

# Easton Zoning Ordinance

## Town of Easton, New Hampshire

Adopted March 10, 1970

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## **ARTICLE 1: TITLE**

This ordinance shall be known and cited as the "Easton Zoning Ordinance," hereinafter referred to as "this Ordinance." (3/8/22)

## **ARTICLE 2: AUTHORITY AND PURPOSE**

As authorized by RSA 672:1 Declaration of Purpose, RSA 674:16 Grant of Power, RSA 674:17 Purposes of Zoning Ordinances, and RSA 674:21 Innovative Land Use Controls, this Ordinance is designed to promote the health, safety and general welfare of the inhabitants of Easton, to protect the value of the property, to prevent the overcrowding of the land, to avoid undue concentration of population, to provide adequate air and light, to protect water quality, and to facilitate the adequate provisions of other public requirements. (3/14/17) (3/8/22) (3/14/23)

A combination of all or a number of factors, topographical, climatological, geological, historical and geographical, create an environment in the Town of Easton which is and can be of specific appeal to residential, agricultural, and conservation-based developments. This Ordinance, therefore, is particularly designed to protect, preserve, and encourage such developments.

## **ARTICLE 3: DEFINITIONS**

### **Section 301. General.**

Unless otherwise expressly stated, words shall, for the purpose of this Ordinance, have the meaning indicated in Section 302. Words used in the present tense include the future. The singular number includes the plural, and the plural the singular. The word "person" includes a partnership, corporation or other entity. The word "shall" is mandatory, not directory. (3/8/22)

### **Section 302. Specific**

#### **Accessory Dwelling Unit, Attached:**

A dwelling unit that is within or attached to a one-family dwelling or attached garage, and provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies, and has either the principal dwelling or the accessory dwelling unit occupied by the owner as their principal place of residence. (3/8/22)

#### **Accessory Dwelling Unit, Detached:**

A dwelling unit that is neither within nor attached to a one-family dwelling, and provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies, and has either the principal dwelling or the accessory dwelling unit occupied by the owner as their principal place of residence. (3/8/22)

Accessory Solar Energy System:

A Solar Energy System accessory to the principal use of the lot, designed primarily to supply energy for onsite use; excess energy may flow back to the grid for credits or for sale under net metering or other similar program under state law allowing for the disposition of excess energy. (3/14/23)

Accessory Structure:

A detached building or other structure subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building, such as a garage, storage shed, or renewable energy structure for on-site use. Does not include a Solar Energy System over 20kW. (3/8/22) (3/14/23)

Accessory Use:

A use subordinate to and incidental to the principal use of land and building. Includes offering one or two guest rooms in an owner-occupied dwelling unit for compensation for nontransient use by up to three lodgers. (3/8/22)

Adjacent:

Bordering, contiguous, or neighboring. The term includes wetlands that directly connect to other waters of the United States, or that are in reasonable proximity to these waters, but physically separated from them by man-made dikes or barriers, natural river berms, beach dunes, and similar obstructions. (03/08/11)

Antenna:

Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications, through the sending and/or receiving of electromagnetic waves of any bandwidth. (3/9/99)

Aquifer:

A geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water. (03/08/11)

Area of Special Flood Hazard:

The land in the floodplain within the Town of Easton subject to a 1 percent or greater chance of flooding in any given year. The area is designated as Zone A on the Flood Insurance Rate Map. (3/9/2010)

Base Flood:

The flood having a one-percent possibility of being equaled or exceeded in any given year. (3/9/2010)

Bog:

A wetland distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage, and/or highly acidic soil or water conditions. (03/08/11)

Buffer:

The protected upland areas adjacent to wetlands and surface waters . (03/08/11)  
(3/8/22)

Building:

Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry, other public or private purposes, or accessory thereto. (3/8/22)

Building-Mounted Solar Energy System:

A Solar Energy System attached to any part or type of roof on a building or structure that is either the principal structure or an accessory structure on the lot.(3/14/23)

Certified Wetland Scientist:

A person qualified to delineate wetland boundaries and prepare wetland maps who is certified by the State of New Hampshire Board of Natural Scientists, as defined by RSA 310-A:76, II-a. (03/08/11)

Community-Shared Solar Energy System:

A Solar Energy System designed to supply energy directly to more than one lot primarily for on-site use. (3/14/23)

Conditional Use:

A use allowed upon the granting of a Conditional Use Permit by the Planning Board pursuant to RSA 674:21,II in accord with the procedures described in RSA 676:4. (03/09/21)

Development:

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. (3/9/2010)

Driveway:

Provides access from a street to buildings, parking areas and other sites on a lot or two adjoining lots. (3/8/22)

Dwelling:

A structure designed for residential occupancy. (3/8/22)

Dwelling Unit:

A building or part of a building which contains living, cooking and sleeping accommodations for permanent occupancy for one or more individuals living as a single housekeeping unit. (3/8/22)

Flood Insurance Rate Map (FIRM):

An official map of a community, on which the Administrator has delineated both the

special hazard areas and the risk premium zones applicable to the community.  
(3/9/2010)

Flood Insurance Study (FIS):

An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.  
(3/9/2010)

Freestanding Solar Energy System:

A ground- or pole-mounted Solar Energy System, including single and dual axis tracking systems. (3/14/23)

Front Yard:

The distance between the front lot line and the nearest portion of a building or other structure. The depth of the front yard shall be measured from the street or approved private road right-of-way line to the building or other structure; where the width of the right-of-way is not or cannot be established, the right-of-way line shall be considered to be 25 feet from the center of the street. (3/12/91) (3/8/22)

Frontage:

The length of the lot line bordering a street right-of-way, and ordinarily regarded as the front of the lot. (3/8/22)

Gasoline Station:

That portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of gasoline. (03/08/11)

Groundwater:

Subsurface water that occurs beneath the water table in soils and geologic formations.  
(03/08/11)

Height:

The vertical distance between the average finished grade of the structure and the highest point of the roof of the structure. (3/8/22)

Historic Structure: (3/8/22)

Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a

district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

i. by an approved state program as determined by the Secretary of the Interior, or

ii. directly by the Secretary of the Interior in states without approved programs.

Home Occupation:

An accessory use of a dwelling unit or accessory structure on a residential lot that involves the on-site manufacture of goods or provision of services, and limited sales of goods produced on site. Includes offering one or two guest rooms in an owner-occupied dwelling unit to transient lodgers for compensation. (3/8/22)

Hydric Soils:

Soils that are saturated or flooded during a sufficient portion of the growing season to develop anaerobic conditions in the upper soil layers. (03/08/11)

Impervious:

Not readily permitting the infiltration of water. (03/08/11)

Impervious Surface:

A surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Earthen; wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored in them are not considered impervious surfaces. (03/08/11)

Junkyard:

An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard. The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126. (03/08/11)

kW:

Kilowatts. All kilowatt measurements are in DC output. (3/14/23)

Lot:

A single unit or parcel of land in the same ownership throughout, with defined, fixed

boundaries, represented and identified by a recorded plat or deed and undivided by a street. (3/8/22)

Manufactured Housing or Manufactured Home:

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 herein. This includes manufactured homes located in a manufactured home park or subdivision. Manufactured housing shall not include presite built housing as defined in State Law RSA 674:31-a and, except for floodplain management purposes, also shall not include "recreational travel vehicles." For floodplain management purposes only the term "manufactured home" includes park trailers, travel trailers, or other similar vehicles placed on site for greater than 180 consecutive days. (3/10/86)(3/8/22)

Manufactured Home Park or Subdivision:

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (3/8/22)

Nonconforming:

Describes a use, structure or lot which lawfully existed at the time this Ordinance or any amendment hereto becomes effective, but which no longer conforms to the regulations for the zoning district following adoption of the Ordinance or amendment. (3/8/22)

One Hundred-Year Flood:

See "Base Flood." (3/9/2010)

Outdoor storage:

Storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface. (03/08/11)

Petroleum Bulk Plant or Terminal:

That portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container. (03/08/11)

Positive limiting barrier (PLB):

A depression (e.g., groove) in the surface of an otherwise level impervious area designed to impede the flow and contain spilled substances within the perimeter of the impervious area. PLBs are typically constructed and maintained to contain small spills or releases (five to 15 gallons). (03/08/11)



Public utility or public service installation:

Public facilities necessary for the provision of electricity, telephone or other services to Easton properties. Does not include Accessory or Community-Shared Solar Energy Systems. (3/8/22) (3/14/23)

Public water system:

A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. (03/08/11)

Rear Yard:

The distance between the nearest portion of a building or other structure on a lot and the rear property line of the lot. (3/8/22)

Recreational Vehicle or Recreational Travel Vehicle:

A vehicle equipped with either sleeping, kitchen and/or bathroom facilities; built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. (3/10/86)(3/8/22)

Regulated Substance:

Petroleum, petroleum products, and substances listed under 40 CFR 302, 7-1-05 edition, excluding the following substances: (1) ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure. (03/08/11)

Regulatory Floodway:

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. (3/9/2010)

Sanitary Protective Radius:

The area around a public water supply well which must be maintained in its natural state as required by NH Code of Administrative Rules Env-Dw 301 or 302 (for community water systems); Env-Dw 373.12 and Env-Dw 372.14 (for other public water systems). (03/08/11)

Seasonal High Water Table:

The depth from the mineral soil surface to the uppermost soil horizon that contains 2% or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a hydrogeologist, soils scientist, wetlands scientist, engineer or other qualified professional licensed in N.H and approved by the Planning Board. (03/08/11)(3/8/22)

Secondary Containment:

A structure such as a berm or dike with an impervious surface which is adequate to hold at least 110 percent of the volume of the largest regulated-substances container that will be stored there. (03/08/11)

Setback:

The required minimum distance between the front, side and rear lot lines and the closest point of a building or structure. (3/12/91)(3/8/22)

Short Term Rental:

A one-family dwelling or accessory dwelling unit offered for transient use for compensation. (3/8/22)

Side Yard:

The distance between the nearest portion of a building or other structure on a lot and a side property line of the lot. (3/8/22)

Sign:

A structure which advertises or which is used as an outdoor display for the advertising of a property, establishment, enterprise or other matter.

Snow Dump:

For the purposes of this Ordinance, a location where snow, which is cleared from roadways and/or motor vehicle parking areas, is placed for disposal. (03/08/11)

Solar Access:

Unobstructed access to the solar resource on a lot or building for the purpose of capturing direct sunlight to operate a Solar Energy System. (3/14/23)

Solar Collector:

A device, structure or a part of a device or structure for which the primary purpose is to transform solar energy into thermal, mechanical, chemical or electrical energy. (3/14/23)

Solar Energy:

Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector. (3/14/23)

Solar Energy System:

A device or set of devices or structural design feature, a substantial purpose of which is to provide for the collection, storage and distribution of sunlight for space heating or cooling, generation of electricity, water heating or other generally recognized solar collection purposes. (3/14/23)

Solar Skyspace:

Pursuant to RSA 477:49, III, as amended, the space between a solar energy collector and the sun which must remain unobstructed to permit sufficient solar energy to the collector for thermally efficient operation. (3/14/23)

Special Flood Hazard Area:

See "Area of Special Flood Hazard." (3/9/2010)

Stratified-drift Aquifer:

A geologic formation of predominantly well-sorted, sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells. (03/08/11)

Street:

When used in reference to lot frontage or access to a lot, "street," "road," or "highway" shall mean only an existing Class V or better public right-of-way, or a private road right-of-way approved by the Easton Planning Board, which provides the principal means of access to abutting property, and is shown on a plat approved by the Planning Board, recorded with the Grafton County Registry of Deeds, and constructed to town specifications as contained in the Easton Subdivision Regulations. (3/8/22)

Street Line:

The line dividing the street and a lot. Where the width of a street is not established or cannot be determined, the street line shall be considered to be 25 feet from the center of the street.

Structure:

Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Includes, but is not limited to, buildings, manufactured homes, decks, stairways and landings, billboards, outdoor wood boilers (also known as outdoor wood-fired hydronic heater) as defined in RSA 125-R, small wind energy systems, or solar panels. Shall not include signs, fences, mailboxes, light fixtures, raised garden beds, walkways, portable play equipment such as inflatable swimming pools, or the like. When used in regard to Section 904 Flood Hazard Zone, "structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. (3/9/2010)(3/8/22)

Substantial Damage:

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (3/9/2010)

Substantial Improvement:

Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:

- a. the appraised value prior to the start of the initial repair or improvement, or,
- b. in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the

structure. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure," provide that the alteration will not preclude the structure's continued designation as a "historic structure." (3/9/2010)

Surface Water:

Perennial and seasonal streams, lakes, and ponds including marshes, watercourses and other bodies of water, natural or artificial. (03/08/11)

Surface Waters of the State:

Pursuant to RSA 485-A:2,XIV, perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, watercourses, and other bodies of water, natural or artificial. (03/08/11)

Telecommunications Facility:

Any structure intended for use in connection with the transmission or reception of radio, television, telephone, or internet signals or other electromagnetic transmission/reception. Includes the Personal Wireless Service Facility (PWSF) as well as the tower and mount and all accessory structures and improvements such as roads, parking areas, fencing, stormwater management and equipment buildings.

