

**ZONING ORDINANCE****TOWN OF EPSOM, NEW HAMPSHIRE**

## Effective Date Action Taken

09/15/69	Approval	-Original Ordinance
02/--/73	Amendment	-Article III, Section B, Pre-Existing Non-Conforming lots Section F, Mobile Homes
09/--/73	Amendment	- Article III, Section G, Minimum Lot Size
08/01/78	Adoption	-Article IV, Flood Damage Prevention
03/11/80	Adoption	-Article III, Section L, Special Provisions
02/06/81	Adoption	-Article VI, Administration and Enforcement
03/08/85	Adoption	-Article II, Section B, Residential/Commercial Zone
03/12/85	Amendment	-Article III, Section F, Mobile Homes, Mobile Home Parks
03/10/87	Amendment Amendment Amendment	-Article II, Section B(1), Residential/Commercial Zone (Purpose) -Article II, Section B(4.e), List of Principal Uses (Auto Sales) -Article III, Section K(3), Signs
03/14/89	Amendment Adoption Adoption Deletion Adoption	-Article III, Section G, Residential Single and Multi-Family Resident Requirements -Article III, Section I, Planned Business Developments -Article III, Section M, Cluster Residential Housing -Article III, Section F, Mobile Home and Camping, and Tenting Park -Glossary
03/10/90	Amendment	-Article IV, Flood Damage Protection
03/15/91	Amendment Amendment Amendment Amendment	-Article I, Section B, Applicability -Article II, Section E, Compliance Permits -Article III, Section D, Junkyards -Article III, Section K, Home Occupations

## Effective Date Action Taken

03/10/92	Amendment	-Article II, Section D, Table of Uses
	Amendment	-Article III, Section I(3), Seasonal (Intermittent) Business
	Deletion	-Article III, Section L, Other Business
	Amendment	-Article III, Section M, Signs
03/09/93	Amendment	-Article II, Section B, Residential/Commercial Use
	Amendment	-Article II, Section D, Table of Uses
	Amendment	-Article III, Section M, Signs
	Amendment	-Article VI, Section D, Enforcement and Penalty
	Amendment	-Glossary
03/08/94	Amendment	-Article III, Section D(b), Junkyards
03/14/95	Amendment	-Article II, Section B(1), Residential/Commercial Zone
	Amendment	-Article III, Section M(6), Signs
03/12/96	Amendment	-Article II, Section D(2.a), Table of Uses, Add Sexually Oriented Businesses
	Amendment	-Article II, Section D(19.a), Table of Uses, Add Elderly Multi-Family Apartments
	Amendment	-Article III, Section D(h), Junkyards; General Requirement-Permit
	Amendment	-Article III, Section D(I), Junkyards; Applicability of Ordinance
	Amendment	-Article III, Section G(5), Elderly Multi-Family Apartment Residences with Three or More Units
	Amendment	-Article III, Section K, Home Occupation
	Amendment	-Article III, Section L, Campgrounds
	Amendment	-Article III, Section M, Signs
	Amendment	-Article VI, Section D(2), Enforcement and Penalties
	Amendment	-Article VIII, Sexually Oriented Businesses
03/11/97	Amendment	-Article II, Section D(13.a), Table of Uses, Add Bed and Breakfasts
	Amendment	-Glossary
03/11/98	Amendment	-Article II, Section F, Manufactured Housing
	Deletion	-Article II, Section C, Pre-Existing Non-Conforming Lots
	Amendment	-Article III, Section B, Pre-Existing Non-Conforming Uses
	Deletion	-Article III, Section G(1.d), Variances for Frontage Regulations
	Amendment	-Article III, Section C, Ruins
	Amendment	-Article III, Section M(1.a), Signs
	Deletion	-Article III, Section M(1.e), Signs
	Amendment	-Article III, Section O, Churches

## Effective Date Action Taken

03/11/98	Amendment	-Article III, Section P, Hotels, Motels, Inns, Resorts
	Amendment	-Article V, Section A, Appointments; revised
	Amendment	-Article VI, Section C(2), Zoning Compliance Inspector
	Amendment	-Article VI, Section F, Driveways
03/09/99	Amendment	-Article II, Section F, Manufactured Housing
	Amendment	-Article III, Section D(h), Junkyards
	Amendment	-Article III, Section D(b), Junkyards
	Amendment	-Article III, Section F, Section Yard Sales
	Amendment	-Article III, Section G(3), Multi-Family Residences
	Amendment	-Article III, Section I(1.b), Building Lots
03/14/00	Repealed	-Article III, Section G, Preamble
	Amendment	-Article III, Section G(1.c), Single Family Residences
	Amendment	-Article III, Section I(1.c), Business
	Adoption	-Article III, Section Q, Manufactured Housing
	Adoption	-Article III, Section R, Telecommunication Towers
03/14/01	Adoption	-Article II, Section D(5), Principal Uses
	Adoption	-Article II, Section D(10), Principal Uses
	Adoption	-Article II, Section E, Motorized Vehicle Sale Facilities
	Amendment	-Article III, Section I(1.g), Manufactured Units
	Adoption	-Article III, Section K(2.i), Improved Area
	Adoption	-Article III, Section K(2.iv), Hours of Operation
	Adoption	-Article III, Section M(1.a), Farms
	Adoption	-Article III, Section M(1.c), Signs
	Adoption	-Article III, Section M(2), Farms
	Adoption	-Article III, Section M(3), Farms
	Adoption	-Article III, Section M(6), Farms
	Adoption	-Article III, Section M(7), Business or Professional Enterprise
	Repealed	-Article III, Section Q(7), Expiration
	Amendment	-Article III, Section R & D(4), Wireless Communication
	Adoption	-Article III, Section R & E(1.a), General Regulations
	Adoption	-Article VI, Section D(2.iv), Fines
Adoption	-Glossary of Terms, Add Agriculture, Farm, Farming	
03/12/02	Adoption	-Article II, Zones and Districts
	Repealed	-Article IV, Section A, Flood Zone (date)
	Adoption	-Article IV, Section C(23.a), Recreational Vehicle, defined
	Adoption	-Article IV, Section D(4), Recreational Vehicle

## Effective Date Action Taken

03/12/02	Adoption Repealed	-Article II, Section D, Table of Uses (23.a), Gardening Retail Sale -Article VI, Section E(4.a), Variances
03/11/03	Amendment Amendment Adoption Adoption	-Article III, Section M(3), General Provisions -Article VIII, Section B(1.a) Sexually Oriented Business -Article X, Section B, Severability -Article XI, Section A-K, Growth Management Ordinances
03/09/04	Amendment	-Article VI, Section F, Driveways
03/08/05	Amendment Amendment Amendment Amendment Adoption	-Article XI, Section H(5), Growth Management Ordinance -Article XI, Section H(1), Growth Management Ordinance -Article II, Section B(2.b), Residential/Light Commercial -Article III, Section G(1.d), Wetlands Set Back -Article III, Section G(1.e), Single Family Accessory Dwelling

## Revised March 2005

03/14/06	Amendment Adoption Amendment	-Article II, Section B(2.c.ii & iii) Light Comm./Resd. Zone use -Article III, Section S, Kennels & Animal Boarding Facilities -Article II, Section A(2) Wetlands Set Back
03/13/07	Amendment Adoption  Amendment Amendment Amendment	-Glossary, Public Road/Lot/Structure/Dwelling/Elderly Housing -Article III, Section B 7, Pre-Existing non-conforming seasonal dwellings  -Article III, Section I(1.b), Building Lots -Article III, Section Q(4.e), Illustration -Article XI, Section J, Sunset

## Revised March 2008

03/11/08	Amendment Amendment Amendment Amendment Amendment Amendment Amendment	-Article III, - Section D(5)(b) General Operating Requirements -Article III – Section M. Signs 1.c -Article III – Section M. Signs 1.d -Article III – Section M. Signs 7 -Article IV – Section C Definitions of Terms -Article IV – Section D Administration (3)(a)(iii),(iv),(d),(e),(f). -Article IV – Section D Administration (4)
03/10/09	Amendment Adoption	-Article III - Section D 3.f Junkyard Fees -Article III - Section T Small Wind Energy Systems
03/09/10	Amendment Adoption Adoption	-Article IV Flood Damage Protection -Article II - Section C 13.a Bed & Breakfast -Article III - Section P Hotels, Motels, Inns, Resorts, B & B's

3/08/11	Amendment	Article II	Section B 1 b-iii Zones & Districts
	Amendment	Article II	Section C 2 & 5 Table of Uses
	Amendment	Article VI	Section E 5 iii & iv Administration & Enforcement

## ARTICLE I

### A. Preamble

In order to retain the beauty and rural atmosphere of the Town of Epsom, New Hampshire, to protect property values, to conserve natural resources, to encourage the most appropriate use of land throughout the municipality and to promote health, safety, morals, order, convenience, peace, prosperity, and general welfare of its inhabitants, the following Ordinance is hereby enacted by the said Town, pursuant to the authority conferred by New Hampshire Revised Statutes, Annotated, 1955, Chapter 31, Sections 60 through 89 and as amended.

