. Ground mounted systems that are required to secure a New Hampshire Department of Environmental Services Alteration of Terrain (AoT) Permit in accordance with NH RSA 485-A:17 shall

secure such permit accordingly.

i. The final Permit issued by NH DES shall be incorporated by reference into the final Town approval and shall be enforceable by the Town in accordance with this Zoning Ordinance.

ii. No further local review of storm water and erosion control shall be required where a project is required to secure the NHDES AoT Permit.

b. Where ground mounted systems do not require a NHDES AoT Permit, the following shall apply:

i. Ground mounted systems that require land clearing and grubbing of mature forested cover to accommodate more than 30% of the solar land coverage area, provided such area of clearing and grubbing is also larger than 1 acre for the proposed system shall include a management plan for storm water that is directly related to the impact of the solar collection system.

ii. Ground mounted systems where the solar land coverage area is larger than 1 acre and located on slopes of greater than 5% shall include a management plan for storm water.

c. Requirements for all Commercial Systems

i. All ground mounted systems shall be constructed in accordance with Best Management Practices for erosion and sedimentation control during the preconstruction, construction, and post-construction restoration period.

ii. Post construction, for the purposes of enhancing natural storm water management, site conditions, and plantings post-construction shall ensure that areas of soil compaction has been restored to more natural conditions. Plantings shall be native species and are recommended to be beneficial habitat for songbirds, pollinators and/or foraging species in order to maintain a healthy surface and subsurface habitat that can attenuate storm water.

6. Glare – Potential significant glare onto abutting structures and roadways, estimating the interaction of sun to panel angle, the time of year, and visibility locations shall be reviewed. Reasonable mitigation, including but not limited to, angle of panels, antireflective coatings, and additional specific screening may be required.

7. Lighting – On site lighting shall be minimal and limited to access and safety requirements only. All lighting shall be downcast and shielded from abutting properties.

8. Buffer – As deemed appropriate, buffering shall be incorporated into the local landscape so that effective screening is provided along public ways and from abutting views. The use of existing or created topography is encouraged to reduce visual impacts.

9. Fencing – If required by the local authority, commercial solar collection facilities shall be surrounded by a fence setback from property lines in conformance with the district regulations for front, side, and rear yards.

10. Emergency Response – Access to and information regarding the site shall be provided to local emergency response organizations.

Applicant shall conduct a site orientation tour upon request of local emergency response organization(s) at a mutually-agreed time.

11. Site Plan Review – All Commercial Solar Collection Systems shall be subject to Site Plan Review by the Planning Board.

12. Abandonment and Decommissioning – Solar Collection Systems shall be deemed to be abandoned if operations have discontinued for more than 6 months without written consent of the municipality. An abandoned system shall be removed and the site restored within six (6) months of abandonment. A bond may be required to pay for the cost of removal.

Special Exceptions Conditions Applicable to Commercial Solar Collection System

a. Factors considered in review

- i. Potential glare impact on abutting structures or roadways
- ii. Height of the proposed Commercial Solar Collection System
- iii. Ingress and egress to the site
- iv. Surrounding topography
- v. Suitability of perimeter fencing

b. Additional criteria for granting a Special Exception.

- i. The use will not materially endanger the public health or safety.
- ii. Required modifications at or beyond the utility interconnection point.
- iii. Required screening shall be maintained during the operative lifetime of the Solar Collection System Special Exception.
- iv. In granting a Special Exception pursuant to this section, the Zoning Board of Adjustment may impose any reasonable conditions or restrictions deemed necessary to carry out the intended purpose of this ordinance.

c. Information Required – Each applicant for a Special Exception shall submit a plan prepared in accordance with the Town of Chichester Site Plan Review Regulations and further information including a system layout, rated nameplate capacity, solar land coverage, equipment specifications, electrical requirements, glare analysis, setbacks, lighting, visual buffering, storm water management plan, if applicable, and a decommissioning plan.

Appeals-

Any aggrieved party to any energy system permit application may seek relief from the Chichester Zoning Board of Adjustment as applicable per RSA 674:66 as amended.