Tourist Home:

A one-family dwelling that is owner-occupied or has a live-in manager where rent is paid for three to five guest rooms, with no provision for cooking or warming food in guest rooms. May offer meals, exclusively for lodgers. (3/8/22)

Transient:

A room, number of rooms, or dwelling unit that is offered for rent in increments of less than 30 days. (3/8/22)

Vernal Pool:

A body of water, typically seasonal, that provides essential breeding habitat for certain amphibians and invertebrates, does not support viable fish population, and meets the criteria established by the New Hampshire Fish and Game Department, Nongame and Endangered Wildlife Program, *Identification and Documentation of Vernal Pools in New Hampshire*, latest edition. (03/08/11)(3/8/22)

Violation:

When used in reference to the Flood Hazard Zone, violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.(3/9/2010)(3/8/22)

Wellhead Protection Area:

The surface and subsurface area surrounding a water, well or well field supplying a

community public water system, through which contaminants are reasonably likely to move toward and reach such water, well, or well field. (03/08/11)

Wetlands:

An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal conditions does

support, a prevalence of vegetation typically adapted for life in saturated soil conditions. (3/9/2010)

**ARTICLE 4: APPLICATION OF REGULATIONS**

Section 401.

No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations specified in this Ordinance for the zoning district(s) in which it is located.

Section 402.

A Zoning Permit shall be required prior to a) the construction or placement of any new structure or sign, b) the alteration, reconstruction, expansion, or moving of any structure, or c) any change of use of any building, structure or land, including the addition of a home occupation. A Zoning Permit Application shall be accompanied by all necessary state, federal and other local permits. In most cases a Building Permit will also be required, and prior to the construction of a private driveway entering a Town road, a Driveway Permit must be obtained. The Select Board or its appointed Building Officer shall issue permits which are in conformance with this and related ordinances. (3/8/88) (3/8/22)

Section 403.

The Planning Board is authorized to adopt Site Plan Review Regulations and to review and approve or disapprove site plans for the development or change or expansion of use of tracts for nonresidential uses and for multi-family dwelling units. (3/8/22)

**ARTICLE 5: PRESENT USES**

Section 501.

Every use lawfully being made of land, structures or buildings in the Town of Easton, on the effective date of this Ordinance or any amendments thereto may be continued. (3/8/22)

Section 502.

A nonconforming use may be expanded only upon approval of a Special Exception by the Zoning Board of Adjustment. The Board shall determine a.) the proposed change arises naturally (such as the application of new technology to the fundamental use) out of the nonconforming use, and does not constitute a new and different use; and, b.) the change or expansion will not increase the non-conformity of the lot, building or use with the requirements of this Ordinance; and, c.) the change or expansion will not have a materially different or adverse impact on surrounding properties. (3/8/22)

Section 503.

A nonconforming use permitted by Section 501 may be changed to another nonconforming use only upon the approval of a Special Exception by the Zoning Board of Adjustment, which shall first find that such use is no more objectionable in character than the old use. (3/8/22)

Section 504.

Any nonconforming use permitted by Section 501 that has been discontinued for a period of two years shall not thereafter be resumed.

Section 505.

A nonconforming use, permitted by Section 501, which has been damaged or destroyed by fire, accident, or other causes, may be repaired or reconstructed to its condition prior to such damage or destruction, provided such work is undertaken and completed within two (2) years after such damage or destruction. Application may be made to the Select Board for a one-year extension, which may be renewed. (3/8/22)

Section 506.

A nonconforming structure may be expanded provided the expansion conforms with all requirements of this Ordinance. (3/8/22)

Section 507.

A nonconforming lot may be built upon provided all setbacks are met and a permit is obtained for a NHDES-approved wastewater disposal system. (3/8/22)

**ARTICLE 6: FUTURE USES**

Section 601. RESIDENTIAL/AGRICULTURAL DISTRICT

The purpose of this District is to protect the public health, safety and general welfare by controlling and guiding the use of land in the area generally suitable for residential and agricultural use.

This District shall include all the land within the Town of Easton. Where the Residential/Agricultural District is overlaid by another zoning district, the more restrictive regulations shall apply.

Section 602.1 Permitted Uses

(a) Residential Uses Permitted.

- (1) One-family dwellings.
- (2) One-family dwelling with one attached accessory dwelling unit. (3/8/22)
- (3) Farm dwellings.
- (4) Single manufactured house on permanent foundation. (3/8/88)(3/8/22)
- (5) Accessory uses and structures, not to be used for human habitation except as provided for elsewhere in this Ordinance. (3/8/22)
- (6) Two-family dwellings, with at least 3 acres per dwelling unit required. (3/14/89) (3/8/22)
- (7) Workforce Housing per RSA 674:58-61. (3/8/11)
- (8) A single recreational travel vehicle may be stored without limitation on a residential lot once it has been improved with a dwelling, but no recreational travel vehicle shall be stored on a vacant lot or used as a dwelling except as provided in Section 806. (3/10/98)(3/8/22)
- (9) Home occupations as provided in Section 802.
- (10) Short Term Rental, no more than two occupants for each permitted bedroom plus 2, and must meet the requirements in Section 810. (3/8/22) (3/14/23)

(b) Other Uses Permitted.

- (1) Agriculture, which may include farming, dairying, pasturage, horticulture, and animal and poultry husbandry, including on-site sales of agricultural products produced on the site or other agricultural properties owned or leased by the same agricultural enterprise. (3/8/22)
- (2) Forest management activities and tree farming.
- (3) Parks, conservation areas, nature trails, and outdoor recreation areas containing no buildings.
- (4) Wildlife refuges.
- (5) Accessory or Community-Shared Solar Energy Systems up to and including 20 kW. (3/14/23)

Section 602.2 Special Exceptions:

The following additional uses may be permitted by the Zoning Board of Adjustment as a Special Exception under Section 1203:

- (1) Public utilities and public service installations. (3/8/22)

- (2) Public buildings and uses, such as but not limited to a house of worship, school, a community hall, fire station, library, or park or recreation. (3/14/89)(3/8/22)
- (3) Tourist homes not to exceed 5 guest rooms and ten lodgers. (3/14/89)(3/8/22)
- (4) Antique shops, gift shops.
- (5) Day-care services or preschool, not to exceed 10 children. (3/14/89)(3/8/22)
- (6) Assisted living home, not to exceed 5 bedrooms or studio units.(3/14/89)(3/8/22)
- (7) Small wind energy systems as defined in RSA 674:62.
- (8) Excavations pursuant to Section 807 and Section 1203. (3/12/13)
- (9) A single accessory dwelling unit in a detached accessory building that was either in existence in the current location and footprint on 10/1/21 or for at least 5 years prior to the time of application. (3/8/22)
- (10) Accessory or Community-Shared Solar Energy Systems over 20 kW. (3/14/23)

Section 602.3 Conditional Uses.

The following additional use may be permitted by the Planning Board as a Conditional Use:

- (1) Telecommunications Facilities pursuant to Article 10. A Telecommunications Facility may be allowed in addition to an existing Permitted Use or use allowed by Special Exception.

**ARTICLE 7: DENSITY AND DIMENSIONAL REQUIREMENTS**

Section 701. DENSITY AND LOT SIZE

(3/8/22)

- A. There shall be a maximum of one dwelling or a single one-family dwelling with one accessory dwelling unit per lot.
- B. Except as provided elsewhere in this Ordinance, each lot shall be a minimum of 3 acres containing at least one contiguous acre that is less than 15 percent slope with no wetlands or buffers to wetlands or other surface waters provided for elsewhere in this Ordinance.



Section 702. FRONTAGE AND SETBACKS

(3/8/22)

The following requirements shall apply to all lots except as may be provided for in Section 703. Lot Size Averaging Subdivisions.

1. Frontage. The minimum frontage shall be 250 feet.
2. Front Setback. Every building or other structure placed on a lot shall be at least 50 feet from the nearest edge of the right-of-way on any road.
3. Side and Rear Setbacks. Every building or other structure placed on a lot shall be at least 50 feet from the side and rear property lines.
4. No part of a yard or other open space or off-street parking space required to enable a building, structure or use to comply with this Ordinance shall be included as part of a yard, open space, or off-street parking space similarly required for any other building, structure or use. (3/14/00)

Section 703. LOT SIZE AVERAGING SUBDIVISIONS

The Planning Board may approve reduced lot sizes, frontage requirements, and/or setbacks in accordance with the following provisions:

1. PURPOSE

Lot size averaging permits flexibility in subdivision design to promote the most appropriate use of land and the protection of productive agricultural or forest land, scenic views, historic sites, shorelines, wetlands, hillsides, important habitat areas, and other resources of importance to the community, while minimizing the alteration of the natural topography of the land, in accordance with the goals and objectives of the master plan.

2. DENSITY

The total number of lots approved will be determined based on the number that would be otherwise approved under a conventional subdivision plan. The applicant may choose to either:

- a. Submit a concept plan showing lots, road rights-of-way, and storm water management areas, and any other areas which would not be incorporated in individual lots as necessary to meet the usual minimum standards for the district without the need for any lot area or lot dimension variances, and accounting for development limitations such as steep slopes, wetlands, septic suitability, available water supply, adequate driveway access to each lot, and compliance with the Town subdivision regulations, or
- b. After accounting for areas that must be subtracted from the acreage figure utilized to calculate the developable area pursuant to other sections of this Ordinance if any, subtract ten percent (10%) of the property to account for roads, drainage and other utilities prior to dividing by the minimum acreage required per unit for the district.

### 3. DIMENSIONS AND ARRANGEMENT OF LOTS

The minimum lot size, frontage and setbacks shall be determined by the Planning Board based on the character of the land and neighborhood, the adequacy of the soils to support on-site wastewater disposal and wells, safety of access, traffic and pedestrian circulation, impervious surface, and other issues relating to the future use and enjoyment of the property.

The factors considered by the Planning Board when evaluating the proposed arrangement of lots shall include, but not be limited to, the following:

- Arrangement of roads, storm water facilities, wastewater and other utilities in conformance with the natural features of the parcel, minimizing changes to the topography.
- Minimization of impervious cover.
- Protection of stream corridors and other important habitat areas.
- Protection of wetlands.
- Feasibility of continued or future agricultural use.
- Feasibility of continued or future forest management.
- Relationship to neighboring property, including conservation easements, or natural, cultural, recreational or scenic features.

In no case will lots smaller than one acre be permitted. The setbacks from abutting properties not part of the application shall not be reduced. Front setbacks may be reduced only when on an internal subdivision road approved by the Planning Board as part of the subdivision application. When frontage requirements are reduced, the Planning Board may require shared driveways.

### 4. PERMANENTLY PROTECTED AREA (3/8/22)

The lot size averaging plan will concentrate development away from the most important resource areas and from those areas of the property that are most environmentally sensitive as described in Section 703(l).

For each lot less than the minimum size normally required for the district, one or more lots larger than the minimum shall be provided in order to maintain an average lot size no smaller than the minimum lot size normally required for the district. Permanent protection from further development shall be provided for an area equal to or exceeding the sum of the areas by which individual lots are reduced below the minimum normally required for the district. Further subdivision or use for other than one dwelling or a one-family dwelling with an accessory dwelling unit, noncommercial outdoor recreation, conservation, agriculture, forestry or other principal use or building as otherwise permitted by this Ordinance, shall be prohibited. The protected land shall be shown on the final plat and the conservation restriction recorded with the Register of Deeds.  
(3/8/22)

## 5. MANAGEMENT OF PERMANENTLY PROTECTED AREA

Pursuant to RSA 674:21-a, Planning Board approval of a final lot size averaging subdivision plan shall result in the creation of a conservation restriction incorporating the conditions of approval, including the maximum number of lots and the location, size and permissible uses of the land area that is to remain undeveloped. If the undeveloped area is to be held in common, all covenants, deed restrictions, organizational provisions for a homeowner's association or equivalent, and any other agreements regarding the method of ownership, management or maintenance of the protected area shall be established prior to Planning Board approval of the subdivision plan. By mutual agreement of the Planning Board and subdivider, the conservation restriction may take the form of a conservation easement to the Town or private conservation group, or other instrument approved by the Planning Board. (03/08/2011)

### Section 704. HEIGHT

No structure shall exceed 35 feet in height from the average finished grade. This limit does not apply to cupolas, chimneys, accessory uses such as TV and radio antennas, flagpoles, roof-top satellite dishes, Telecommunications Facilities granted a Conditional Use Permit pursuant to Article 10, or small wind energy systems as defined in RSA 674:62. (3/8/88) (3/9/21) (3/8/22) (3/14/23) Freestanding Solar Energy Systems shall not exceed 20' in height measured from the existing grade to the top of the collector at its highest point. (3/14/23)

## **ARTICLE 8: GENERAL REGULATIONS**

### Section 801. ACCESSORY DWELLING UNITS (3/8/22)

1. No more than one accessory dwelling unit, whether attached or detached, will be allowed on each lot.
2. The maximum size of an accessory dwelling unit will be 1,200 sq. ft. When referring to a accessory dwelling unit in a detached accessory building, 1,200 sq. ft. shall refer to the area finished as living space for use as part of the dwelling unit.
3. An attached accessory dwelling unit must contain an interior door between the principal dwelling unit and the accessory dwelling unit.
4. The applicant for a permit to construct an accessory dwelling unit shall make adequate provisions for water supply and sewage disposal for the accessory dwelling unit in accordance with RSA 485-A:38, but separate systems shall not be required by the Town for the principal and accessory dwelling units. In order to comply with this paragraph and prior to constructing an accessory dwelling unit, an application for approval for a sewage disposal system shall be submitted to NHDES in accordance with RSA 485-A as applicable. The approved sewage disposal system shall be installed if the existing system has

not received construction approval and approval to operate under current rules or predecessor rules, or the system fails or otherwise needs to be repaired or replaced.