### B. Applicability

This Ordinance shall apply to:

1. all buildings or structures erected, reconstructed, altered, enlarged, or relocated after the effective date of this Ordinance;
2. the use of any building, structure, or land which is substantially different from its use prior to the effective date of this Ordinance and;
3. any land which is subdivided after the effective date of this Ordinance.  
(RSA 574:20)

## ARTICLE II ZONES AND DISTRICTS

### A. Zones

1. The Town of Epsom shall be divided into three (3) zones for the purposes of these ordinances:
  - a. Residential/Agricultural zone (R/A)
  - b. Residential/Commercial zone (R/C)
  - c. Residential/Light Commercial zone (RLC)
2. All lots shall contain a minimum of two (2) acres with two hundred (200) feet of frontage on a Class V, or higher class, road. In case of an arc, the frontage shall be measured as the chord of the arc. These ordinances specifically designate the uses or activities permitted in each zone. All building or structures, in all zones, shall be set back no less than fifty (50) feet from “wetlands” as defined by the New Hampshire Department of Environmental Services.”
3. All newly created businesses or expanding existing businesses; to include those approved through a Special Exception or a Variance; shall be required to obtain a site plan review approval from the Epsom Planning Board.

4. Lots which are split by zoning use boundary lines shall be considered as keeping distinct zoning identities for that portion of the lot in each zone. Variances shall be necessary to extend uses across zoning use boundary lines that would not otherwise be allowed.

B. Purpose and Location of Zones

1. Residential/Commercial Zone

- a. Purpose: The purpose of this zone is to contain residential as well as commercial establishment as permitted by, and subject to conditions imposed under, these ordinances and the table of uses.
- b. Location: This zone shall include:
  - i. Route 4 west of the Epsom Traffic Circle, Route 4 east of Center Hill Road and Route 28 south of the Epsom Traffic Circle to a line perpendicular to Route 28 at the southern boundary of tax map lot U-11-25. The zone shall be on both sides of the roads enumerated and will have a depth of five hundred (500) feet from the edge of the public right of way.
  - ii. The area bound as follows: beginning at the point of the junction of Route 28 (north of Circle) and Chichester Town line; and running along the Chichester Town line to its point of junction with U.S. Route 4; thence running east along Route 4 to the Epsom Traffic Circle; then turning and running north along Route 28 to the point of beginning. The zone shall be enumerated and will have a depth of five hundred (500) feet from the edge of the public right of way of the Easterly sideline of Route 28.
  - iii. The area bound as follows: beginning at a point at the northerly junction of Route 28 and Elkins Road, thence running in a line parallel to that of Route 4, to the point of intercepting the Chichester town line; thence turning northerly along the Chichester line to the point of intersecting Route 4; thence turning and running along Route 4 to the Epsom Traffic Circle; thence turning southwesterly and running along Route 28 to the point of beginning.
- c. Areas which are within the One Hundred Year Flood Plain shall be exempt from inclusion in the zone. No refuse shall be stored on a permanent basis outside of commercial structures. Inventory may be stored outside if it is orderly, is not noxious, and is consistent with the surrounding landscape. Trailers and other temporary external structures intended for the storage of refuse and inventory beyond what is normal

and customary are prohibited. (See Table of Uses on Page 3 for permitted uses.)

## 2. Residential/Light Commercial Zone

- a. Purpose: This zone is intended to foster light commercial uses that are compatible with the residential use and will promote the preservation of the historic structures; and to instill the atmosphere of the business center of the town.
- b. Location: This zone shall contain the area on both sides of Route 4 to a depth of five hundred (500) feet from the edge of the public roadway, beginning at the intersection of the Suncook River and Route 4 running easterly to a line drawn perpendicular to Route 4 across the same road from the western point of its intersection with Center Hill Road. Also, the area along Route 28 South of the boundary of the Residential/Commercial zone to the Pembroke town line. This zone shall include the area to a distance of five hundred (500) feet from the edge of Route 28 to the west and the westerly shore of the Suncook River to the east.
- c. Uses: Subject to restrictions and requirements enumerated within these ordinances the following uses shall be permitted in this zone:
  - i. Single and multiple family residential dwelling.
  - ii. No more than one (1) five thousand (5,000) gross square feet commercial building on each lot to include, but not limited to retail shops, antique shops, gift shops, flower shops and other business selling merchandise directly to the consumers and professional offices including medical, dental, chiropractic, physical therapy, real estate, insurance, legal services and counseling.
  - iii. Other uses permitted by these ordinances, subject to conditions and restrictions imposed therein.
- d. Areas which are within the One Hundred Year Flood Plain shall be exempt from inclusion in the zone. No refuse shall be stored on a permanent basis outside of commercial structures. Inventory may be stored outside if it is orderly, is not noxious, and is consistent with the surrounding landscape. Trailers and other temporary external structures intended for the storage of refuse and inventory beyond what is normal and customary are prohibited. (See Table of Uses on Page 3 for permitted uses.)

## 3. Residential/Agricultural Zone

- a. Purpose: This zone is intended primarily for residential and agricultural use, while preserving the rural atmosphere of the community.

- b. Location: The Residential/Agricultural zone shall consist of all land not within the Residential/Commercial zones or Residential/Light Commercial zones.
- c. Uses: Subject to the restrictions and requirements enumerated in these ordinances, the following uses shall be permitted in this zone:
  - i. Single and multiple family residential dwellings.
  - ii. Agricultural uses as defined in the Glossary of Terms of these ordinances.

**C. Table of Uses for Residential/Agricultural, for Residential/Commercial and for Residential/Light Commercial Zones.**

LIST OF PRINCIPAL USES		ZONE		
<b>Retail and Service Uses</b>		<u>R/A</u>	<u>R/C</u>	<u>RLC</u>
1.	Retail establishment selling principally convenience goods including, but not limited to food, drugs, and proprietary goods.	S	P	P/P
2.	Retail establishment selling and/or renting general merchandise, including, but not limited to, dry goods, apparel and accessories, furniture and home furnishings, home equipment, small wares, and hardware, and including discount and limited price variety stores.	N	P	P/P
2.a.	Sexually Oriented Businesses	N	S	N
3.	Eating and drinking places not including drive-in establishments.	N	S	S
4.	Drive-in eating establishments.	N	S	S
5.	Establishments selling and /or renting new or used motorized vehicles or heavy equipment meeting state inspection standards, where applicable, to include automobiles, recreational vehicles, motorcycles, boats, snowmobiles, and accessories thereto.	N	S	N
6.	Personal and consumer service establishment.	N	P	P

7.	Funeral establishment.	N	P	P
8.	Membership club.	S	S	S
9.	Professional and business offices and services.	S	P	P
10.	Automotive and heavy equipment repair, automotive and heavy equipment service station or garage (not including a junkyard or open storage of abandoned or other vehicles).	N	S	N
11.	Miscellaneous business repair service.	N	S	S
12.	Motion picture establishment, indoor.	N	S	S
13.	Other amusement or recreation service outdoor, including camping grounds.	S	S	S
13.a.	Bed and Breakfasts.	P**	P	P
13.b.	Hotels, Motels, Inns, Resorts.	S	P	P
14.	Communications and television tower.	P/P	P/P	P/P
15.	Planned business development.	N	SU	SU
16.	Construction of drainage facilities other than essential services or damming up or relocating any watercourse, waterbody, or wetlands.	N	S	N
17(a).	Single Family Residence (one unit)	P	P	P
17(b).	Single Family Accessory Dwelling	P	P	P
18.	Two Family Residence (two units).	P	P	P
19(a).	Multi-Family Residence (three units or more).	S	S	S
19(b).	Elderly Multi-Family Apartment Residences (three or more dwelling units).	S	S	S
20.	Conversion of existing structures to Multi-Family uses (three units or more).	S	S	S
21.	Cluster Residential Developments.	SU	SU	SU

<b>Wholesale, Transportation, and Industrial</b>		<b>R/A</b>	<b>R/C</b>	<b>R/LC</b>
21.	A. Removal of sand, gravel, loam, quarry, or other raw material.	S	S	S
22.	Processing, treating, and storage of raw materials including operations appurtenant to the taking; such as grading, drying, sorting, crushing, grinding, and milling operations.	N	S	N
23.	Retail sale of gardening, landscaping and horticultural supplies directly to the consumer of the products.	N	P	P
24.	Construction industry including suppliers.	N	S	N
25.	Manufacturing.	N	S	N
26.	Laundry or dry cleaning plant.	N	S	N
27.	Motor freight terminal and warehousing.	N	N	N
28.	Bus passenger terminal.	N	S	S
29.	Wholesale, trade, and distribution.	N	S	N
30.	Open storage of finished goods, or construction equipment and structure for storing such equipment.	N	S	N
31.	Research offices or establishments devoted to research and development activities:			
	a. Principal use	N	S	S
	b. Accessory use	N	S	S
32.	Junkyards.	SU	SU	N
<b>Accessory Uses</b>				
33.	Home Occupation.	P	P	P
34.	Day Care.	S*	P	P

35.	Elementary, Middle and High Schools	S	S	S
36.	Churches.	S	P	P
37.	Kennels & Boarding Facilities	P	P	P

\*Special Exception required for Day Care that provides services for ten (10) or more children.

\*\*Special Exception required for Bed & Breakfasts with more than four rental bedrooms, with or without shared lavatory facilities, in the Residential/Agricultural Zone.