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, 3-12-2019, 3-10-2023

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 use and which is located on the same lot.

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

ACCESSORY OFFICE: Means an office or business use that is an incidental accessory in support of a principal use.

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

ACCESSORY USE TO A NON-RESIDENTIAL USE: Means an incidental accessory use to a principal non-residential use.

ADAPTIVE REUSE: Means the reuse of an existing structure for a new use, including the whole or just a portion of the structure.

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).

BUILDABLE LAND: Means a contiguous piece of land that is completely free of delineated wetlands and wetland buffers as prescribed by this Ordinance, steep slopes of fifteen degrees (15%) or greater, and areas located within the one-hundred (100) year flood plain. For example, a buildable acre would

be one acre (43,560 square feet) of contiguous land; one half of a buildable acre would be 21,780 square feet of buildable land.

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

COMMON AREA: Means land owned by all individual homeowners within the development, as tenants-in-common.

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

COMMERCIAL USE: Any use involving in part or in whole the sale of merchandise, materials or services; 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.

DEEDED ACCESS: An accessway providing a direct connection between a lot and a Class V road or a road maintained by the State of New Hampshire that is granted and protected by a deed, in perpetuity. Though a DEEDED ACCESS may be part or, and counted toward FRONTAGE as defined in this Ordinance, a DEEDED ACCESS in and of itself does not constitute FRONTAGE.

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. “Studio” apartments are also defined as a DWELLING UNIT by this definition.

ELDERLY HOUSING: Means dwelling units that are owned and occupied solely by persons at least fifty-five years of age.

FRONTAGE: The total length of all portions of the lot bordering on a specific State or Town maintained highway. A lot may hold FRONTAGE on one or more public highways though FRONTAGE cannot be counted on more than one street to meet the minimum requirements as prescribed in the zoning ordinance.

FRONT SETBACK: A space extending for the full width of a lot between FRONTAGE lot line and the building.

HOMEOWNERS ASSOCIATION: Means an organization of property or unit owners duly incorporated under New Hampshire law for the purpose of managing and maintaining common areas.

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

HOMESTEAD LOT: Means those lots or areas within the Subdivision where individual homes will be sited and situated.

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.

LARGER USE (TOWN CENTER ZONING DISTRICT ONLY): Means a use allowed in the District as a permitted use similar to, and larger than existing legally permitted.

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 building (or group of buildings) containing living or sleeping accommodations used only for transient occupancy. Not to be confused with apartments or condominiums which are for long term or permanent residence.

MANUFACTURED HOUSING: In accordance with RSA 674:31, means any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include presite built housing as defined in RSA 674:31-a.

MOBILE HOME: In accordance with RSA 21:46, MOBILE HOME shall mean MANUFACTURED HOUSING as defined by RSA 674:31. See MANUFACTURED HOUSING above.

MULTI-FAMILY: A building containing three or more PRINCIPAL 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.

OPEN SPACE: Means land in an open-space conservation development that is permanently preserved from future development.

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.

PARENT TRACT: Means the entirety of the original parcel(s) upon which the subdivision is to be situated.

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

PERIMETER BUFFER STRIPS: The required buffers around the boundaries of the property.

PERSONAL OR SERVICE ESTABLISHMENT: An establishment, not to exceed 3,000 square feet, that primarily provides services as opposed to goods. Such an establishment includes, but may not be limited to: barber shop, hair dressers, beauty shops, etc. Incidental retail sales of products related to the services provided is permitted; for example, a hair salon selling shampoo or hair dye.

PRINCIPAL DWELLING UNIT: An 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.

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.

SIGN: Any words, lettering, figures, numerals, emblems, devices, trademarks, or trade names, or any combination thereof, by which anything is made known, and which is designed to attract attention or convey a message.

SIGN, TEMPORARY: A sign not intended or designed for permanent display.

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

SIMILAR USES (TOWN CENTER ZONING DISTRICT ONLY): Means a permitted use similar to a legal use already taking place, provided that the use is no larger than, and conforms to, the standards of the existing legally permitted use.

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.