Section 802. HOME OCCUPATIONS

(3/8/22)

A home occupation must meet the standards listed below. The standards are intended to ensure compatibility with other permitted uses, and to make certain that the home occupation is secondary or incidental to the residential use of the property.

1. There shall be no exterior evidence of the conduct of a home occupation except as other standards allow. The principal character of residential use shall not be changed by the home occupation.
2. A home occupation shall be conducted only within the enclosed living area of the dwelling unit or within an accessory structure, limited in area by the following:
  - a. The home occupation to be located in a dwelling unit shall not occupy more than 25 percent of the total floor area of the dwelling unit.
  - b. The home occupation to be located within an accessory structure shall not occupy more than 50 percent of the combined total floor area of the dwelling unit and the accessory structure.
  - c. The area to be occupied by sales of goods produced on site shall not exceed 250 square feet of the total space allocated to the home occupation area in a dwelling unit or accessory structure.
  - d. Total floor area is defined as follows: the sum of the horizontal area of all floors of a building, measured from the exterior faces of the walls, and not including cellars, attics, porches, etc.
3. The home occupation shall be carried on by persons who live in the home full time. Two employees living off premise are permitted.
4. One unlighted sign, not to exceed six square feet, shall be allowed.
5. The home occupation shall not generate unreasonable effects from traffic, parking, noise, vibration, glare, fumes, odors, artificial lighting or electrical interference.
6. Adequate off-street parking must be provided.
7. No storage of materials, goods, supplies, or equipment related to the home occupation shall be visible from the abutting properties and roads.
8. A Zoning Permit must be obtained from the Select Board.
9. When offering guest rooms in an owner-occupied dwelling unit for compensation, a maximum of three lodgers may be allowed. No provision for cooking or warming food may be allowed in guest rooms. May offer meals exclusively for guests. (3/8/22)
10. A Zoning Permit must be obtained from the Select Board. (3/8/22)

Section 803. OFF-STREET PARKING

Adequate off-street parking and room for vehicles to maneuver without backing out into the street shall be provided for all uses. (3/8/22)

Section 804. SIGNS

(3/8/22)

1. No sign shall exceed six (6) square feet in size.
2. No signs, billboards, or exterior graphic display shall be permitted except in conjunction with the use and/or sale of the land upon which the sign is located.
3. Signs shall not project over public right-of-way.
4. Each commercial sign permitted in Town (except for home occupations) may be illuminated on each side with no more than one white light per side, with the intensity of the light not to exceed 750 lumens. The lights shall not flash and shall be positioned so as to direct the light away from roads and abutting residential structures.

Section 805. OUTDOOR LIGHTING

(3/13/01)(3/8/22)

1. Purpose

The purposes of the outdoor lighting regulations are to protect dark skies, to prevent light pollution by minimizing the spillover of light onto adjacent properties, and to protect the public safety by preventing glare from outdoor lighting sources.

2. Definitions

- a. Fixture: A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply; also called "luminaire."
- b. Glare: Lighting entering the eye directly from lamps or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.
- c. Lamp: The component of a luminaire that produces the actual light.
- d. Light trespass: The shining of light beyond the boundaries of the property on which it is located.

3. Regulations

All new and replacement outdoor nonexempt lighting shall conform to the following standards unless specifically addressed elsewhere in Section 804.

- a. Any fixture with a lamp or lamps rated at a total of more than 1800 lumens shall be fully-shielded so as to produce no light above a horizontal plane through the lowest direct-light-emitting part of the fixture.
- b. All fixtures must be installed in a manner to prevent light trespass and glare. If any spot or flood light is aimed, directed, or focused so as to cause light trespass or glare to be a nuisance for neighboring properties, or to create glare for persons operating motor vehicles on public ways, the light shall be redirected or its light output reduced or shielded as necessary to eliminate such conditions.
- c. Moving, fluttering, blinking, or flashing lights shall be prohibited.
- d. Outdoor lighting at places of business or public venues shall be turned off not later than one hour after closing, unless public safety concerns demand otherwise. Vacant parking lots shall not remain lighted unless public safety concerns demand otherwise. Security lighting shall make use of timers, dimmers, motion sensors and other adaptive controls to substantially dim or extinguish lighting outside of business hours. In addition, there shall be no light trespass to any other property or glare when viewed from a road.

#### 4. Exemptions

The following types of lighting are exempted from these requirements:

- a. Lighting installed, used or required by public authorities or emergency crews.
- b. Lighting required by the FAA or FCC.
- c. Security lighting controlled by sensors set to provide illumination for a maximum of 15 minutes.
- d. Lighting lawfully installed prior to the effective date of the adoption of this Ordinance.
- e. Lighting of American flags.
- f. Decorative holiday lighting for a temporary period, provided that the amount of holiday lighting at any one property does not create glare or light trespass.
- g. Lighting required for construction projects, related to road construction and repair, installation of utilities, and other public infrastructure.

#### 1. Temporary Outdoor Lighting

Temporary outdoor lighting which does not conform to Sections 805 C. or D. may be permitted by the Select Board or their designee after considering the following:

- a. The public and/or private benefits that will result from the temporary lighting;
- b. Any annoyance or safety problems that may result from the use of the temporary lighting; and,
- c. The duration of the temporary lighting.

The applicant shall submit a detailed description of the proposed temporary lighting to the Select Board or their designee, who shall render a decision on the temporary lighting request within two weeks.

Section 806. TEMPORARY STRUCTURES

(3/8/22)

Once a Building Permit has been issued, on-site temporary structures, recreational vehicles or trailers used in conjunction with construction work are permitted only during the period that construction work is in progress . Documentation of disposal of waste in compliance with NHDES regulations must be provided to the Select Board or their designee upon request.

Section 807. EXCAVATIONS

(3/13/01)

In addition to the requirements of RSA Chapter 155-E, the following additional provisions shall apply to the removal of fill, gravel, stone or loam for commercial purposes

1. Upon a predetermined date of completion and within one month of completion the area is made safe and sightly by grading, leaving no slope greater than two to one, nor any possibility of standing water and/or where found more desirable by the Building Inspector, through fencing in the area of excavation, and providing with suitable ground cover to prevent erosion.
2. A bond is posted with the Treasurer of the Town of Easton by the applicant in an amount approved by the Building Inspector as sufficient to guarantee conformity with the provisions of paragraph 1 of this section.

Section 808. DRIVEWAYS

(3/8/22)

1. Driveway grades shall not exceed 15% and shall have an average grade that does not exceed 12%. Where necessary, limited steeper grades are acceptable if they serve to better minimize overall erosion potential and environmental impacts, provided adequate access is ensured.
2. All private driveways less than 18 feet wide and exceeding a length of 1500 feet must have a turnout(s) capable of supporting a fire truck or other emergency vehicle in order to allow another emergency vehicle to pass. Minimum dimensions of the turnout shall be at least 12 feet wide and 40 feet long. There

must be at least one turnout for every 1500 feet of driveway. Turnout(s) should be approximately equally placed. (03/12/2019)

Section 809. SOLAR ENERGY SYSTEMS  
(3/14/23)

A. Purpose

The purpose of this section is:

1. To accommodate personal use of Solar Energy Systems in appropriate locations, while protecting the public's health, safety and welfare.
2. To provide for the safe, efficient use of Solar Energy Systems installed to reduce the on-site consumption of fossil fuels or utility-supplied electric energy.
3. To allow for the use of Solar Energy Systems in the community while maintaining Easton's scenic vistas and protecting property values.

B. General Provisions

All Solar Energy Systems shall comply with the following standards:

1. All Solar Energy Systems shall comply with all current Federal, State and local building ordinances and regulations, and all New Hampshire electrical, plumbing and fire codes, as applicable.
2. All Solar Energy Systems shall require a building/zoning permit.
3. A Community-Shared Solar Energy System may be the principal use of the lot or may be on the same lot as one of the principal structures/uses utilizing the energy.
4. Building Mounted Solar Energy Systems:
  - a. Shall not exceed the maximum height allowed in this Zoning Ordinance.
  - b. Shall not increase the height of the existing structure by more than 5'.
  - c. The panels shall not extend beyond the exterior perimeter of the building.
5. Freestanding Solar Energy Systems shall be screened from the public right-of-way as practical while still allowing the system to be mounted for solar skyspace and solar access. Such screening may be accomplished by adding or using present vegetation to blend the system into the surrounding area. Other options such as fencing may also be used.
6. All Solar Energy Systems using a reflector to enhance solar access production shall mitigate the glare from the reflector to ensure that it does not affect other properties and roadways. Measures to eliminate glare include selective



placement of the system, screening, modifying the orientation of the system, reducing use of the reflector system, or other remedies.

7. All Solar Energy Systems are subject to the setback requirements contained in Section 702. Setbacks for sun tracking Freestanding Solar Energy Systems shall be measured from the horizontal flattened position of the solar collector.

#### C. Removal

1. If a freestanding Solar Energy System is removed, the ground shall be restored to its natural condition.
2. Disposal of all solid or hazardous waste shall be in accordance with local, state and federal waste disposal regulations.

#### Section 810. SHORT TERM RENTALS (3/14/23)

Each of the following must be documented to the satisfaction of the Building Inspector or other designated official by the Select Board prior to the issuance of a Zoning Permit for a short term rental:

1. The dwelling is served by one on-site parking space for each permitted bedroom plus one additional parking space.
2. The septic system is properly-functioning, with a NHDES permit on file for the number of bedrooms. For systems without a NHDES permit on file, an annual evaluation by a NH Certified Septic System Evaluator will be required.
3. Documentation must be provided prior to the issuance of a permit and annually thereafter of a test for total coliform by a New Hampshire Environmental Laboratory Accreditation Program-accredited lab showing the absence of coliform bacteria.
4. The dwelling is in compliance with all applicable building, health and life safety codes.

### **ARTICLE 9 OVERLAY DISTRICTS**

#### Section 901. WETLANDS CONSERVATION OVERLAY DISTRICT (3/14/89) (3/14/00) (03/08/11) (03/14/17) (03/10/20)

##### A. TITLE AND AUTHORITY

1. Title: The title of this district shall be the Wetlands Conservation Overlay District.
2. Authority: This district is established under the authority granted pursuant to RSA 674:16, Grant of Power, and RSA 674:21, Innovative Land Use Controls.

3. The word "District" as used in this section is meant to define lands that exhibit the physical conditions described herein. (03/14/17)

## B. FINDINGS

The wetlands and buffers in the Town of Easton are a valuable natural resource requiring careful management to maintain their usefulness to public health, safety and welfare. The municipality of Easton finds that wetlands and buffers:

1. Prevent the destruction of, or significant changes to, those wetland areas, related water bodies and adjoining land which provide flood protection.
2. Protect persons and property against the hazards of flood inundation by ensuring the continuation of the natural flow patterns of streams and other watercourses.
3. Provide for nutrient attenuation and augmentation of stream flow during dry periods.
4. Preserve and protect important wildlife habitat and maintain ecological balance.
5. Prevent the expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of abuse or inharmonious use of wetlands.
6. Protect the wetlands, watercourses, surface and groundwater supplies and water bodies of the Town of Easton from degradation.
7. Preserve and enhance those aesthetic values associated with the Wetlands Conservation Overlay District.

## C. PURPOSE

The purpose of the Wetlands Conservation Overlay District is to protect the public health, safety and general welfare by promoting the most appropriate use of land and the protection of wetland ecosystems and water quality in accordance with the goals and objectives of the master plan.

## D. APPLICABILITY

All proposed development, removal of vegetation, and alteration of the land surface within the Wetlands Conservation Overlay District is subject to these regulations.

## E. BOUNDARIES

1. The Wetlands Conservation Overlay District includes:
  - a. Surface waters of the state.
  - b. Wetlands of any size.
  - c. Buffers 25 feet wide around bogs over 1,000 square feet, vernal pools over 500 square feet, wetlands of any size adjacent to open water, and all other wetlands over 40,000 square feet.

2. Wetlands constructed for storm water treatment, agricultural use, waste treatment or other such purposes are exempt from the provisions of the Conservation Overlay District.

3. Boundary Determination:

The two online resources below can be used as initial guidance, non-definitive, references for wetland boundaries:

- U.S. Department of Agriculture, Soil Survey Geographic (SSURGO) database for Grafton county, as amended
- U.S Fish and Wildlife Service, National Wetland Inventory, as amended

The boundaries of the Overlay District are determined by the actual facts on the ground, not by maps.