KEY:

- N = None Allowed
- P = Permitted
- S = Permitted w/Special Exception
- P/P = Partially permitted subject to restrictions
- SU = Special Usage Permit

D. Reserved

E. Motorized vehicles sale facilities.

1. In addition to other restrictions imposed in these ordinances no “motorized vehicle sale establishment or facility” as defined herein may be permitted within one thousand (1000) feet of another such facility or establishment.
2. “motorized vehicle sale establishment or facility” shall mean any enterprise engaged in the sale of new or used motorized vehicles, to include heavy equipment, automobiles, truck, motorcycles, boats, recreational vehicles, snowmobiles and accessories, where such vehicles conform to state inspection requirement, if any.

F. Manufactured Housing

In addition to other regulations and requirements applicable under these ordinances, no manufactured housing unit or mobile home may be placed in, constructed on, or attached to, any land located in Epsom unless the said unit was originally manufactured within ten (10) years immediately preceding the completion of the placement of the unit upon any such land. The date of the manufacture shall be the date indicated on the certificate of origin or certificate of title issued by the manufacturer.

This section, however, shall not prohibit or prohibit the removal and reinstallation of manufactured housing units over ten (10) years old from a site within Epsom or another site within Epsom; so long as the unit was put to a permitted and authorized use at its

former location; and will not be put to the same use which is permitted and authorized at its new location.

### **ARTICLE III GENERAL PROVISIONS**

**A. Air and Water Pollution.**

No land use will be permitted which violates existing state and federal water and air pollution regulations.

**B. Pre-Existing, Non-Conforming Uses.**

1. **General:** The Epsom Zoning Ordinances generally are applicable to and regulate the creation, subdivision, alternation of parcels located in Epsom, and the use to which any lands may be put.
2. **Pre-Existing Lots:** All lots or parcels of land which existed prior to enactment of these ordinances in September 1969 may continue to exist and be subject to ownership and conveyance as distinct lots. Any lot or lots subdivided after September 15, 1969 may continue to exist and be subject to ownership and conveyance as distinct lots, provided, however, that any such lot was approved by the Epsom Planning Board, and
  - a. conformed to the lot size and frontage requirement in effect at the time of such approval, or
  - b. a special exception or variance, whichever appropriate was obtained from the Epsom Zoning Board of Adjustment.
3. **Pre-Existing Uses:**
  - a. A pre-existing use shall mean a specific and distinct use which:
    - i. was commenced, initiated or constructed legally and in conformity with all local and state laws in effect at the time of commencement, and
    - ii. has continued since its lawful inception, and
    - iii. has not been substantially changed or enlarged since the lawful commencement of the use;
  - b. All such pre-existing non-conforming uses shall be permitted to be continued indefinitely and be exempt from the restrictions imposed by these ordinances subsequent to their commencement, unless:

- i. the specific use has ceased for any one (1) year period, or
- ii. the specific use has substantially changed or enlarged, or
- iii. the specific use is of such nature which constitutes a hazard to public health and safety, or has become a nuisance;

At which time all restrictions of these ordinances shall become applicable and the pre-existing use must conform to all applicable provisions of these ordinances to include frontage, acreage, setback; side, front and rear yard; height and density.

4. Change and Expansion of Use: As delineated in subsection 3 above; subject to the following provisions, a pre-existing, non-conforming use may not substantially change nor enlarge. In determining whether any change or proposed change constitutes “substantial” so as to be prohibited under these ordinances the determining authority shall consider factors including but not limited to:
  - a. The nature of the use, whether residential, commercial, industrial or otherwise.
  - b. The actual size of any enlargement in relation to the original pre-existing use.
  - c. The impact of the enlargement or change on the surrounding neighborhood, roads, municipal resources and the environment.
  - d. Whether the enlargement or change is violative of any provision of these ordinances in effect at the time and if so the actual number and the substance of each provision which may be violated.
  
5. Continued Use:
  - a. Repairs and maintenance which merely preserve but not enlarge or change a pre-existing, non-conforming use shall be permitted and shall not constitute a substantial change or enlargement.
  - b. A pre-existing, non-conforming use as defined by these ordinances may be enlarged by no more than twenty-five percent (25%) in proportion to the originally protected and vested pre-existing, non-conforming use. Such enlargement in area usage shall not constitute substantial enlargement or change, unless such enlargement would be violative of further protective ordinances.
    - i. Example: If a residential dwelling was containing one thousand (1000) square feet of living space constructed on a substandard lot before September 15, 1969 and has been in continued use, then the dwelling may be enlarged by an addition of two hundred fifty (250) square feet of living space, unless such enlargement would

be violative of an independent restriction such as the sideyard or height requirements.

- c. Acts of God: If any pre-existing, non-conforming use is terminated by an act of God such as fire or flood, such terminated use may be rebuilt or restored substantially to its original nature so long as such restoration or reconstruction is completed within one (1) year of the termination or destruction. The said term may be extended to two (2) years upon a showing of necessity and hardship including financial hardship. The extension may be granted by the Zoning Compliance Officer whose decision is subject to administrative appeal to the Zoning Board of Adjustment.
  - d. Mobile Homes: Removal of a mobile home when done with the intent of replacing the same shall not constitute a cessation or termination of the pre-existing use so long as a replacement unit substantially similar to the pre-existing unit is installed within one (1) year of the removal of the original unit, provided further that the replacement unit does not further violate the ordinances than the original pre-existing unit.
    - i. Example: If a mobile home is removed from a lot lacking the frontage requirement, another mobile home substantially similar in size to the pre-existing unit may be placed on the same site within one (1) year without the need for a variance. The new unit, however, may not violate other ordinances such as the setback requirement to any extent greater than the original pre-existing unit.
6. Relief:
- a. Unless specifically provided otherwise in this section, any use or proposed use which may be inconsistent with or violate any provision of these ordinances shall require a variance from the Epsom Zoning Board of Adjustment under the procedure and standards described in Article VI.E.
  - b. Under the following circumstances the use or proposed use shall be subject to a special exception from the specific restriction enumerated and not a variance:
    - i. all uses so designated by an "S" in the list of principal uses within these ordinances.
    - ii. as expressly permitted under Article III, Section M.6. Paragraph 2 relative to signs and signage.
    - iii. from the applicable minimum acreage requirement where the pre-existing parcel of land and the proposed use meet all other requirements; and the parcel contains no less than one-half (1/2) of

the acreage required at the time of the proposed use. This section shall expire without any further action on March 15, 2008. All such proposed uses not completed before that date shall then require a variance, regardless of whether or when a permit has issued.

iv. from the applicable minimum frontage requirement, where the pre-existing parcel of land and the proposed use meet all other requirements, and the frontage is no less than one-half (1/2) of the linear length which is required under these ordinances at the time of the proposed use. This section shall expire on March 15, 2008. All proposed uses not completed before that date shall then require a variance, regardless of whether or when a permit has issued.

c. Prohibition: Neither the Epsom Zoning Board of Adjustment nor the Epsom Planning Board may authorize the creation of new non-conforming lots nor approve a new non-conforming use without the requirement of a variance. The exceptions enumerated in Subsections iii. and iv. above are only applicable to bona fide pre-existing lots.

7. Pre-existing non-conforming seasonal dwellings

a. Purpose and Intent:

The purpose of this section is to acknowledge the existence of non-conforming seasonal dwellings, which uses, predate the original adoption of these ordinances in 1969. It is further the purpose of this section to permit the continued use of these non-conforming dwellings within the parameters enumerated within Article III, Section B; while limiting the pre-existing use to their continuous, uninterrupted and unenlarged seasonal nature. It shall be the explicit policy of these ordinances to regard temporal expansion of a seasonal use to a year-round use as a “substantial” change as defined in Section B.4. This section shall have no effect on conforming uses, seasonal or otherwise.

b. Seasonal Dwelling:

A structure that is designed to be used, or is actually used for temporary residential use for less than twelve (12) months per year, or primarily for a specific or distinct season. This term includes, but is not limited to, lake house, hunting or snowmobile lodges or camps, summer camps or lodges.

c. Scope of Use:

All pre-existing non-conforming seasonal uses shall be allowed to be used to the same temporal extent as they have been used on a continuous and uninterrupted basis until abandoned or discharged. The burden shall be on the property owner to establish the season or periods of the year which the use has existed. In the

absence of evidence to the contrary, seasonal summer use shall be presumed to be May 15 through October 30; and seasonal winter use October 15 through March 1, of each calendar year.

d. Permitted and Prohibited Use:

It is in the interest of public safety, health of the inhabitants, and furtherance of the Master Plan of the Town of Epsom to strive toward uniformity of the application of these ordinances to all dwellings within the town. To this end, pre-existing and non-conforming seasonal uses shall be allowed to be used to the temporal extent presumed under subsection c above, or actually established through evidence by the property owner, whichever may be greater. Any greater temporal use than permitted under this section shall constitute substantial change and prohibited unless relief is granted under Section 6 above.

C. Ruins

No owner or occupant of any land shall permit any ruins caused by fire, explosion, flood, storm, or other acts of God to be left unfinished or incomplete, thereon, but shall complete or remove the same within twelve (12) months of date of occurrence except when there is property in court litigation, completion or removal shall take place within one (1) year after settlement of such court action.