When a boundary of the Wetlands Conservation Overlay District is disputed by either the Planning Board or an applicant, the Planning Board, in consultation with the Conservation Commission, at the applicant's expense, may engage an independent certified wetlands scientist to determine the location of the Wetland Conservation Overlay District limit on the properties affected. The delineation shall be consistent with DES Wetlands Bureau Rules, as amended. The completion of a New England District Wetland Delineation Datasheet (US Army Corps of Engineers, as amended) by the certified wetland scientist can provide the appropriate level of documentation to address questions about the delineation. The Planning Board shall make the final determination of the wetlands limit based on its consultant's report.  
(3/8/22)

#### F. PERMITTED USES

The uses listed below are presumed to be consistent with the protection of wetland functions and values when in accord with the following and so are allowed in the Wetlands Conservation Overlay District without a Conditional Use Permit. These uses will not:

1. Require the erection or construction of any structure.
2. Alter the natural surface configuration by re-contouring or grading of the land.
3. Involve filling, dredging, or draining of the wetland.
4. Change the flow of water.
5. Result in the pollution of the wetlands, surface water, or groundwater.
6. Involve substantial clearing of vegetation, except for the purposes of agriculture or forest management in accord with current best management practices.

Permitted uses include:

1. Passive recreation such as hiking, fishing, hunting on foot, non-motorized boating.

2. Wildlife or fisheries management.
3. Scientific research and educational activities.
4. Agriculture in the wetland buffer, consistent with best management practices published by the NH Department of Agriculture, Markets and Food.
5. Forest management , consistent with best management practices published by the NH Department of Resources and Economic Development and UNH Cooperative Extension. (3/8/22)

#### G. PROHIBITED USES

The following uses may not be established or expanded within the Wetlands Conservation Overlay District:

1. Structures, except as provided in Section H: Conditional Uses.
2. Salt storage.
3. Automobile junkyards.
4. Solid or hazardous waste facilities.
5. Use of fertilizer on lawns, except lime or wood ash.
6. Bulk storage or handling of chemicals, petroleum products or hazardous materials.
7. Sand and gravel excavations.
8. Processing of excavated materials.
9. Impervious surfaces, unless associated with a use approved as a Conditional Use.
10. Activities which result in soil compaction such as parking vehicles or heavy equipment, unless associated with a use approved as a Conditional Use.
11. Underground tanks.

#### H.CONDITIONAL USES

All activities in the Wetland Conservation Overlay District not listed in Section F, Permitted Uses, above are presumed to impair the wetland functions and values unless proven otherwise by the applicant as provided below. After review and recommendation by the Conservation Commission, the following uses may be granted a Conditional Use Permit by the Planning Board:

1. Accessory structures in the wetland buffer associated with legally preexisting primary structures if it is demonstrated that no practicable alternative exists elsewhere on the lot.
2. The construction, repair, or maintenance of streets, roads, and other access ways, including driveways, footpaths, bridges, and utility right of way easements including power lines and pipe lines, if essential to the productive use of land adjacent to the Wetlands Conservation Overlay District. These

uses shall be located and constructed in such a way as to minimize any detrimental impact upon the wetlands and consistent with state recommended design standards (per the NH Fish and Game Department), and only if no viable alternative is available.

3. Expansion of a nonconforming use or structure in a wetland buffer provided that the encroachment upon the wetland is not increased and any potential increased impact upon the wetland functions will be mitigated. (3/8/22)
4. Agricultural activities consistent with best management practices as published by the NH Department of Agriculture Markets and Food.
5. Water impoundments for the purpose of creating a water body for wildlife, fire safety, or recreational uses. Conditional Use Permits may be granted for impoundments for on-site detention of stormwater runoff in buffers only.
6. Disposal of snow and ice collected from roadways and parking areas.
7. Other uses that the applicant proves will not interfere with the wetlands functions and values, water quality or value as wildlife habitat, pursuant to Section B.

#### I. CONDITIONAL USE PERMIT

1. Application for a Conditional Use Permit shall be on forms supplied by the Planning Board and shall include a site plan on one or more sheets at a scale of 1" = 100' or larger, with information the Planning Board deems necessary to make an informed decision, which may include:
  - a. North arrow and date.
  - b. Property lines.
  - c. Locus map showing adjacent wetlands and other significant hydrological features.
  - d. Names and addresses of abutting property owners and holders of conservation restrictions and easements.
  - e. Wetland limit and wetland buffer.
  - f. Soil types.
  - g. Vegetation types.
  - h. Topographic contours at no greater than 5-foot intervals.
  - i. Surface drainage patterns, intermittent and year-round.
  - j. Existing and proposed development, removal of vegetation, and alteration of the land surface.
  - k. Computation of the area to be impacted, in square feet of surface area and cubic yards of cut and fill.
  - l. Stormwater management proposed during and after construction.
2. The Planning Board, in consultation with the Conservation Commission, shall consider all relevant facts and circumstances, and shall find that the project is

both consistent with the purposes of the Wetlands Conservation Overlay District and minimizes impacts to the wetland and buffers, including but not limited to the following: (3/8/22)

- a. The proposed activity minimizes the degradation to, or loss of, wetlands and wetland buffers, and compensates for any adverse impact to the functions and values of wetlands and wetland buffers, including but not limited to the capacity of the wetland to:
    1. Support fish and wildlife
    2. Prevent flooding
    3. Supply and protect surface and ground waters
    4. Control sediment
    5. Control pollution
    6. Support wetland vegetation
    7. Promote public health and safety
    8. Moderate fluctuations in surface water levels.
  - b. The proposed activity will have no negative environmental impact to abutting or downstream property and/or hydrologically connected water and/or wetland resources, including:
    1. Erosion
    2. Siltation
    3. Turbidity
    4. Loss of fish and wildlife
    5. Loss of unique habitat having demonstrable natural, scientific, or educational value
    6. Loss or decrease of beneficial aquatic organisms and wetland plants.
    7. Dangers of flooding and pollution.
    8. Destruction of the economic, aesthetic, recreational and other public and private uses and values of the wetlands to the community.
  - c. The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce the impact to the wetland or its buffer.
  - d. The proposed activity utilizes applicable best management practices.
  - e. Federal and/or state permit(s) have been received for the proposed activity in accordance with NH Code of Administrative Rules Env-Wt 100-800 and the Federal Clean Water Act Section 404 Permit.
  - f. Where applicable, proof of compliance with all other state and/or federal regulations has been received.
3. The Planning Board, in considering an application for a conditional use permit in the Wetlands Conservation Overlay District, may attach conditions to its approval including but not limited to requirements for more extensive buffers, additional plantings in areas to be revegetated, performance guarantees, and a reduction in proposed impervious surfaces. (3/8/22)

## J. IDENTIFICATION OF BUFFER

The entire length of the upland limit of the wetland buffer shall be marked with highly visible construction tape prior to, and maintained for the full duration of, any construction-related activities. The applicant may also be required to place a permanent monument (e.g., iron pin, granite bound) at all points of the lot lines which intersect with the upland limit of the Wetlands Conservation Overlay District prior to such activities. These monuments shall be shown on the site plan submitted with the application. The applicant may also be required to affix tape or other marks to trees or other durable objects (e.g., 4" x 4" wood posts) at 50-foot intervals along the upland boundary of the Wetlands Conservation Overlay District, and maintain said markings as needed to provide evidence of the upland side buffer boundary.

## Section 902. GROUNDWATER PROTECTION OVERLAY DISTRICT

(3/14/89) (3/13/01) (3/12/02) (03/08/11)

### A. AUTHORITY

The Groundwater Protection District is established pursuant to the authority granted pursuant to RSA 674:16, Grant of Power, and RSA 674:21, Innovative Land Use Controls.

### B. PURPOSE

The purpose of this District is in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas and to protect surface waters that are fed by groundwater.

The purpose is to be accomplished by regulating land uses which could contribute pollutants to designated wells and/or aquifers identified as being needed for present and/or future public water supply.

### C. GROUNDWATER PROTECTION DISTRICT

The Groundwater Protection District is an overlay district which is superimposed over the existing underlying zoning and includes within its boundaries the areas shown as Stratified-Drift Aquifers in *Geohydrology and Water Quality of Stratified-Drift Aquifers in the Middle Connecticut River Basin, West-Central New Hampshire* published by USGS in cooperation with NHDES, 1996. (3/8/22)

### D. APPLICABILITY

These requirements apply to all uses in the Groundwater Protection District except for those uses exempt under Section 902.J.Exemptions.

E. SPILL PREVENTION, CONTROL and COUNTERMEASURE (SPCC) PLAN

1. Conditional uses as described under Section 902.H.1. using regulated substances shall submit a spill control and countermeasure (SPCC) plan to the Emergency Management Director who shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods, or fires that may cause large releases of regulated substances. It shall include:
  - a. A description of the physical layout and a facility diagram including all surrounding surface waters and wellhead protection areas.
  - b. Contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment.
  - c. A list of all regulated substances in use along with MSDS sheets and locations of use and storage. (3/8/22)
  - d. A prediction of the direction, rate of flow, and total quantity of regulated substance that that could be released where experience indicates a potential for equipment failure.
  - e. A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.

F. PERMITTED USES

All permitted uses and uses allowed by Special Exception or Conditional Use Permit in the underlying district(s) are permitted in the Groundwater Protection District unless they are listed below as Prohibited Uses or Conditional Uses. All uses must comply with the Performance Standards unless specifically exempt under Section 902.J.

G. PROHIBITED USES

The following uses are prohibited in the Groundwater Protection District:

1. The development or operation of a hazardous waste disposal facility as defined under RSA 147- A.
2. The development or operation of a solid waste landfill.
3. The outdoor storage of road salt or other deicing chemicals except when securely contained and in quantities necessary for a single season of on-site use. (3/8/22)
4. The development or operation of a junkyard.



5. The development or operation of a snow dump.
6. The development or operation of a wastewater or septage lagoon.
7. The development or operation of a petroleum bulk plant or terminal.
8. The development or operation of gasoline stations.

#### H. CONDITIONAL USES

The Planning Board may grant a Conditional Use Permit for a use which is otherwise allowed if the use is involved in one or more of the following:

1. Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time, provided that an adequate spill prevention control and countermeasure (SPCC) plan, in accordance with Section 902.E., is approved by the local Emergency Management Director.
2. Any use that will render impervious more than 15 percent or 2,500 square feet of any lot, whichever is greater;
3. Any activities that involve blasting of bedrock.

In granting such approval the Planning Board must first determine that the proposed use is not a prohibited use listed in Section 902.G. and will be in compliance with the Performance Standards in Section 902. K. as well as all applicable local, state, and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards.

#### I. EXISTING NONCONFORMING USES

Existing nonconforming uses may continue without expanding or changing to another nonconforming use, but must be in compliance with all applicable state and federal requirements, including NH Code of Administrative Rules Env-Wq 401, Best Management Practices Rules.

#### J. EXEMPTIONS

The following uses are exempt from the specified provisions of the Groundwater Protection Overlay District as long as they are in compliance with all applicable local, state, and federal requirements:

1. Any private residence is exempt from all Performance Standards.
2. Any business or facility where regulated substances are stored in containers with a capacity of less than five gallons is exempt from Section 902.K. Performance Standards 5. through 8.
3. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Performance Standard 902.K.5.
4. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Section 902.K Performance Standards 5. through 8.;
5. Storage and use of office supplies is exempt from Section 902.E. Performance Standards 5. through 8.;
6. Temporary storage of construction materials on a site where they are to be used is exempt from Section 902.K. Performance Standards 5. through 8. if incorporated within the site development project within six months of their deposit on the site.
7. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of the Groundwater Protection Overlay District.
8. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401:03 (b) (1) and 501.01 (b) are exempt from Section 902.K. Performance Standards 5. through 8.
9. Underground storage tank systems and above ground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Section 902.M.

#### K. PERFORMANCE STANDARDS

The following Performance Standards apply to all uses in the Groundwater Protection District unless exempt under Section 902.J:

1. For any use that will render impervious more than 15 percent or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall be prepared which the Planning Board determines is consistent with New Hampshire Stormwater Manual Volumes 1-3, as amended, NH Department of Environmental Services.
2. Conditional uses, as defined under Section 902.H shall develop stormwater management and pollution prevention plans and include information consistent with Developing Your Stormwater Pollution Prevention Plan: A

Guide for Industrial Operators, US EPA, as amended. The plan shall demonstrate that the use will:

- a. Meet minimum stormwater discharge setbacks between water supply wells and constructed stormwater practices as found within the Innovative Land Use Planning Techniques: A Handbook for Sustainable Development, Section 2.1 Permanent (Post-Construction) Stormwater Management, (DES, 2008 or later edition).
  - b. Minimize, through a source control plan that identifies pollution prevention measures, the release of regulated substances into stormwater.
  - c. Stipulate that expansion or redevelopment activities shall require an amended stormwater plan and may not infiltrate stormwater through areas containing contaminated soils without completing a Phase I Assessment in conformance with ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI).
  - d. Maintain a minimum of four feet vertical separation between the bottom of a stormwater practice that infiltrates or filters stormwater and the average seasonal high water table as determined by a licensed hydrogeologist, soil scientist, engineer or other qualified professional as determined by the Planning Board.
3. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire, NH Department of Agriculture Markets, and Food, latest edition, and any subsequent revisions.
  4. All regulated substances stored in containers with a capacity of five gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains.
  5. Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner.
  6. Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least 50 feet from surface water or storm drains, at least 75 feet from private wells, and outside the sanitary protective radius of wells used by public water systems.
  7. Secondary containment must be provided for outdoor storage of regulated substances in regulated containers and the containment structure must include a cover to minimize accumulation of water in the containment area and contact between precipitation and storage container(s).

8. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.
9. Prior to any land disturbing activities, all inactive wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with NH Code of Administrative Rules Water Well Board Part We 604.
10. Blasting activities shall be planned and conducted to minimize groundwater contamination. Excavation activities should be planned and conducted to minimize adverse impacts to hydrology and the dewatering of nearby drinking water supply wells.
11. All transfers of petroleum from delivery trucks and storage containers over five gallons in capacity shall be conducted over an impervious surface having a positive limiting barrier at its perimeter.

#### L. RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS

Where both State and the Town have existing requirements the more stringent shall govern.

#### M. MAINTENANCE AND INSPECTION

1. For uses requiring Town approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded at the Registry of Deeds for Grafton County so as to run with the land on which such structures are located. The description so prepared shall comply with the requirements of RSA 478:4-a.
2. Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by a designated agent of the Select Board at reasonable times with prior notice to the landowner.

The Select Board may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Select Board as provided for in RSA 41-9a.

### Section 903. STEEP SLOPE OVERLAY DISTRICT

(3/14/89) (3/13/01) (3/8/11) (3/10/20) (3/8/22)

#### A. PURPOSE

The purpose of the Steep Slope Overlay District is to reduce damage to streams, rivers and other surface waters from the consequences of excessive and improper construction, erosion, stormwater runoff, or effluent from improperly sited sewage disposal systems, and to preserve the natural topography, drainage

patterns, vegetative cover, scenic views, wildlife habitats, and to protect unique natural areas and ecological balance.

B. RELATION TO OTHER DISTRICTS

Where the Steep Slope is superimposed over another zoning district, the more restrictive regulations shall apply.

C. DELINEATION

The Steep Slope Overlay District shall apply to all areas with a slope greater than 15 percent, as shown on the latest USDA NRCS Soil Survey. Development where the proposed site disturbance is greater than 10,000 square feet shall require a Conditional Use Permit from the Planning Board prior to issuance of a building or zoning permit. When a boundary of the Steep Slope Overlay District is disputed either by the Planning Board, an administrative official, or an applicant, the applicant shall provide a plan showing two-foot contours, stamped by an engineer or surveyor licensed in N.H., showing the delineation of the 15% slope areas.

D. DEFINITIONS

Erosion:

The wearing away of the ground surface as a result of the movement of wind, water, ice, and/or land disturbance activities.

Sedimentation:

The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse or wetland.

Site Disturbance:

Any activity that removes the vegetative cover from the land surface.

Slope:

The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees; rise over run.

Vegetative Cover:

Grasses, shrubs, trees, and other vegetation which hold and stabilize soils.

E. Application Requirements

A plan prepared by an engineer licensed in N.H. must be submitted showing the following:

1. The area to be disturbed in two-foot contours.
2. Existing and proposed structures.
3. The specific methods that will be used to control soil erosion and

sedimentation, soil loss, and excessive stormwater runoff, both during and after construction.

4. A grading plan for the construction site and all access routes.

#### F. Performance Standards

All uses permitted in the underlying district will be a Conditional Use in the Steep Slope Overlay District and must meet the following conditions for approval:

1. The grading cut and fill shall not exceed a 1V:2H ratio (50% slope).
2. Existing natural and topographic features, including the vegetative cover, will be preserved to the greatest extent possible. In the event that extensive amounts of vegetation are removed, the site shall be replanted with indigenous vegetation and shall replicate the original vegetation as much as possible.
3. No structure shall be built on an extremely steep slope (greater than 25 percent prior to site disturbance).
4. All development, including grading, clearing and construction of driveways, shall provide for the retention of native topsoil, stabilization of steep hillsides, prevention of erosion, and consequent sedimentation of streams and watercourses. Peak stormwater discharge from the site after development shall not exceed pre-development levels for a two (2) year/twenty-four (24) hour storm event and existing drainage patterns will not be altered in a manner to cause an adverse impact on neighboring properties, town highways or surface waters.
5. Development shall not result in an undue adverse impact on fragile environments, including wetlands, wildlife habitats, streams, steep and extremely steep slopes and unique property features. All efforts will be made to protect/preserve such areas and promote suitable buffers.
6. Buffer widths and setbacks from streams and wetlands shall be 75'.

#### G. Administration of conditional use permits

In addition to meeting the conditions set forth in this section, Conditional Use Permits shall be granted in accordance with the following pertinent procedures:

1. A Conditional Use Permit shall be granted by the Planning Board upon a finding that the proposed use is consistent with the intent of the Ordinance. The Planning Board may acquire a review and recommendation from the Conservation Commission, as well as any other professional expertise deemed necessary, to assist in their finding.
2. The applicant must demonstrate that no practicable alternatives exist to the proposal under consideration, and that all measures have been taken to minimize the impact that construction activities will have upon the surrounding area.

## H. COSTS

All costs pertaining to the consideration of an application, including consultants' fees, on-site inspections, environmental impact studies, notification of interested persons, and other costs shall be borne by the applicant and paid prior to the Planning Board's final action.

### Section 904. FLOOD HAZARD ZONE

1. The purpose of this zone is to promote and protect the health, safety and general welfare of the Town by providing reasonable regulations for the use of the flood hazard areas.
2. Pursuant to RSA 674:57, by resolution of the Town of Easton Select Board, all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Grafton, New Hampshire" dated February 8, 2024, together with the associated Flood Insurance Rate Map Panels 33009C0290F, 33009C0410F, and 33009C0430F dated February 8, 2024 and 33009C0265E, 33009C0267E, 33009C0270E, and 33009C0405E dated February 20, 2008, are declared to be part of the Easton Zoning Ordinance and are hereby incorporated by reference. (adopted 12/04/2023)

In all cases the most current updates of maps and references shall apply.

#### 3. Permitted Uses

The following uses shall be permitted and shall require a Zoning Permit within this zone, provided that they do not require structures, fill or storage of materials or equipment. In addition, no use shall adversely affect or unduly restrict the capacity of the channels or floodways, or cause any increase in the level of flood waters within the community during the base flood discharge, or reduce the pooling areas of the floodplain: (3/8/22)

- a. agricultural uses and forestry activities;
- b. residential accessory uses such as yards, gardens, parking areas, and play areas; and
- c. public works such as road crossings and utilities.

#### 4. Special Provisions (3/8/22)

- a. There shall be no expansion of present nonconforming buildings or septic systems, except to correct malfunctions of septic systems. When replacement septic systems are proposed, the applicant shall provide the Select Board 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 will be located to

avoid impairment to them or contamination from them during periods of flooding.

- b. Existing nonconforming buildings within this zone damaged or destroyed may be replaced or repaired within two years after such damage or destruction. Application may be made to the Select Board for a one-year extension, which may be renewed.
- c. For all replacement, repair, alterations, movement, rehabilitations, renovations, repairs of damage from any origin (such as, but not limited to flood, fire, wind or snow) and any other improvement of or work on such structure even though within its existing footprint, the Select Board shall be responsible for the following:
  - (i) Review description of proposed work submitted by the applicant.
  - (ii) Use the Town's current assessed value of the structure (excluding the land) to determine the market value of the structure prior to the start of the initial repair or improvement, or in the case of damage, the market value prior to the damage occurring. If the applicant disagrees with the use of the Town's assessed value of the structure, the applicant is responsible for engaging a licensed property appraiser to submit a comparable property appraisal for the total market value of only the structure.
  - (iii) Review cost estimates of the proposed work including donated or discounted materials and owner and volunteer labor submitted by the applicant. Determine if the costs are reasonable for the proposed work, or use other acceptable methods, such as those prepared by licensed contractors or professional construction cost estimators and from building valuation tables, to estimate the costs.
  - (iv) Determine if the proposed work constitutes substantial improvement or repair of substantial damage as defined in this Ordinance
  - (v) Notify the applicant in writing of the result of the substantial improvement or damage determination. If the determination is that the work constitutes substantial improvement or repair of substantial damage, the written documentation shall state that full compliance with the minimum standards of the National Flood Insurance Program contained in 44 C.F.R. Subchapter B. Parts 59.1, 60.3 and 60.6, as amended, must be met. (3/10/98) (3/9/2010). Following completion of the substantial improvement or repair of substantial damage, the applicant shall submit to the Select Board:
    - a) A completed and certified copy of an Elevation Certificate that includes the as-built elevation (in relation to mean sea level) of the lowest floor and whether or not the structure has a basement.



- b) If a non-residential structure includes dry floodproofing, a completed and certified copy of the Floodproofing Certificate for Non-Residential Structures that includes the as-built elevation (in relation to mean sea level) to which the structure was dry floodproofed and certification of floodproofing.
- (vi) Repair, alteration, rehabilitation, or other improvements of historic structures shall not be subject to the elevation and dry floodproofing requirements of this Ordinance if the proposed work will not affect the structure's designation as a historic structure. The documentation of a structure's continued eligibility and designation as a historic structure shall be required by the Select Board in approving this exemption.
- d. A watercourse alteration or relocation may be approved only:
  - (i) after notifying the Wetlands Bureau of the New Hampshire Department of Environmental Services and submitting copies of such notification to the Select Board, in addition to the copies required by RSA 482-A:3, submitting said notification to those adjacent communities as determined by the Select Board, including notice of all scheduled hearings before the Wetlands Bureau. (3/9/2010)
  - (ii) after the applicant has submitted to the Select Board certification provided by an engineer licensed in N.H. assuring the flood-carrying capacity of the watercourse can and will be maintained. (3/9/2010)
- e. All necessary State and Federal permits shall be submitted to the Select Board prior to the issuance of a Building Permit.

5. Variances and Appeals (3/9/2010)

- a. Any order, requirement, decision or determination of the Select Board made under this Ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- b. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, the applicant shall have the burden of showing in addition to the usual variance standards under state law that:
  - i. the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
  - ii. if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
  - iii. the variance is the minimum necessary, considering the flood hazard, to afford relief.
- c. The Zoning Board of Adjustment shall notify the applicant in writing that:
  - i. the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to

- amounts as high as \$25 for \$100 of insurance coverage; and
- ii. such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.

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

6. Administration (3/8/22)

The Select Board shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations, including: local permit documents, flood zone and base flood elevation determinations, substantial improvement and damage determinations, variance and enforcement documentation, and as-built elevation and dry floodproofing data for structures subject to these regulations.

**ARTICLE 10. TELECOMMUNICATIONS FACILITIES**

(3/9/21)

Section 1001. Purpose

The purpose of Article 10 is to:

- a. Preserve the authority of the Town of Easton to regulate and provide for reasonable opportunity for the siting of wireless telecommunications facilities enabling the applicants to provide such services to the community quickly, effectively, and efficiently.
- b. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of telecommunications facilities.
- c. To further the vision and uphold the policies and recommendations of the Town of Easton's Master Plan.
- d. Protect the historic, cultural, natural, and aesthetic resources of the town and property values therein by minimizing the adverse impacts of telecommunications facilities.
- e. Locate telecommunications facilities and/or antennas in a manner which promotes the general safety, health, welfare, and quality of life of the residents of the town of Easton and those who visit.

- f. Encourage the use of collocation, camouflaged facilities, monopoles, and construction of facilities with the ability to serve multiple providers.
- g. Permit the construction of new ground-mounted towers where all other reasonable opportunities have been exhausted.
- h. Provide constant maintenance and safety inspections for any and all facilities.
- i. Provide a mechanism for the Town to remove towers to protect the citizens from imminent harm and danger.

### Section 1002. Applicability

The provisions of Article 10 apply to all construction, installation, maintenance, inspection, expansion and removal of telecommunications facilities within the town of Easton.

The following are exempt from the provisions of this Ordinance:

- 1. Temporary wireless telecommunications facilities:
  - a. Used for emergency communications by public officials.
  - b. Designed for use while a permitted permanent wireless facility is under construction.
  - c. Used for a special event or conference as approved by the Select Board.
- 2. Amateur (ham) radio services licensed by the F.C.C.

### Section 1003. Definitions

Unless as otherwise defined below, definitions for terminology utilized within Article 10 will be the same as the "Definitions" used within the current State of New Hampshire RSA 12-K and the current Telecommunications Act of 1996 or in ARTICLE 3. DEFINITIONS. If any definitions within Section 1003 are defined in the current State of New Hampshire RSA 12-K and current Telecommunications Act of 1996, or as amended, the more current definition will apply.

#### ANSI/TIA:

American National Standards Institute / Telecommunications Industry Association.

#### Average Tree Canopy Height:

The average height found by inventorying the height above ground level of all trees over 20 feet in height for a radius of 150 feet from the base location of the proposed tower prior to construction.

#### Camouflaged:

Telecommunications facilities that are disguised, hidden, part of an existing or proposed structure, placed within an existing or proposed structure, or designed to blend into the surrounding environment. Examples include architecturally screened

roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, antenna structures designed to look like light or flag poles, and structures designed to resemble natural features such as trees or rock outcroppings.

Collocation:

The placement or installation of new PWSFs on existing towers or mounts, including electrical transmission towers and water towers, as well as existing buildings and other structures capable of structurally supporting the attachment of PWSFs in compliance with applicable NH State Building Codes. "Collocation" does not include a "substantial modification".

EPA:

Environmental Protection Agency.

Equipment Shelter:

An enclosed structure, cabinet, shed, vault, or box near the base of a mount within which is housed equipment for PWSFs, such as batteries and electrical equipment.

FAA:

Federal Aviation Administration.

Fall Zone:

A safety area surrounding a telecommunication facility equaled to 200% of the tower height.

FCC:

Federal Communications Commission.

Fresnel Zone:

The envelope around line-of-sight radio signal which should be free of interfering objects, such as branches, to minimize interference with the signal.

Guyed Telecommunications Facility:

A lattice or other telecommunications facility that is secured to the ground or other surface by diagonal cables for lateral support.

Monopole:

A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal or a wooden pole with below grade foundations.

Nonconforming Telecommunications Facility:

Any telecommunications facility which is not in conformance with the requirements of this Ordinance, but that existed lawfully prior to the adoption, revision, or amendment of this Ordinance.

Propagation Maps:

Coverage maps that indicate the service areas of radio communications transmitting stations including but not limited to telecommunication facilities.

Provider:

An entity providing telecommunications services to individuals or institutions.

PWSF:

Personal wireless service facility" or "PWSF" or "facility" means any "PWSF" as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(C)(ii), including facilities used or to be used by a licensed provider of personal wireless services. A PWSF includes the set of equipment and network components, exclusive of the underlying tower or mount, including, but not limited to, antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide personal wireless services.

Scenic View:

A wide angle or panoramic field of sight that may include natural and/or human-made structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a faraway object, such as a mountain, or a nearby object, such as an historic building.

Side-mounted:

Mounted on the side of a building or other structure.

Substantial modification:

The mounting of a proposed PWSF on a tower or mount which, as a result of single or successive modification applications:

- a. Increases or results in the increase of the permitted vertical height of a tower, or the existing vertical height of a mount, by either more than 10 percent or the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; or
- b. Involves adding an appurtenance to the body of a tower or mount that protrudes horizontally from the edge of the tower or mount more than 20 feet, or more than the width of the tower or mount at the level of the appurtenance, whichever is greater, except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower or mount via cable; or
- c. Increases or results in the increase of the permitted square footage of the existing equipment compound by more than 2,500 square feet; or
- d. Adds to or modifies a camouflaged PWSF in a way that would defeat the effect of the camouflage.

Tower: A guyed or self-supporting structure that is designed and constructed primarily for the purpose of supporting one or more antennas intended for

transmitting and/or receiving television, AM/FM radio, digital, internet, microwave, cellular, telephone, or similar forms of electronic communication.

Vantage Point: A point located on a public or private roadway, waterway, or path from which a proposed telecommunications facility will be visible.

#### Section 1004. Conditional Use Permit

A. All telecommunications facility construction and/or substantial modifications shall require a Conditional Use Permit from the Planning Board. Applications for collocations on existing structures are exempt from Planning Board review and are instead subject to review by the Town's Select Board, pursuant to Subsection 1007.B. of this Ordinance. The applicant shall provide and bear the expense for documentation to the Planning Board giving evidence of compliance with this Ordinance. The documents shall include, but not be limited to, the following:

1. Detail scaled plan and related documents in accordance with Subsection 1004.D.
2. Written proof, such as a license, that the proposed use/telecommunications facility complies with the FCC regulations governing telecommunications facilities.
3. Propagation maps for the proposed tower, and drive test results supporting applicant's proposal.
4. Listing of all alternative sites considered along with each site's research documentation including, but not limited to, location, propagation maps, conversations with landowners, and reason why you rejected the site.
5. Results of a balloon test performed at the location and height of the proposed tower. Public notice must be provided no less than ten days prior to the balloon test. Photos must be provided and taken from various locations within a twenty (20) mile radius of the proposed tower.
6. Engineering information detailing the size and coverage required for the facility location.
7. For a new ground-mounted tower or antenna an inventory and map of all existing ground-mounted towers and antennas that are located within the town's jurisdiction and those within ten miles of the border thereof, including specific information about the location, height, design of each tower and/or antenna, as well as economic, regulatory, and technological feasibility for co-location on the inventoried towers and/or antennas.
8. Written evidence demonstrating that no existing ground-mounted tower or antenna can accommodate the applicant's proposed telecommunication facilities. This evidence shall consist of substantial evidence that:

- a. No existing ground-mounted towers or antennas are located within the geographic area required to meet the applicant's engineering requirements. (3/8/22)
  - b. Existing ground-mounted towers or antennas are not of sufficient height to meet the applicant's engineering requirements, and why.
  - c. The existing ground-mounted towers or antennas do not have sufficient structural strength to support the applicant's proposed telecommunication facility's related equipment.
  - d. The applicant's proposed telecommunication facilities would cause electromagnetic interference with the telecommunication facilities located on the existing ground-mounted towers or antennas, or the telecommunication facilities located on the existing towers or antennas would cause interference with the applicant's proposed telecommunication facilities.
  - e. The fees, costs, or contractual provisions required by the owner in order to share the existing ground-mounted tower or antenna are unreasonable. Costs exceeding new ground-mounted tower development are presumed to be unreasonable.
  - f. The applicant can demonstrate other limiting factors that render existing ground-mounted towers and antennas unsuitable.
  - g. Examples of supporting evidence to be provided by the applicant include but are not limited to propagation maps, drive test results that demonstrate need, coverage and capacity of services.
9. Written list of the special inspections the applicant will be performing as required by the New Hampshire State Building Code including Chapter 17 of the International Building Code (IBC) as amended. Notification of these inspections must be provided to the Select Board or their designee prior to each inspection. (3/8/22)

The Planning Board may have this information reviewed and independently tested and verified by an engineer hired by the Town for verification of any claims made by the applicant regarding technological limitation and feasibility for alternative locations. Cost for this review shall be borne by the applicant.

B. When reviewing an application for Conditional Use Permit the Planning Board shall follow the procedures contained in RSA 676:4 Board's Procedure on Plats and in RSA Chapter 12-k.

C. Timeline for Review:

The Planning Board shall act on Conditional Use Permit Applications within the time frames prescribed by Federal and State law, as those laws may be amended.

The Planning Board must complete its review and issue a decision within:

1. 90 days for applications to collocate a PWSF that constitute a substantial modification on an existing structure.

2. 90 days for applications to construct a telecommunications facility that constitute a “small wireless facility” as defined by 47 C.F.R. 1.6002, as that law may be amended.
3. 150 days for applications to construct a new telecommunications facility that does not constitute a “small wireless facility.”

The Planning Board may notify the applicant for a Telecommunications Facility or PWSF within 30 days of receipt of the application that the application is materially incomplete. The Planning Board’s notice must clearly and specifically identify the missing information and documents. If the Planning Board provides such notice, the time frame for the Planning Board to complete its review does not run from the date the Planning Board provided notice that the application was incomplete, but from the date that the applicant provides all requests, information and documents.

The applicant may agree to waive these deadlines for the Planning Board to complete its review and issue a decision.

**D. Conditional Use Permit Application Requirements:**

1. General. A project narrative detailing the proposed structures, number of proposed antennas, their height above ground level and placement on support structure; documentation of exploration of collocation potential; details of anticipated noise to be generated; demonstration of coverage need including existing and proposed facilities of the provider to be used in conjunction with the proposed facility; statement authorizing the Easton Planning Board and Select Board and their designees and agents to access the site for the purpose of reviewing this application, including for the purposes of a publicly-noticed site visit, and for performing any inspection deemed necessary by either board or their agents, to ensure conformance of the on-site improvements with the approved plan and all other applicable ordinances and regulations.
2. The application must identify the type of proposed facilities (i.e. collocation of a PWSF that does not constitute a substantial modification on an existing facility; collocation of a PWSF that constitutes a substantial modification on an existing facility; construction of a new telecommunications facility that constitutes a “small wireless facility”; or construction of a new telecommunications facility that does not constitute a “small wireless facility”) and the applicable deadline for the Town to complete its review and issue a decision.
3. Copy of lease or letter of authorization from the property owner evidencing applicant's authority to pursue a Conditional Use permit.
4. Abutters list. A list of names and addresses of all abutters to the site, as defined by R.S.A. 672:3 as amended, as shown in the town records not more than five days before the day of filing the application with Planning Board.
5. Site Plan. A PDF and five 24” x 36” copies, one of which must be mylar, at a minimum scale of 1 inch to 100 feet, prepared, stamped and signed by a land surveyor or engineer licensed in the State of New Hampshire, containing:
  - a. A locus map at a minimum scale of one inch to two thousand feet showing the approximate location of the proposed telecommunications



- facility in relation to existing streets, watercourses and water bodies, and other landmarks.
- b. North arrow and bar scale.
  - c. A title block with title, property owner name and address, applicant name and address, scale of plan, and name, seal and address of preparer.
  - d. Surveyed property lines of the parcel showing their bearings and distances.
  - e. Area of entire parcel in acres and square feet.
  - f. Deed reference and tax map number.
  - g. Names of all abutting property owners, showing Map and Lot number as shown on the Town of Easton Tax Maps.
  - h. Required setbacks as defined within the Town's Subdivision Regulations, Zoning Ordinance and Town Ordinances.
  - i. Proposed lease area.
  - j. Location and layout of existing and proposed structures and buildings. GPS coordinates of the tower and distances from at least 3 separate lot lines.
  - k. Existing and proposed contours at five-foot intervals for the entire site being considered for development showing existing contours as dotted lines and finished elevations solid.
  - l. Location and size of proposed signs, fencing, landscaping, screening and lighting.
  - m. Location, width and elevations of proposed access.
  - n. Location of existing and proposed utilities.
  - o. Location, elevation, and layout of catch basins and other surface drainage features.
  - p. Location of all physical/natural features such as water bodies, watercourses, wetlands, vegetation/foilage lines, soils types, rock outcroppings and stone walls.
  - q. Fall zone.
  - r. Location of all structures within 200% of the height of the proposed facility.
6. Elevation drawings of the proposed support structure. including structure height, design and proposed materials; finish; base and methods of attachment.
  7. Visual impact analysis including balloon test photos and visual simulations from public roads and trails.
  8. A stormwater management plan providing adequate detail to demonstrate compliance with the appropriate applicable best management practices

identified in Volumes 1, 2 and 3 of the *New Hampshire Stormwater Manual*, current edition, published by NHDES. This shall include, for example, a drainage plan, including plans for retention and slow release of stormwater where necessary, and the location, elevation and site of all catch basins, dry wells, drainage ditches, swales, culverts, retention basins, and storm sewers. Indicate direction of flow through the use of arrows. Show the engineering calculations used to determine drainage requirements as well as the date and source for precipitation data. A plan for long-term maintenance of the stormwater facilities must be included.

9. For ground mounted PWSFs being sited within or near trees, a written report from a qualified forestry consultant providing average tree canopy height and method used to determine it.
10. Cost estimate from engineer licensed in the state of New Hampshire to form the basis for the security bond to include removal, disposal, and restoration of site in accordance with Section 1009 of this Ordinance.
11. Date and permit number of all required state and federal permits.
12. Listing and description of all required inspections during and after every construction stage of the project as mandated to be compliant with the various Federal and State of New Hampshire Building Codes as currently adopted.

#### Section 1005 Conditional Use Permit Requirements

A. Telecommunications Facilities must be located on land either leased to or owned by the tower owner and must have a dedicated electrical service. Towers are to be designed for collocation of wireless services to the greatest possible degree.

B. Federal and State Requirements: All telecommunications facilities must meet or exceed current standards and requirements of the ANSI/TIA-222, RSA Chapter 12-K, FAA, FCC, the New Hampshire State Building Code and any other applicable codes or other agency with the authority to regulate such facilities. If such standards and regulations are amended, the owner(s) of facilities governed by this Ordinance shall bring these into compliance within six (6) months of the effective date of the amendments. Failure to bring facilities into compliance with any changes shall constitute grounds for the removal of the tower or antenna at the owner's expense as outlined in Section 1011 of this Ordinance.

C. Setbacks: Tower and associated guy wires and accessory facilities shall comply with all setbacks in the Town of Easton's Zoning Ordinance, including but not limited to provisions of the Zoning District(s) in which the facility is located.

D. Fall Zones:

1. The fall zone of a telecommunications tower shall be no less than 200% of the height of the tower, including antennas, and vertical appurtenances in order to ensure public safety. No property line, public or private road, residential dwelling or structure, business or institutional use, or public recreational areas shall be inside the fall zone. The fall zone may cross property lines so long as the applicant secures a recorded fall zone easement from the affected property owner(s). The area of any easement(s) shall be shown on all plans submitted to

the Town, and the terms of any such easement(s) shall be provided as part of the Conditional Use review.

2. Fall Zones for Non-Ground-Mounted Facilities: In the event that an existing structure such as a building, barn silo, church steeple, or utility pole is proposed as a mounting for a telecommunications facility, a fall zone shall not be required unless the Planning Board determines that under the circumstances a fall zone is required.