D. Junkyards.

1. Purpose and Intent.

The purpose of this ordinance shall be to establish guidelines for the control and licensing of junkyards as required by RSA 236:92, and to delineate the policy and procedure for enforcement of these guidelines. As further described elsewhere in this section, establishing and siting of a junkyard shall require license from the Board of Selectmen, a Special Use Permit from the Zoning Board of Adjustment, and Non-Residential Site Plan Review by the Planning Board. It is the intent of this ordinance to support and encourage the reuse and recycling of materials wherever practicable.

2. Definition.

In addition to the definition set forth in RSA 236:112 (except for the number of unregistered vehicles allowed in volume or bulk) "Junkyard" means an establishment or place of business which is maintained, operated, or used for outdoor storing, keeping, buying, selling, or bartering junk, or for the maintenance or operation of any outdoor automobile graveyard. This definition includes scrap metal processors, auto wrecking yards, salvage yards, scrap yards, auto recycling yards, used auto parts yards, and temporary storage of automobile bodies and parts awaiting disposal as a normal part of a business operation when the business will continually have similar such materials located on the premises. This

definition includes garbage dumps, sanitary landfills, and transfer stations that maintain outside storage. The definition does not include highway, or temporary operations, including, but not limited to, loading or crushing junk for processing or removal, and outdoor storage not to exceed thirty (30) days, unless specifically permitted by additional state licensing (such as dealer or repair licensing). This definition does not include the keeping or storage of up to two (2) unregistered and uninspected automobiles (notwithstanding RSA 236:112) or the equivalent volume or bulk in other materials such as scrap metal, used machinery, and the like for private use as long as such use is not related to any off-site business pursuit or other junkyard establishment as otherwise defined in this section, and further provided that the storage and placement of such private use junk is orderly and compact, and does not constitute a nuisance.

3. Application to Board of Selectmen (pursuant to RSA 236:115).

Application to operate a junkyard shall be made to the Board of Selectmen and including the following:

- a. The name, address and telephone number of the individual or entity applying, naming the manager and corporate officers, if applicable;
- b. Whether or not the application is the result of a proposed transfer of ownership of an existing junkyard;
- c. Location of the junkyard, including a description of the land, a detailed sketch plan showing property lines and the limits of the junk storage area;
- d. Description of the type of operation and proof of legal ownership or right to use the property for the license period;
- e. A certificate signed by the applicant attesting that all provisions of state law have been or will be complied with before the location is used as a junkyard;
- f. Payment by April first of the annual Salvage License Fee as allowed by most current State Statute.

The Selectmen shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations or conditions imposed by the Zoning Board of Adjustment or Planning Board concerning the proposed junkyard, or any record of convictions for any type of larceny or receiving stolen goods, and to any other matter within this Section. (RSA 236:117)

4. Licenses (pursuant to RSA 236:115).

A Salvage License shall not be issued by the Board of Selectmen unless:

- a. A Public Hearing with appropriate notice to abutters has been held by the Zoning Board of Adjustment and a Special Use Permit has been granted pursuant to Paragraph “5” below;
- b. A Public Hearing with appropriate notice to abutters has been held by the Planning Board and Non-Residential Site Plan Review approval has been granted;
- c. License approval shall be noted as personal to the applicant (a person or persons, or specifically named officers of a corporation) for a specific location. Licenses shall be neither assignable nor transferable. Upon proposed change of ownership, the prospective owner shall make application for a new Salvage License (RSA 236:117);
- d. License approval shall constitute permission to inspect the junkyard premises provided that written or verbal notice be given at least five (5) days prior to inspection. Junkyards shall be inspected annually prior to renewal of license, or as deemed necessary.

5. Special Use Permit

The Zoning Board of Adjustment may grant a Special Use Permit for operation of a junkyard on land in or in proximity to the Residential/Commercial Zone. Current state law (RSA 236:96, 236:118) requires junkyards to be more than one thousand (1,000) feet from Interstate and Federal Primary Aid System Highways, more than six hundred sixty (660) feet from Class I, II, and III highway right-of-ways, and more than three hundred (300) feet from Class IV, V, and VI highway right-of-ways, and current Epsom Zoning Ordinances limit the Residential/Commercial Zone to a depth of five hundred (500) feet from Routes 4 and 28. The purpose of this section is to resolve the conflict between state law and the boundary of the Residential/Commercial Zone. This section establishes that a Special Use Permit may be granted for the operation of a junkyard outside of, but in proximity to, the Residential/Commercial Zone so as to comply with state and local law. In granting a Special Use Permit, the Zoning Board of Adjustment shall take into account and may set specific conditions relative to the following:

- a. Location Requirements (RSA 236:118)

The Zoning Board of Adjustment shall hear the applicant and all other persons wishing to be heard on the application and take into account the nature and development of the surrounding property such as proximity to schools, churches, hospitals, public buildings, or other places of public gatherings; and whether or not the use of the proposed location can be reasonably prevented from affecting the public health, safety, or morals by reason of offensive or unhealthy odors, smoke, discharges, or other causes. The Board shall also take into account the clean, wholesome, attractive

environment of the Town by considering whether or not the use of this location can be reasonably prevented from having a demonstrable unfavorable effect thereon. In considering this, the Board may consider collectively the type of road servicing the junkyard or from which the junkyard may be seen, the natural or artificial barriers protecting the junkyard from view, the proximity of the proposed junkyard to established tourist and recreation areas or main access routes thereto, as well as the reasonable availability of other sites for the junkyard.

b. General Operating Requirements.

Junkyards are required to comply with the most current New Hampshire Department of Environmental Service's Greenyards Program Manual of Practice, also known as the Best Management Practices for Salvage Yards.

6. Site Plan Review.

The applicant shall apply to the Planning Board which may grant approval by the terms of the Town of Epsom Non-Residential Site Plan Review Regulations. Requirements established by the Planning Board may become specific conditions of operation granted by the Zoning Board of Adjustment in that Board's granting of a Special Use Permit.

7. Enforcement by Zoning Compliance Officer.

Violations of this Section may be determined by methods including, but not limited to, the following:

- a. Inspection;
- b. Admissions by the owner or operator;
- c. Information from other agencies;
- d. Information from third parties.

In addition to other legal remedies to citizens, a complainant may petition the Board of Selectmen to enforce the terms of this Section by a majority of abutters to a property that allegedly constitutes a junkyard, or by petition of any twenty-five (25) voters of the Town of Epsom. The Selectmen shall notify the alleged junkyard operator and provide him an opportunity to describe and explain his situation at a public meeting and propose and implement remedial action. This opportunity to describe and explain should be exercised before, but is not a necessary precondition to, implementation of Zoning Compliance Enforcement procedures.

Each day that any junkyard remains in violation of this Section or applicable statutes shall constitute a separate violation, and penalties and sanctions be administered as written elsewhere in this Ordinance.

8. General Requirement.

No person may operate a junkyard, nor any owner of land may allow another to operate a junkyard contrary to the restrictions of the Epsom Junkyard Ordinance, or without first obtaining the required approval and permits.

Consistent with Section “b” above, no person may, nor any owner of land may allow another to store or keep more than two (2) unregistered or uninspected vehicles within a lot of land without first obtaining the required permits and approvals under these ordinances.

9. Applicability of Junkyard Ordinance.

- a. All provisions of these ordinances have been and remain applicable to all junkyards which commenced operation after September 15, 1969;
- b. Pre-existing, non-conforming junkyards. Any other part of these ordinances to the contrary notwithstanding, on April 1, 2001, all provisions of these ordinances including licensing and approval requirement shall be applicable to all pre-existing, non-conforming junkyards which were in lawful operation as of the original enactment of these ordinances in 1969, and have continued unexpanded, uninterrupted operation up to the passage of this ordinance; and those junkyards failing to obtain compliance by April 1, 2001 shall cease to operate.
- c. Any other part of these ordinances to the contrary notwithstanding all provisions of these ordinances except Article III D.e. (special use permit) shall be applicable and effective to all pre-existing, non-conforming junkyards described in Section 02 above until April 1, 2001.

E. Sanitary Protection.

All sanitary systems shall be constructed and maintained in accordance with standards set and enforced by the New Hampshire State Department of Health and the New Hampshire Department of Environmental Services.

F. Yard Sales.

Yard sales as defined by these ordinances are permitted with the R/A, R/C and RLC zones without the necessity of any permits or fees. Outdoor sales or sale activities which are conducted for more than six (6) days in any calendar year on the same lot of land are not yard sales but are seasonal, retail, wholesale or storage facilities or enterprises, as the context may permit which shall be subject to the regulations and restrictions embodied in these ordinances to include a non-residential site plan review.

G. Residential Single and Multi-Family Residence Requirements.

1. Single Family Residences.

a. Location.

Single family residences may be located in the R/A, R/C and RLC zones.

b. Building Lots.

Building lots shall contain a minimum of two (2) acres per dwelling unit with a minimum of two hundred (200) feet of frontage on a public road. In the case of an arc, the frontage shall be measured as the chord of the arc. Each lot may accommodate one dwelling structure with usual accessory buildings. No building or structure shall exceed two and one-half (2 ½) stories in height.

c. Setback from Property Lines.