E. Height:

1. Height Limitations for Ground-Mounted Facilities/Towers: In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for any telecommunications facility shall not exceed twenty (20) feet above the average tree canopy height. Height shall be measured from the ground level to the highest point on the tower, including any antennae affixed thereto but not including lightning rods. Notwithstanding the above, additional height may be approved upon a finding by the Planning Board that the additional height is necessary in order to provide adequate coverage, to create an appropriate Fresnel zone, or to provide opportunities for collocation, and that the additional height will not have an adverse visual impact on the scenic character or appearance of the area.

2. Height Increase for Existing Structures and Buildings: In the event that an existing structure (other than a dedicated telecommunications tower) is proposed as a mount for a telecommunications facility, the height of the original structure shall not be increased by more than fifteen (15) feet above the highest point of a flat or mansard roof or fifteen (15) feet above the height at the midpoint between the peak and the eave of other roof styles, unless the facility is completely camouflaged (for example, a facility within a flag pole or chimney). Any increase in height shall be in scale and proportionality to the structure as originally configured. A provider may locate a telecommunications facility on a building that is legally nonconforming with respect to height, provided that the provisions of this section are met.

F. Camouflaging:

1. Any tower that breaks a ridge line or has the sky as a backdrop when viewed from a public or private road may be required to be camouflaged if the Planning Board determines that it creates a visual impact as defined in Section 1008. The design and manufacturer of the camouflaging shall be approved by the Planning Board. If the tower will meet these criteria in the event future collocation is utilized, it may also be required to be camouflaged when constructed. (3/8/22)
2. In order to comply with the Master Plan, to the greatest extent feasible, all telecommunications facilities shall be designed to blend into the surrounding environment through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques. Equipment shelters shall be camouflaged or made architecturally harmonious with surrounding structures to the greatest practical degree. Such camouflage may be achieved with planting or fencing, as approved by the

Planning Board. If mounted on a rooftop, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be part of the original structure. Any easement or lease shall specify that any trees providing required screening shall be maintained and shall not be removed or trimmed, unless the trees are dead or dying and present a hazard to persons or property, or approval is granted by the Planning Board. The Planning Board may require replacement of the tree(s) if such removal compromises the purpose of the camouflage as determined by the Planning Board.

3. Roof-Mounts: When any telecommunications facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
4. Side-Mounts: Telecommunications facilities that are side-mounted shall be camouflaged to the greatest practical degree.

G. Lighting:

1. Telecommunications facilities shall not be illuminated by artificial means and shall not display lights unless such lighting is specifically required by the FAA or other federal or state authority.
2. Ground Lighting: Emergency, safety, or security ground lighting may be utilized when there are people at the site. All ground lighting shall be shielded and directed downward towards the facility and away from neighboring properties.

H. Bulk, Height, and Glare: All telecommunications facilities shall be designed in such a manner as to minimize the visual impact of the facility height, mass, and guy wire supports for the intended use. Materials utilized for the exterior of any structure shall be of a type, style, and location so as to minimize glare and to minimize visual impact from any historic or scenic view, public vantage point, or abutting properties.

I. Finish: Telecommunications facilities shall have a corrosion resistant matte finish unless otherwise required. The Planning Board may require the telecommunications facility to be painted or otherwise camouflaged to minimize the adverse visual impact.

J. Fencing: The area around any ground-mounted telecommunications facility and communications equipment shall be completely fenced and gated for security. Fencing shall be at a minimum of 6' in height and chosen to minimize visual impact and be consistent with its intended safety purpose.

K. Signs: All facilities shall be identified with a sign no greater than six (6) square feet stating the name of the facility's owner and a 24-hour emergency telephone number, posted adjacent to the entry gate. In addition, "No Trespassing" or other warning signs and the federal telecommunications facility registration plate, where applicable, shall be posted on the fence as required to meet federal requirements. No commercial signs or lettering shall be placed on the tower or facility.

L. Noise: The Planning Board may impose conditions to minimize the effect of noise from the operation of machinery or equipment upon nearby properties.

M. Access: If available, existing entrances and driveways shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual and environmental impact. New driveways shall conform to the Town's requirements relating to driveways, minimize disturbances to the natural contour of the land and be located within existing forest or forest fringe areas and not in open fields. Erosion control for the design, construction, and maintenance of driveways shall follow the standards section of the Town of Easton, New Hampshire Subdivision Regulations.

N. Utilities: Utility or service lines for telecommunications facilities shall be underground. The Planning Board may waive this requirement if obvious barriers make it unreasonable to place the utilities underground.

O. Landscaping: Existing growth and natural landforms on the site and immediate area surrounding the compound shall be preserved to the maximum extent possible.

P. Fire Protection: A letter must be provided from the Fire Chief or designee documenting approval of road access and a protocol for ensuring emergency access to the site if needed.

Q. Additional Requirements for Telecommunications Facilities:

1. Use of trees for constructing Telecommunications facilities is prohibited.
2. The use of DAS (distributed antenna system) or other alternative technologies shall be thoroughly studied and determined to be infeasible before the construction of any new towers is approved.
3. Lattice Towers are not permitted. A waiver may be approved pursuant to Section 1014 if the applicant is able to demonstrate that no practicable alternative exists.
4. The antenna radiated power density shall be the minimum necessary, and in no instance shall exceed the maximum safety range prescribed by the FCC, EPA and/or the Department of Health and Human Services.
5. The radiated power shall not adversely affect reception of radio and television signals or other electronic equipment.
6. Antenna Type: Narrow profile antenna arrays are recommended and required for new ground-mounted facilities, the collocation of facilities, and facilities mounted on existing structures and buildings.
7. The applicant proposing to build a new ground-mounted tower or antenna shall submit an agreement with the Town that allows for the maximum allowance of collocation upon the new structure. Such statement shall become a condition to any approval. This statement shall, at a minimum, require the applicant to supply available collocation for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the

orderly and well-planned development of the Town, and grounds for a denial.

Section 1006. Structural Design Review and Inspections

- A. The design of the telecommunications facility, including but not limited to the tower, appurtenant structures and any attachments to the tower shall be designed by a New Hampshire licensed professional engineer to the applicable sections of the New Hampshire State Building Code. The design engineer will certify to the wind category utilized as being the correct wind category for the location and that the design is in conformance with the New Hampshire State Building Code. The plans to be stamped by the professional engineer.
- B. The completed design of the telecommunications facility, including but not limited to the tower and any attachments shall be reviewed by a third-party New Hampshire licensed professional engineer selected by the Planning Board and paid for by the Applicant. The third-party professional engineer will certify to the Easton Planning Board that the design meets or exceeds the current NH State Building Code and that the wind category utilized in the design is appropriate for the location.

Section 1007. Collocation

- A. Whether the applicant is applying for a new tower, or for a substantial modification of an existing tower, the applicant must demonstrate in their application to the satisfaction of the Planning Board that the telecommunications facility cannot be collocated on an existing or approved facility or structure for one of the following reasons:
  - 1. Structural or Spatial Capacity: The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved facility, as documented by a structural engineer licensed in the State of New Hampshire. Additionally, the existing or approved telecommunications facility cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
  - 2. Radio Frequency Interference: The proposed antennas and equipment, alone or together with existing facilities, equipment, and/or antennas, would create radio frequency interference (RFI) in violation of federal standards or requirements as documented by a qualified radio frequency engineer.
  - 3. Radio Frequency Radiation: The proposed antennas and equipment, alone or together with existing facilities, equipment, and/or antennas, would create radio frequency radiation (RFR) in violation of federal standards or requirements without unreasonable modification or mitigation measures.
  - 4. Aesthetics: Locating the needed equipment upon an existing or approved facility would have an unacceptable impact upon aesthetics.
  - 5. Coverage: There are no existing or approved telecommunications facilities in the area in which coverage is sought.

6. Other: Other specific unforeseen reasons make it unreasonable or not feasible to locate the planned equipment upon an existing or approved telecommunications facility.

B. When not associated with a substantial modification, a request for collocation only does not require a Conditional Use Permit and may be submitted directly to the Select Board on the town's Building Permit application for review and approval. Collocations must comply with all applicable codes and regulations including the Town's building code and be located and constructed in such a manner as to ensure public safety.

The Select Board must complete its review and issue a written decision within 45 days of receiving an application for a collocation. Within 15 days of receiving an application, the Select Board may notify the applicant of deficiencies in the application and identify what information or documents need to be provided. If the applicant provides the requested information within 15 days, the Select Board must issue its decision within 45 days of the date the Select Board originally received the application. If the applicant does not provide the requested information within the 15 days, the 45-day deadline is extended by the same period it takes the applicant to provide the requested information.

#### Section 1008. Evaluation of Visual Impact

Upon review of the applicant's visual analysis, supporting materials, public hearing testimony, and balloon test results, the Planning Board shall evaluate the visual impact of the proposed facility in order to determine if the design minimizes its visual presence in the landscape. The Planning Board may require changes to the design in order to further minimize the visual impact of the proposed telecommunication facility. The Planning Board shall consider, but not be limited to, the following in making their determination:

1. The amount of time and time of year during which the proposed facility will be viewed by the traveling public on a public highway, public trail, or public water body.
2. The frequency of the view of the proposed facility by the traveling public.
3. The degree to which the view of the proposed facility is screened by existing and/or proposed vegetation, the topography of the land, and existing structures.
4. Background features in the line of sight to the proposed facility that either obscure the facility or make it more conspicuous from all angles of view.
5. The distance of the telecommunications facility from key vantage points and the proportion of which the facility will be visible above the skyline or tree line.
6. The number of members of the traveling public or residents of Easton and neighboring towns who will be affected by the alteration of the scenic character of the area.
7. The sensitivity or unique value of any particular view affected by the proposed facility.

8. Significant disruption of any view that provides context to an historic or scenic resource.

Section 1009. Security Bond

A. Before, and as a condition of, Conditional Use Permit approval for a telecommunications facility the Planning Board shall require the developer or installer to file with the Select Board a bond or other form of security for the removal and proper disposal of the telecommunications facility together with any structures or equipment appurtenant thereto, and of returning the site to its condition prior to such installation. The amount of security shall be based upon the removal cost plus fifteen percent (15%). The removal cost estimate shall be provided by the applicant and certified by a professional engineer licensed in New Hampshire. The security is to be released by the Town only after a final restoration inspection by the Planning Board or its designee. The property owner is obligated to remove the facility even if the security does not cover the entire cost of removal and restoration.

B. Recognizing the hazardous situation presented by abandoned and unmonitored towers, the security bond may also be used for the removal and disposal of abandoned telecommunications facilities in the event that such a facility is abandoned, and the facility owner is incapable and/or unwilling to remove the tower. After each telecommunications facility inspection, the owner of the facility shall provide the Select Board with a structural evaluation and a revised removal cost estimate prepared by a professional civil engineer licensed in New Hampshire. The Select Board shall revise the amount of the security to be provided by the applicant to be the removal cost plus fifteen percent (15%).

Section 1010. Monitoring and Maintenance

A. The owner of a telecommunications tower, including tower structure, and antenna(s) and accessory equipment shall ensure that it is maintained, and its condition assessed in compliance with the guidelines recommended as set forth under current standards of ANSI/TIA-222 and shall be scheduled as follows:

1. Guyed structures every three years.
2. Self-supporting tower every 5 years.
3. Additionally, after severe wind and/or other extreme loading conditions as determined by the Building Inspector or Select Board or their designee.

B. Inspections shall be conducted by a professional engineer, licensed in the State of New Hampshire and approved by the Town, at the owner's expense. The engineer shall submit a written report to the Select Board, or their designated representative, within 30 days of the inspection. If the report concludes that a structure is not in compliance with the applicable NH State Building Code, then, upon notice of the deficiency, the owner shall have thirty (30) days to bring the structure into compliance. Failure to take remedial action shall constitute abandonment and grounds for removal, and the tower(s) shall be removed and disposed of at the owner's expense through the execution of the posted security bond.



C. The owner of the telecommunications facility shall maintain the telecommunications facility in good condition. Such maintenance shall include but shall not be limited to: painting, structural integrity of the mount and security barrier, and maintenance of the screening and landscaping. (3/8/22)

D. Unless an alternative schedule is approved or required by the Select Board, the owner of the telecommunications facility shall inspect the driveway and stormwater facilities at least once in the spring and once in the fall and after major storm events as determined by the Town and perform any needed maintenance and/or repair to ensure proper functioning.

E. The Town shall verify, at the tower owner's expense, that the propagation of the cellular signal is at least equal to the signal defined in the application for the telecommunications facility. Such verification will be completed once in each maintenance cycle.

#### Section 1011. Abandonment or Discontinuation of Use

A. Notification: At such time that a carrier or owner plans to abandon or discontinue operation of a telecommunications facility, the carrier or owner will notify the Town by Certified U.S. Mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given not less than ninety (90) days from the date of abandonment or discontinuation of operations. In the event that a carrier or owner fails to give such notice, the wireless telecommunications facility shall be considered abandoned if not operated for twelve (12) months.