Every new building or structure shall be set back from the frontage property line not less than fifty (50) feet or such distance as shall conform to the line of existing buildings on adjacent property. All new buildings or structures shall be set back no less than fifteen (15) feet from the side and not less than twenty (20) feet from the rear property line.

d. Replaced by Art. II Section A(2) 3-14-06 (Reserved for future use).

e. Single Family Accessory Dwelling Unit.

i. One (1) accessory dwelling unit may be constructed within or attached to a single-family resident unit sharing common kitchen facilities.

ii. The single family residence unit shall be, and shall remain, owner occupied, and the accessory dwelling may be occupied, on a permanent basis, only by relatives of up to second degree of the owner according to civil law.

- iii. The accessory unit may be occupied on a temporary basis for up to thirty (30) days in any given year by person other than those enumerated in 2.b. above.
- iv. An accessory dwelling unit shall be incidental to the primary use of the property as a single family residence, and shall not occupy more than forty percent (40%) of the gross floor area within the residence or not more than a maximum of six hundred fifty (650) square feet of gross floor area, whichever is less.
- v. At least one (1) interior-connecting door for persons to pass between the primary residence and the accessory dwelling unit shall be provided.
- vi. Septic system design and capacity shall be approved by the New Hampshire Department of Environmental Services.
- vii. At least one (1) parking space shall be provided for an accessory dwelling unit, share a common driveway from the street; and
- viii. Prior to conversion of a single family home to include an accessory dwelling unit, the owner shall obtain a zoning compliance permit as outlined in Article VI (Administration and Enforcement). Any accessory dwelling unit conversion without zoning compliance permit shall be considered a violation of the ordinance and subject to enforcement and penalties.
- ix. No consideration of any kind, cash, in kind or otherwise may be demanded nor paid for the use of the accessory residential unit.

## 2. Two-Family Residences.

Two-family residences (duplexes) are permitted in the R/A and R/C zones. All requirements for two-family residences are the same as for single family residences, except that the minimum lot size shall be four (4) acres for a two-family residence.

## 3. Multi-Family Residences with Three or More Units.

### a. Purpose and Intent.

- i. The provisions relating to multi-family housing are established to preserve open space, promote affordable housing, and provide for the efficient use of land and utilities. In addition to other requirements contained in Article VI.E.5., Special Exceptions, the following requirements shall apply to all multi-family housing seeking a Special Exception pursuant to Article VI.

ii. A “Multi-Family” residence or any derivative thereof shall mean a single structure containing no less than three (3) but no more than ten (10) residential dwellings therein.

b. Location.

Multi-family residences may be located in the R/A, R/C or RLC zones.

c. Minimum Lot Size and Overall Density.

The minimum lot size for multi-family housing shall be at least six (6) acres. The maximum number of residential units permitted shall be determined by permitting one and one –half (1 ½) times the number of residential lots created for a conventional subdivision.

d. Frontage.

All multi-family residences shall maintain a minimum of three hundred (300) feet frontage on a Class V or better public road. In the case of an arc, the frontage shall be measured as the chord of the arc.

e. Building Requirements.

All new buildings or structures shall be set back no less than seventy-five (75) feet from the side and rear property lines, and not less than seventy-five (75) feet from the property line fronting the public road. Each lot may accommodate more than one (1) residence structure. Each residence structure shall not exceed ten (10) dwelling units per structure. Each dwelling unit shall provide a minimum of four hundred (400) square feet per single bedroom unit and five hundred (500) square feet per two- (2) bedroom unit. All residence structures shall maintain a minimum spacing of one hundred (100) feet between structures and shall not exceed two and one-half (2 ½) stories.

f. Multi-Unit Ratio.

In those districts where multi-unit dwellings of three (3) or more units are allowed, the ration of area of unimproved land to the total area of living area, including all habitable floor area, driveways, parking lots, and carports shall not be less than fifteen to one (15:1).

g. Buffer

A buffer area shall be of sufficient width to provide privacy and noise protection, but shall not be less than the setbacks otherwise required in this

section. The buffer shall provide and maintain a strip of nativized plantings along and with the buffer area.

h. Sewage Disposal.

On-site sewage disposal must meet or exceed the requirements of the New Hampshire Department of Environmental Services in effect at the time of approval to assure that the site can sustain sewage disposal indefinitely. A replacement sewage disposal site shall be located and reserved on the property for multi-family developments of more than three (3) units.

i. Access Drives and Parking Lot Requirements.

All access driveways and parking lots for multi-family residences shall be maintained by the owners. There shall be provided off-street, on-site parking areas to allow one and one-half (1 ½) spaces for each one- (1) bedroom dwelling unit with an additional half (1/2) space for each additional bedroom in the dwelling unit. All parking areas, including driveways, that contain more than ten (10) parking spaces shall be paved. There shall be adequate provision for drainage and snow removal. Parking spaces shall be arranged so as not to necessitate the backing up of automobiles onto any street or driveway.

j. Non-Residential Site Plan Review.

Multi-family developments of three (3) or more dwelling units shall conform to procedural and plan requirements of the Non-Residential Site Plan Review Regulations of the Town of Epsom Planning Board.

4. Conversions of Existing Structures into Multi-Family Residences.

Multi-family residences of three (3) or more dwelling units which are created from existing structures must conform to the requirements of these ordinances and regulations.

5. Elderly Multi-Family Apartment Residences with Three (3) or More Units.

a. Definition.

Elderly multi-family apartment residences means a residential apartment building(s) for three (3) or more dwelling units designed for and occupied exclusively by elderly persons and owned by a New Hampshire non-profit corporation pursuant to RSA 292 and exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code. Elderly persons means single persons who are at least sixty-two (62) years of age; or a person who is at least sixty-two (62) years of age and his or her spouse; or the surviving spouse of a person at least sixty-two (62) years of age if the spouse was living in the unit at the time of the person's death; or persons

who are at least sixty-two (62) years of age and an essential caregiver as determined by a licensed physician's certification.

b. Purpose and Intent.

The provisions relating to elderly multi-family apartment residences are established to preserve open space, promote affordable housing for the elderly, and provide for the efficient use of land and utilities consistent with the needs of the elderly population age sixty-two (62) and over. In addition to other requirements contained in Article VI:e.5., Special Exceptions, the following requirements shall apply to all elderly multi-family apartment residences seeking a Special Exception pursuant to Article VI.

c. Location.

Elderly multi-family apartment residences may be located in the R/A, R/C or RLC zones.

d. Minimum Lot Size and Overall Density.

The minimum lot size for elderly multi-family apartment residences shall be at least fifteen (15) acres. The maximum number of residential units permitted shall be determined by permitting one (1) bedroom dwelling unit per ten thousand (10,000) square feet of buildable land or one (1) two- (2) bedroom dwelling unit per twelve thousand five hundred (12,500) square feet of land, or fifty (50) units, whichever is lesser.

e. Frontage.

All elderly multi-family apartment residences shall maintain a minimum of one thousand (1,000) feet of frontage on a state maintained road. In the case of an arc, the frontage shall be measured as the chord of the arc.

f. Building Requirements.

All new buildings or structures shall be set back not less than seventy-five (75) feet from the side and rear property lines, and not less than seventy-five (75) feet from the property line fronting the public road. Each lot may accommodate more than one (1) residence structure. Each residence structure shall not exceed ten (10) dwelling units per structure. Each dwelling unit shall provide a minimum of four hundred (400) square feet per single bedroom unit and five hundred (500) square feet per two- (2) bedroom unit. All residence structures shall maintain a minimum spacing of twenty-five (25) feet between structures and shall not exceed two and one-half (2 ½) stories.

g. Multi-Unit Ratio.

In those districts where elderly multi-unit apartment dwellings of three (3) or more units are allowed, the ratio of area of unimproved land to the total area of living area, including all habitable floor area, driveways, parking lots, and carports shall not be less than ten to one (10:1).

h. Buffer.

A buffer area shall be of sufficient width to provide privacy and noise protection, but shall not be less than the setbacks otherwise required in this section. The buffer shall provide and maintain a strip of nativized plantings along and within the buffer area.

i. Sewage Disposal.

On-site sewage disposal must meet or exceed the requirements of the New Hampshire Department of Environmental Services in effect at the time of approval to assure that the site can sustain sewage disposal indefinitely. A replacement sewage disposal site shall be located and reserved on the property for elderly multi-family developments of more than three (3) units.

j. Access Drives and Parking Lot Requirements.

All access driveways and parking lots for elderly multi-family apartment residences shall be maintained by the owners. There shall be provided off-street, on-site parking areas to allow one (1) space for each one- (1) bedroom dwelling unit with an additional half (1/2) space for each additional bedroom in the dwelling unit. All parking areas, including driveways, shall be paved. There shall be adequate provision for drainage and snow removal. Parking spaces shall be arranged so as not to necessitate the backing up of automobiles onto any street or driveway.

k. Non-Residential Site Plan Review.

Elderly multi-family apartment developments of three (3) or more dwelling units shall conform to procedural and plan requirements of the Non-Residential Site Plan Review Regulations of the Town of Epsom Planning Board.

H. Cluster Residential Developments.

1. Purpose and Intent.

The purpose of a Cluster Residential Development is to encourage the preservation of open space for agricultural, recreational, and scenic use; to encourage flexibility in design for residential development by permitting single family residences to be grouped on lots of reduced dimensions to allow for a more

economic provision of street and utility systems; and to establish living areas within the Town that provide for a balance of community needs. A Cluster Residential Development shall be subject to the granting of a Special Use Permit by the Planning Board in accordance with RSA 674:21.

2. Location.

Cluster Residential Developments may be allowed in the R/A, R/C and RLC zones.

3. Tract and Lot Size.

The Cluster Residential Development tract to be subdivided shall be at least fifteen (15) acres. Individual lots within the tract may be reduced by as much as one-half (1/2) of the lot size required by the conventional zoning.

4. Frontage.

The cluster Residential Development tract to be subdivided shall have enough frontage on a Class V or better public road to allow for a dedicated right-of-way of sufficient width to construct an access road adequate to carry the expected traffic load as outlined in the Town of Epsom Subdivision Regulations. Frontage of the lots within the tract may be reduced by as much as one-half (1/2) of the frontage required by conventional zoning.

5. Overall Density and Common Land.

The number of residential lots permitted in a Cluster Residential Development shall be determined by permitting that same number of lots as for a conventional subdivision. The amount of common land in the cluster residential development shall be the amount saved by the reduction in sizes of the residential lots; except that at least thirty percent (30%) of the development shall be common land, exclusive of land set aside for road right-of-ways, parking areas or utilities.

6. Common Land Management.

Ownership and maintenance to the required common land in a Cluster Residential Development must be determined and legally established prior to granting of a Special Use Permit by the Planning Board to ensure the permanent protection of this common land from development. This may include, but not be limited to, such instruments as a Home Owners' Association, or conservation trust, or management by a private, non-profit organization.

7. Sewage Disposal.

Individual lots within the Cluster Residential Subdivision that are proposed to be smaller than allowed by conventional zoning shall provide plans approved for

subdivision by the New Hampshire Department of Environmental Services. Share or common septic systems are allowed.

8. Special Use Permit.

Application for a Special Use Permit for a Cluster Residential Development shall be made to the Planning Board as allowed by RSA 674:21. The Planning Board shall consider all relevant aspects of the Town of Epsom Subdivision Regulations in granting such a Special Use Permit. Variances to this Section may be granted by the Zoning Board of Adjustment upon appeal by the provisions of Article VI.E.4. of this ordinance.

I. Business.

For the purpose of the placement of permitted business and businesses granted by Special Exception, all businesses shall comply with these Ordinances and the Non-Residential Site Plan Review Regulations to the satisfaction of the Epsom Planning Board.

1. General Business.

a. Location.

Businesses may be located in the R/C and RLC zones as listed by the Table of Uses (Article II, Section C). Certain businesses may be located in the Residential/Agricultural Zone with a Special Exception by the Zoning Board of Adjustment.

b. Building Lots.

Building lots shall contain a minimum of two (2) acres per commercial lot with a minimum of two hundred (200) feet of frontage on a public road. In the case of an arc, the frontage shall be measured as the chord of the arc. Each lot may accommodate more than one (1) business structure but the gross first floor area of the building(s) to the total tract area shall not exceed a ratio of one to three (1:3). Each lot may accommodate more than one (1) structure of which may be a one-family residence dwelling; provided, however, that the total area of all buildings, including such residential dwelling, to the total area of the tract shall not exceed a ratio of one to three (1:3) (thirty-three and one-third percent (33.3%)). Twenty percent (20%) of the total tract area shall be landscaped or native vegetation and shall not be hard surface. No building(s) or structure(s) shall exceed two and one-half (2 ½) stories in height.

c. Setback from Property Line.

Every new building(s) or structure(s) shall be setback from the front property line (right-of-way) not less than fifty (50) feet, from the side

property line not less than fifteen (15) feet, and the rear property line not less than twenty (20) feet.

d. Sewage Disposal.

Each lot shall provide a septic system approved by the New Hampshire Department of Environmental Services for the business uses for the tract of land.

e. Access Drive and Parking Requirements.

All access driveways and parking lots shall be maintained by the owner(s). Adequate parking must be provided off street. The development may be served by one (1) parking lot or individual parking lots serving groups of buildings.

f. All business shall conform to procedural and plan requirements of the Non-Residential Site Plan Review Regulations of the Town of Epsom Planning Board.

g. No manufactured units, nor any manufactured units designed to permanently house businesses shall be installed on any parcel of land on a permanent basis. To install such a unit on any parcel for a period of more than sixty (60) days during any calendar year shall constitute permanent installation. For the purposes of this ordinance, "manufactured unit" means any structure on a permanent chassis, transportable in one (1) or more sections which in the traveling mode is eight (8) body feet or more in width and forty (40) body feet or more in length or when erected on site is three hundred twenty (320) square feet or more and which is built and designed to house a business enterprise, or designed to be used as a dwelling but converted to accommodate a business enterprise with or without a permanent foundation when connected to required utilities, which include plumbing, heating, and electrical systems contained therein. This definition does not include pre-site built units as defined in RSA 674:31-A whether intended to be used by a business enterprise or intended to be used for housing, but converted to accommodate a business enterprise. This ordinance does not prohibit the use or placement of temporary construction trailers which may be placed on a site during the progress of construction for a period not to exceed one hundred eighty (180) consecutive days.

2. Planned Business Developments.

a. Purpose and Intent.

The provisions relating to Planned Business Developments are intended to encourage the efficient and unobtrusive placement of non-residential buildings to allow flexibility and variety in commercial development with

the prescribed limits. The density of the tract as a whole will be increased compared to the density achieved by conventional regulations, however, a percentage of the tract must be reserved as undeveloped common land. A Planned Business Development shall be subject to the granting of a Special Use Permit by the Planning Board in accordance with RSA 674:21.

b. Location.

Planned Business Developments may be allowed in the R/C and RLC zones.

c. Tract and Lot Size.

The Planned Business Development tract to be subdivided shall be at least five (5) acres in size. Individual lots within the tract may be reduced by as much as one-half (1/2) of the lot size required by the conventional zoning.

d. Frontage.

The Planned Business Development tract to be subdivided shall have at least four hundred (400) feet of frontage on a Class V or better public road. This requirement may be reduced if there are no buildings in the development which front on the public road. Frontage of individual lots within the tract may be reduced by as much as one-half (1/2) of the frontage required by the conventional zoning.

e. Building Requirements.

Contiguous groupings of buildings may be allowed where such groupings adequately provide for the safety and convenience of the users (such as fire protection, accessibility, snow removal) and are consistent with the intent of this section.

f. Coverage Ratio.

The ratio of the gross floor area of the building(s) to the total tract area shall not exceed two to one (2:1). Ten percent (10%) of the total tract area shall be set aside as common land. Ten percent (10%) of each individual lot within the tract shall be landscaped or native growth and shall not be hard surfaced.

g. Sewage Disposal.

Individual lots within the tract that are proposed to be smaller than allowed by conventional zoning shall provide septic plans approved for subdivision by the New Hampshire Department of Environmental Services. Shared or common septic systems are allowed.

h. Access Drives and Parking Lot Requirements.

All access driveways and parking lots shall be maintained by owner(s). Adequate parking must be provided off street. The development may be served by one (1) common parking area or individual parking areas serving groups of buildings. Internal roads may be dedicated to the Town where access to individual lots, length of roadway, or future access to abutting land indicates such a need.

i. Special Use Permit.

Application for a Special Use Permit for a Planned Business Development shall be made to the Planning Board as allowed by RSA 674:21. The Planning Board shall seek to combine all relevant aspects of the Town of Epsom Subdivision Regulations and Non-Residential Site Plan Review Regulations in granting such a Special Use Permit. Variances to this section may be granted by the Zoning Board of Adjustment upon appeal by the provision of Article VI.E.4. of this ordinance.

3. Seasonal (Intermittent) Business(es).

- a. Intermittent business(es) that operate during seasonal buying seasons and which utilize portable, temporary structures, and/or vehicles shall be allowed to operate in the Residential/Commercial Zone on business properties that have an approved Non-Residential Site Plan with the Epsom Planning Board provided that prior to its operation the intermittent business is granted approval by the Epsom, Planning Board based on a review of the approved site plan for compatibility with the existing business use, and that a seasonal permit is obtained from the Town of Epsom Zoning Compliance Officer.

Seasonal business(es) that wish to operate on a property that does not have an approved Non-Residential Site Plan with the Epsom Planning Board shall comply with the Non-Residential Site Plan Regulations to the satisfaction of the Epsom Planning Board and obtain a seasonal permit from the Zoning Compliance Officer.

- b. Seasonal business(es) may operate within the Residential/Agricultural Zone provided that a Special Exception is obtained from the Zoning Board of Adjustment, compliance with the Non-Residential Site Plan Review Regulations with the Epsom Planning Board, and a permit is issued by the Zoning Compliance Officer.

- c. Any seasonal business in operation without a valid permit from the Zoning Compliance Officer will be in violation of these Ordinances and be subjected to the fines and enforcement as described within the Ordinances.

J. Agricultural.

Farming, including dairying, livestock and poultry raising, horticulture, truck farming and other agricultural enterprises and the sale of the products realized from farming is permitted.