B. Removal: Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the telecommunications facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

1. Removal of antennas, mount, equipment shelters, and security barriers from the subject property.
2. Proper disposal of waste materials from the site in accordance with local and state solid waste disposal regulations.
3. Restoring the location to its natural condition.

C. Failure to Remove: If the owner of the facility does not remove the facility, then the Select Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall then dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Select Board. If the abandoned facility is not removed within ninety (90) days, the Select Board may execute the security bond to pay for this action.

#### Section 1012. Insurance

The Select Board shall require the owner/operator of any antenna or tower to annually provide proof that it is maintaining adequate liability insurance covering accident or damage.

Section 1013. Final Approval

The facility owner shall enter into a written agreement with the Town, in a form to be reviewed by the Town's attorney at the owner's expense, which incorporates, at a minimum, all of the requirements and remedial procedures of this Ordinance and any additional specific conditions of approval associated with the Conditional Use Permit.

Upon receipt of the certification from the third-party professional engineer the Easton Select Board shall issue a Building Permit subject to any conditions identified by the Easton Planning Board and the Easton Building Official.

The third-party professional engineer(s), licensed in the State of New Hampshire, retained by the Town, at the applicant's expense, shall monitor the project and perform inspections required to certify to the Select Board and Easton Building Official that the construction of the telecommunications facility, including but not limited to, the Tower, foundation, appurtenant structures and the attachments complies with the design and is compliant with the applicable Federal and New Hampshire Building Codes as currently adopted. The engineer(s) will be certified for the specific inspection they are performing. The engineer will verify to the Select Board and Building Official the finished tower foundation is in the correct location as detailed in the applicant's application prior to work continuing. The engineer(s) will provide the Select Board and Building Official with copies of the inspection report on each inspection within 10 days after the inspection is complete.

Upon receipt of an unconditioned certification from the third-party New Hampshire licensed Professional Engineer that the construction of the tower and the attachments are in compliance with the New Hampshire State Building Code and certification from the Easton Planning Board Chairman and the Easton Select Board Chairman that all conditions of the Conditional Use approval and Building Permit have been complied with, the Easton Building Official shall issue a Certificate of Occupancy.

The adding of any additional appurtenant structures, attachments or extension of the Tower requires the following of the above before the Select Board will issue a Building Permit and the Easton Building Official issues a Certificate of Occupancy for the modifications or attachments.

Section 1014. Waivers.

A. General. Section 1014 Waivers only applies to Article 10 Telecommunications Facilities and no other section of Easton's Zoning Ordinance. Where the Planning Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with a particular requirement of Article 10, or the purposes of this Ordinance may be served to a greater extent by an alternative proposal, it may approve waivers to this Ordinance. The purpose of granting waivers under this Ordinance shall be to ensure that an applicant is not unduly burdened as opposed to merely inconvenienced by this Ordinance. The Planning Board shall not approve any waiver unless a majority of those present and voting find that all of the following apply:

1. The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.
2. The waiver will not, in any manner, vary the intent of Article 10, the Town master plan, or official maps.
3. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include but not be limited to the following:
  - a. Topography and other site features.
  - b. Availability of alternative site locations.
  - c. Geographic location of the property.
  - d. Size/magnitude of the project being evaluated and availability of collocation.
  - e. Whether the absence of a waiver would otherwise actually prohibit or effectively prohibit the applicant from providing services.

B. Conditions. In approving waivers, the Planning Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of this Ordinance.

C. Procedures. A petition for any such waiver shall be submitted in writing by the applicant with the application for Planning Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant. Failure to submit the petition in writing shall require an automatic denial.

#### Section 1015. Facilities Installed Prior to Effective Date

All telecommunication facilities, towers and antennas legally installed prior to the effective date of the Ordinance shall be considered permitted, nonconforming uses and structures and may be utilized for siting consistent with the terms of this Ordinance.

#### Section 1016. Appeals

Appeals regarding the decision of the Planning Board for the Conditional Use Permit, must be appealed to the New Hampshire Superior Court as provided by RSA 676:5(III) and RSA 677:15.

Collocation: Collocations are subject to approval by the Town's Select Board pursuant to Subsection 1007(B). Within thirty (30) days after any order or decision of the Select Board granting or denying a permit for a collocation, the applicant or any other person directly affected by the application may apply to the Select Board for reconsideration or a rehearing in respect to any matter determined in the proceeding.

## **ARTICLE 11: ENFORCEMENT**

### **Section 1101. ENFORCEMENT PROCEDURES AND PENALTIES**

This Ordinance shall be administered and enforced by the Select Board, and/or through an appointed Building Inspector as prescribed by RSA Chapter 676. (6/4/70)

Any violation of the requirements of this Ordinance shall be subject to the enforcement procedures and maximum penalties detailed in RSA 676. (03/08/11)

### **Section 1102. LEGAL ACTIONS**

The Building Inspector is hereby authorized to institute or cause to be instituted in the name of the Town, any and all actions, legal or equitable, that may be necessary for the enforcement of this Ordinance.

## **ARTICLE 12: ZONING BOARD OF ADJUSTMENT**

### **Section 1201. Authority.**

There is hereby created a Zoning Board of Adjustment, and its members shall be appointed as prescribed by RSA Chapter 673, and shall have the terms and powers conferred by RSA Chapter 674 as it has been or may be amended. (6/4/70)

### **Section 1202. Appeals.**

The Zoning Board of Adjustment shall hear and decide any case in which it is alleged there is an error in any order, requirements, decision, or determination made by any official in the enforcement of this Ordinance.

### **Section 1203. Special Exceptions.** (3/8/22)

The Zoning Board of Adjustment may grant approval for a Special Exception, subject to appropriate conditions and safeguards as determined by it. In acting on an application for a Special Exception, the Board shall take into consideration:

1. The proposed use shall be one permitted by this Ordinance as a Special Exception.
2. The specific site is an appropriate location and of adequate size for such use.
3. Property values in the district will not be reduced by the use.
4. The proposed use will be compatible with the character of the area, and will not adversely affect the surrounding property, the neighborhood, or the town, including, but not limited to, consideration of noise, air quality, noxious

odors, vibration, traffic, lighting, glare, hours of operation, amount of impervious surface, or building mass.

5. No nuisance or unreasonable hazard will result to vehicles, pedestrians or the environment, including, but not limited to, traffic, air quality, or surface or groundwater quality through increased stormwater runoff or the use of toxic or hazardous substances.
6. Adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.

In addition, the following findings must be made prior to the issuance of a Special Exception for an excavation: (3/12/13)

1. The proposed excavation is in a non-residential area.
2. The excavation will not cause a diminution in area property value or unreasonably change the character of the neighborhood.
3. The excavation will not unreasonably accelerate the deterioration of highways or create safety hazards in the use thereof.
4. The excavation will not create any nuisance or create health or safety hazards.

The following additional findings must be made prior to the issuance of a Special Exception for any Solar Energy System over 20 kW: (3/14/23)

1. The system shall be designed to blend into the architecture of the building or be screened from routine view from public right-of-ways to the maximum extent possible while still allowing the system to be mounted for Solar Skyspace and effective Solar Access.
2. The system shall be designed and located to avoid glare or reflection onto other properties and adjacent streets and shall not create a safety hazard.
3. The system shall have permeable ground cover under and between the collectors and surrounding the system's foundation or mounting devices.

#### Section 1204. Variances.

As provided in RSA 674:33, as amended, a variance from the terms of this Ordinance may be legally granted by the Zoning Board of Adjustment if the following conditions are met:

- 1) The variance will not be contrary to the public interest;
- 2) The spirit of the ordinance is observed;
- 3) Substantial justice is done;
- 4) The values of surrounding properties are not diminished; and

- 5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
  - a. For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
    - (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
    - (ii) The proposed use is a reasonable one.
  - b. If the criteria in subparagraph (1) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of "unnecessary hardship" set forth in Section 1204 (E) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

Section 1205. Equitable Waivers of Dimensional Requirements (3/8/22)

- A. When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by this Ordinance, the Zoning Board of Adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the Board makes all of the following findings:
1. That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;
  2. That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;
  3. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and
  4. That due to the degree of past construction or investment made in ignorance of

the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

B. In lieu of the findings required by the Board under Section 1205 A(1) and (2), the owner may demonstrate to the satisfaction of the Board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.

C. Application and hearing procedures for equitable waivers under this section shall be governed by RSA 676:5 through 7. Rehearings and appeals shall be governed by RSA 677:2 through 14.

D. Waivers shall be granted under this section only from physical layout, mathematical or dimensional requirements, and not from use restrictions. An equitable waiver granted under this section shall not be construed as a nonconforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

#### Section 1206. Public Hearing

1. Prior to exercising its appeals powers, the Zoning Board of Adjustment shall hold a public hearing. Notice of the public hearing shall be given as follows:
  - a. The appellant and every abutter and holder of conservation, preservation, or agricultural preservation restrictions shall be notified of the hearing by verified mail stating the time and place of the hearing, and such notice shall be given not less than 5 days before the date fixed for the hearing of the appeal. The Board shall hear all abutters and holders of conservation, preservation, or agricultural preservation restrictions desiring to submit testimony and all non-abutters who can demonstrate that they are affected directly by the proposal under consideration. The Board may hear such other persons as it deems appropriate. (3/8/22)
  - b. A public notice of the hearing shall be placed in a newspaper of general circulation in the area not less than 5 days before the date fixed for the hearing of the appeal.
2. The public hearing shall be held within 45 days of the receipt of the notice of appeal. (3/8/22)
3. Any party may appear in person or by the party's agent or attorney at the hearing of an appeal.
4. The cost of notice, whether mailed, posted, or published, shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid grounds for the Board to terminate further consideration and to deny the appeal without public hearing.
5. If the Board finds that it cannot conclude the public hearing within the time

available, it may vote to continue the hearing to a specified time and place with no additional notice. (3/8/22)

**ARTICLE 13. ADDITIONAL PROVISIONS FOR ZONING BOARD OF  
ADJUSTMENT AND PLANNING BOARD**

**Section 1301. Determination of Regional Impact**

Upon receipt of an application for a Special Exception, Variance or Conditional Use, the Zoning Board of Adjustment or Planning Board shall review it and determine whether or not the development, if approved, could reasonably be construed as having the potential for impact beyond the boundaries of Easton. This regional impact could result from a number of factors, such as, but not limited to, the following:

- a. relative size or number of units compared with existing housing stock;
- b. transportation networks;
- c. proximity to the borders of a neighboring community;
- d. anticipated emissions such as light, noise, smoke, odors or particles;
- e. proximity to aquifers or surface waters which transcend municipal boundaries; or
- f. shared facilities such as schools and solid waste disposal facilities.

Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact. Upon determination that a proposed development has a potential regional impact, the Board shall afford the Regional Planning Commission and the affected municipalities the status of abutters for the limited purpose of providing notice and giving testimony. Within five business days of reaching a decision that a development has regional impact, the Board shall, by verified mail, furnish the Regional Planning Commission with copies of the minutes of the meeting at which the decision was made and copies of the initial project plan and the affected municipalities with copies of the minutes of the meeting at which the decision was made. At least fourteen (14) days prior to the public hearing, the Board shall notify, by verified mail, all affected municipalities and the Regional Planning Commission of the date, time and place of the hearing and the right to testify concerning the development. (3/8/22)

**Section 1302. Conditions (3/8/22)**

In authorizing a Variance or Special Exception or Conditional Use, the Zoning Board of Adjustment or Planning Board may attach such conditions and safeguards as it deems necessary to protect the neighborhood and community, as to the use of the land, including for example:

- a. Increasing the required lot size or setbacks in order to protect the adjacent properties.



- b. Limiting the coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent properties.
- c. Controlling the location and number of vehicular access points to the property.
- d. Increasing the street width adjacent to the property.
- e. Increasing the number of on-site off-street parking or loading spaces required.
- f. Limiting the number, location and size of signs on or off premises.
- g. Requiring suitable on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character and keeping with the surrounding area.
- h. Specifying a time limit for initiation of construction, alteration, or enlargement of a structure.
- i. Providing for specific layout of facilities on the property such as location of the building, parking areas, access to the building so as to minimize the effect on adjoining property.
- j. Requiring that any future enlargement or alteration of use be accomplished only with the approval of the Zoning Board of Adjustment.
- k. Specifying standards for operation so that it will be no more objectionable to the neighborhood by reasons of noise, odors, and vibrations, flashing lights or hours of operation than will be the operation of a permitted use at this site.
- l. Requiring such additional reasonable conditions and safeguards as it may deem necessary to implement the purpose of this Ordinance and to protect the best interests of the surrounding property and the neighborhood.

**Section 1303. Fees**

As authorized by RSA 676:5,IV; RSA 676:4,I(g); and RSA 676:4-b, the Zoning Board of Adjustment and Planning Board may impose reasonable fees to cover the board's administrative expenses and costs of special investigative studies, review of documents, and other matters which may be required by particular appeals or applications. (3/8/22)

**ARTICLE 14: AMENDMENTS**

This Ordinance may be amended in accordance with the provisions of RSA Chapter 675 as amended. (3/8/22)

**ARTICLE 15: SEVERABILITY**

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

**ARTICLE 16: EFFECTIVE DATE**

This Ordinance and any amendments thereto shall become effective immediately upon its passage.