K. Home Occupations.

1. Residences may be used to house home occupations as defined under this ordinance. It is the purpose and intent of this ordinance to maintain the non-commercial character of the Residential/Agricultural Zone while permitting secondary business uses by a resident proprietor.
2. Home occupation shall mean such use which is not the primary use, but is secondary, accessory and incidental to that of a residential dwelling; and
  - a. No more than two (2) persons may be employed or occupied in furtherance of the occupation or business at any one (1) location at any given time, excluding the one (1) resident proprietor.
  - b. Reasonably adequate lighting, parking and means of access and egress shall be provided to accommodate the particular type of operation.
  - c. Hours of operation shall be limited to no earlier than 8:00 a.m. and not later than 8:00 p.m., unless otherwise permitted by the Planning Board; no excessive noise, odors and smoke may be emitted so as to disturb the residential character of the surrounding area.
3. Consistent with this ordinance, the resident proprietor may park one (1) vehicle and store tools and equipment necessary to perform an off-site service occupation, provided that the resident proprietor is regularly engaged in the occupation and further provided that the tools and equipment are stored indoors or in an operational, registered and inspected vehicle and such use does not alter the character of the use as that of a residential dwelling.
4. A Non-Residential Site Plan Review shall be required to operate a home occupation. The applicant shall apply to the Planning Board which may grant or deny approval pursuant to the Non-Residential Site Plan Review Regulations.
5. After a site plan has been approved by the Planning Board a permit must be obtained from the Zoning Compliance Officer before the use of any land within the Town as a home occupation. No person may operate, nor cause to be operated

a business in the residential area without first obtaining a permit to do so as a home occupation, or without having first obtained other approval or permit necessary for the lawful operation of such business. Each day of violation of this ordinance shall constitute a separate violation. Exemption or exceptions claimed to the application of this ordinance shall constitute affirmative defenses.

6. All pre-existing home occupations which:
  - a. Commenced operation legally and in conformity with all local and state regulations, and
  - b. Have been in continuous operation since the lawful commencement of the use and up to the effective date of this ordinance, and
  - c. Have not substantially changed or enlarged the operation since the commencement of the use

shall be exempt from the new restrictions of this ordinance, including that of a permit requirement and shall be governed by the 1995 ordinance unless;

- a. the business or occupation ceases to be in continuous operation for any one (1) year period, or
- b. the business or occupation has substantially changed or enlarged, or
- c. the business or occupation is engaged in conduct which is hazardous to public health and safety or has become a nuisance.

At which time all restrictions of this ordinance shall become applicable.

7. The Epsom Planning Board, consistent with its procedural rules, shall develop forms for application for a home occupation and a home occupation permit. The administrative decisions of the Zoning Compliance Officer may be appealed to the Zoning Board of Adjustment, consistent with New Hampshire law.

## L. Campgrounds.

1. Purpose and Intent.

It is the purpose of this ordinance to allow and promote the operation of recreational campgrounds within the Town which are for the recreation and temporary accommodation of visitors. It is also the intent of this ordinance to discourage and prohibit the use of campgrounds for purposes other than temporary and recreational. Campsites located with campgrounds do not meet the local and state requirement for single-family dwellings, such as lot size, frontage, setback, sewage disposal and water source. The use of a campsite as a residential dwelling devastates the environment, adversely impacts the surrounding property,

is contrary to the rural character of the Town, and is unseemly. This illegal use over uses sewage disposal systems not designed for such intensive usage and constitutes a hazard against public health and safety. The illegal occupancies are a strain on the Town's treasury budget and services intended for lawful residents.

2. Campgrounds are permitted in the R/A, R/C and RLC zones only after Non-Residential Site Plan Review by the Planning Board and the issuance of a Special Exception from the Zoning Board of Adjustment.
3. "Campground" or "recreational campground" or "recreational camping park" shall mean any parcel of land on which two (2) or more campsites are occupied or are intended to temporary occupancy for recreational dwelling purposes only, and not for permanent year-round residency. "Campsites" shall mean a parcel of land in a recreational campground or camping park for the placement of a tent or a recreational vehicle for the exclusive use of its occupants.
4. To determine whether an occupant of a campsite is recreational and temporary in nature, as opposed to residential and permanent, the following criteria, among other factors, may be considered:
  - a. Whether any occupant of the site presently resides at the site with the intent to so reside within the foreseeable future.
  - b. Whether any occupant of the site is attending a school, college, university or trade school, or is registered to attend at an institution which is within a commuting distance of the campground.
  - c. Whether any occupant of the site is employed or contracted to work at a location within a commuting distance of the campground.
  - d. Whether the occupation of the site is only on weekends and holidays or continues throughout the week.
  - e. The number of days in any given three hundred sixty (360) days period which an occupant of the site actually resides at a site and receives mail at the campground.
  - f. Actual outdoor recreational activities undertaken by the occupants of a site.
5. Any of the following conditions shall constitute prima facie evidence that a site at a campground is being used for permanent residential purposes and not temporary, recreational uses:
  - a. If any occupant of a campsite at any campground runs for or occupies public office relying on his residential address at the campground.

- b. If any occupant of a campsite at any campground registers to vote as a resident of the Town relying on his residential address at the campground.
  - c. If any occupant of a campsite at any campground:
    - i. registers a vehicle in Epsom, or
    - ii. obtains a driver's license relying on his residential address at the campground, or
    - iii. applies for a license or permit of any kind from any state, local or federal agency relying on his residential address at the campground.
  - d. If any occupant of any campsite at any campground receives, claims eligibility for or applies to receive any federal, state or local benefit, entitlement, assistance, grant, loan or award relying on his residential address at the campground, or disclosing the campground as his address.
  - e. If any occupant of a campsite at any campground attends or enrolls to attend Epsom public schools (including Pembroke Academy) relying on his residential address at the campground.
  - f. If any occupant of a campsite at any campground files any action at any court or enters into any contract or attempts to enter into any contract relying on his residential address at the campground or disclosing the campground as his address.
  - g. If any occupant of a campsite at any campground does not have, keep or maintain a primary dwelling for his use and as his residence at the time of his occupation of the campsite.
6. No person who owns, manages or has charge of any campground may allow, or cause to be allowed, the occupation of any campsite at a campground contrary to this ordinance, nor allow any person to reside at a campsite within a campground for other than recreational and temporary purposes. No person may operate a campground in Epsom without the necessary permits and approvals, nor contrary to or in breach of any conditions imposed as a part of such approvals. No person may occupy a campsite in Epsom for other than temporary and recreational purposes. Exemptions or exceptions to this ordinance shall be affirmative.
7. The provisions of this ordinance attempt to clarify and accommodate the application of the restrictions imposed on campgrounds. This ordinance is intended to and shall apply to all pre-existing campgrounds in operation as of March 1996, except to the extent a Site Plan Review or a Special Exception shall not be required of a pre-existing campground which:

- a. Commenced its operation legally and in conformity with all local and state regulations, and
- b. Have been in continuous operation since the lawful commencement of the use and up to the effective date of this ordinance, and
- c. Have not substantially changed or enlarged the operation since the commencement of the use.

Such campgrounds shall be exempted from the new restrictions of this ordinance and shall be governed by the 1995 ordinance, unless:

- i. The business or occupation ceases to be in continuous operation for any one (1) year period, or
- ii. The business or occupation has substantially changed or enlarged, or
- iii. The business or occupation is engaged in conduct which is hazardous to public health and safety or has become a nuisance.

At which time all restrictions of this ordinance shall become applicable.

## M. Signs

1.
  - a. Allowable farms, businesses, professions or service enterprises shall be permitted no more than two (2) signs, each not exceeding a total of fifty (50) square feet. The permitted sign area may be comprised of a permanent changeable letter sign or permanently imprinted sign in whole or in any combination thereof, so long as the total area of each sign does not exceed fifty (50) square feet. Each face of a sign constitutes a sign. This section does not pertain to home occupations which are governed by Subsection “b”.
  - b. Signs for home occupation businesses shall not exceed one (1) sign totaling over eight (8) square feet in area. Signs pertaining to the lease, sale or use of lot or building on which placed shall be allowed providing such sign does not exceed four (4) square feet in area for each sign.
  - c. No neon tubular glass or privately owned flashing or animated electric signs shall be permitted. No internally lit signs shall be permitted off the business premises. Internally lit signs will be allowed only within the Commercial Zone.

- d. Internally lit signs are only allowed on the business premises. Signs lighted by exterior sources will be permitted provided the lights are arranged to illuminate only the sign.
2. Only signs advertising businesses and farms in the Town of Epsom shall be permitted and such signs may be placed on the premises of that business.
  3. A temporary sign is a sign erected for a limited time-use to advertise special business, real estate or other events. No temporary sign shall be placed on any property without first obtaining a temporary sign permit. All owners of the property shall sign the temporary sign permit. A temporary sign permit application must be completed by the applicant and approved by the Town prior to erecting any temporary sign.
    - a. The following shall be considered temporary signs and do not need a permit:
      - i. Signs required or erected by governmental agencies.
      - ii. Incidental signs directing and guiding traffic to a private function that does not exceed two (2) square feet each and that bear no advertising matter.
      - iii. Real estate signs, one (1) sign per lot containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, rent, together with information identifying the owner or agent. Such signs shall be removed immediately after sale, lease or rental.
      - iv. Temporary traffic signs used to display for a short period of time during the construction or maintenance of any building, street or utility.
      - v. Election signs.
      - vi. Yard sale or garage sale sign, however, they must be removed within forty-eight (48) hours following the event.
    - b. Conditions for placement and granting of temporary signs:
      - i. A temporary sign may not extend into the public right-of-way.
      - ii. Temporary signs may be limited to on-site use only.
      - iii. Only one (1) on-site temporary sign may be located on a parcel at any given time.

- iv. A temporary sign must not create a potential hazard to vehicle or pedestrian traffic.
  - v. A temporary sign must not obstruct the view of any portion of a traffic control device or signal.
  - vi. A temporary sign must not impede or interfere with the repair or maintenance work of the Town or abutting property owner.
  - vii. A temporary sign must be self-supporting and must not be attached to any Town property such as fences, benches, bus shelters, trees, light poles or traffic signal poles.
  - viii. Roof-mounted temporary signs are not allowed in any zoning district.
  - ix. No temporary sign shall exceed sixteen (16) square feet in area.
  - x. Double faces temporary signs may be permitted but each face shall count as a single sign.
  - xi. Temporary signs may not be illuminated or include any lighting which may distract vehicular or pedestrian traffic or cause glare or other light pollution.
- c. Granting and Removal of Temporary Signs.
- i. A sign for which the permit was secured shall be removed within twenty-four (24) hours of the expiration of the permit.
  - ii. A temporary sign shall be granted for a period of thirty (30) calendar days and may be renewed for an additional thirty (30) days in a calendar year.
  - iii. The Town may enter upon the private property in order to remove a temporary sign which has not been removed by the time specified in the permit.
  - iv. The Town shall not be responsible for the loss or damage to any temporary sign removed by the Town. The Town will retain any temporary sign removed under these provisions for a period of three (3) calendar days during which time the sign may be reclaimed, after such time the sign will be disposed of by the Town at the expense of the applicant.
  - v. If the Town had to remove the temporary sign, the owner of the property shall reimburse the Town for all labor and equipment cost necessary to remove such sign.

- vi. No additional temporary signs will be issued for the property until such fees are paid.
4. Off premises signs are permitted only in a commercial zone and only to direct customers to a business located off the main highways. Off premises signs are also permitted in the R/A, RLC and R/C Zones, subject to all state and federal regulations, to direct customers to a farm located and operating in Epsom.
  - a. A permit from the Selectmen is required for off premises signs along with the signature of the landowner granting permission to erect the sign.
  - b. A maximum of two (2) off premises signs, each face no larger than six (6) square feet, with each face constituting one (1) sign, shall be permitted.
5. In those instances where the number of permitted businesses, professions or service enterprises on a given lot is greater than two (2), that lot shall have only one (1) collective two (2) face free standing sign. The total permitted square footage of sign area shall increase at the rate of eighteen (18) square feet per business unit on the lot, not to exceed eighty (80) square feet in total. In accordance with other parts of this Section, one (1) changeable letter two (2) face sign up to thirty-two (32) square feet per face may be allowed when permanently mounted with the one (1) collective sign, provided that its area is counted toward the total allowable area of eighty (80) square feet.
6. In addition to signs allowed elsewhere in the Section, signs that are up to thirty-six (36) square feet (twice that usually allowed for a single sign) may be mounted directly on the building which contains the advertised business, profession or service enterprise, provided that such signs do not protrude one (1) foot from the walls or above the ridgeline of the building. Provisions of this paragraph do not apply to signs for home occupations or any other non-permitted business, profession or service enterprise.
7. No freestanding signs whether on or off the premises of a business, farm or profession shall exceed sixteen (16) feet in height. The height for the purposes of this subsection shall be measured from the highest point of the sign or the structure containing the sign, whichever is higher. Sign sizes shall be measured by the face of the sign, not to exceed the allowable square footage of the sign within the appropriate subsection of this ordinance. Signposts and/or decorative displays shall not exceed one (1) foot on either side of sign and not more than three (3) feet on the top.

The Epsom Zoning Board of Adjustment is empowered to grant Special Exceptions from the application of Article III.M. relative to signs and signage.

8. Any business or professional enterprise which has ceased to operate for a period of at least one (1) year shall forthwith remove all signs which may have been erected on or off of its premises for the purpose of or incident to the operation of

its business. Such removal shall occur no more than thirteen (13) months after the cessation of the business or professional enterprise. Signs which shall remain after the designated time period shall constitute a nuisance under these ordinances, but subject to removal by the proper authority and the cost of the removal shall be taxable to the owner of the parcel or the parcels of the land which may contain such signs.

N. Special Provisions.

1. Hazardous Wastes.

In order to maintain the health, safety, and welfare of the Town, the storage, disposal, burying or dumping of any hazardous wastes within the limits of the Town are prohibited.

- a. For the purpose of this Section “hazardous waste” is defined as any solid, liquid or contained gaseous waste, or any combination of these wastes, which because of either quantity, concentration, or physical, chemical or infectious characteristics may cause or contribute to any increase in mortality, or an increase in irreversible or incapacitating reversible illness, or pose a present or potential threat to human health or the environment when improperly treated, stored, disposed of or otherwise mismanaged.
- b. Hazardous wastes are also those wastes identified as hazardous by the State of New Hampshire using the criteria established under RSA 147:50,I,a (and as listed under RSA 147:50,I,e). They include, but are not limited to toxins, corrosives, ignitables, irritants, strong sensitizes or that which generate pressure through decomposition, heat or other means.
- c. Controlled usage and storage for personal or private use of such hazardous wastes shall be permitted upon the obtaining of a permit from the Board of Selectmen after obtaining a permit from the State of New Hampshire (RSA 147:51). Controlled usage and storage shall not include the sale or use of such hazardous wastes by the public or by other than the person to whom such permit is issued.
- d. Violations of the Ordinance shall be punishable by a fine of One Hundred Dollars (\$100) for each day the offense continues.

2. Regulation of Excavations.

The excavation of soil, loam, sand, gravel or ledge, except for the lawful activities as permitted under this chapter, shall be allowed in the Town only upon application to the Board of Selectmen for a permit and the fulfillment of the requirements delineated under New Hampshire RSA 155-E, to the satisfaction of the Planning Board.

O. Churches.

Churches, temples or other houses of worship for bona fide religious worship are permitted in the R/C and RLC zones subject to a Site Plan Review by the Planning Board. Such uses shall be subject to a Special Exception from the Zoning Board of Adjustment, and a Site Plan Review by the Planning Board in the Residential/Agricultural Zone. The provisions of these ordinances generally applicable to the construction and establishment of business enterprises including Article III.I. shall be applicable to uses permitted under this ordinance.

P. Hotels, Motels, Inns, Resorts, Bed & Breakfasts.

1. Definition.

Hotels, motels, Inns, and Resorts (Hotels, collectively) shall mean a building or group of buildings which contain and offer overnight accommodations for transient, non-resident occupancy. This definition does not include bed and breakfast establishments. Bed & Breakfasts are similar, but smaller establishments (usually in single family dwellings) that also provide guests with incidental, limited food service. Bed & Breakfasts with more than four rental bedrooms are considered to be Hotels.

2. Purpose.

Tourism is an important element of local economy. This ordinance seeks to encourage land use consistent with promoting tourism. This ordinance permits the construction of Hotels to accommodate the tourists, visitors and business travelers. This ordinance specifically discourages and prohibits the use of any Hotel unit as a permanent dwelling or residential quarters. Such uses are subject to the regulations established for multi-family residential dwellings of Article III.G.3.

3. Hotels are permitted in the RLC and R/C zones subject to a Site Plan Review by the Planning Board. Hotels are permitted in the Residential/Agricultural Zone subject to a Site Plan Review by the Planning Board and a Special Exception from the Zoning Board of Adjustment. Bed & Breakfasts are permitted in all zones subject to a Site Plan Review by the Planning Board.

4. The Planning Board during the Site Plan Review process may impose permanent conditions and restrictions concerning the number of units, number of guests accommodated, number of units which may have any cooking or kitchenette facilities or any other conditions which may ensure the facility will continue to be used for the exclusive purposes which it has been authorized to operate.

5. Keepers' Quarters.

The owner, manager, caretaker, or keeper of any hotel and his/her family may reside within the hotel's grounds on a year-round permanent basis in quarters designated for such purpose so long as the keeper's quarters are approved by the Planning Board for such use. Bed & Breakfasts are not subject to these restrictions.

6. Prohibition.

Except as otherwise permitted in Section 5, no person who owns, manages or has charge of any Hotel or Bed & Breakfast may allow, or cause to be allowed the occupation of any unit within a Hotel or Bed & Breakfast contrary to this ordinance nor allow any person to reside within a Hotel or Bed & Breakfast for other than recreational, temporary or transient purposes, nor allow a person to primarily or permanently reside in a Hotel or Bed & Breakfast. No person may operate a Hotel or Bed & Breakfast in Epsom without the applicable approval nor in violation of any conditions imposed incident to such approvals. No person may reside in a Hotel or Bed & Breakfast in Epsom for other than temporary purposes.

7. To determine whether an occupation of a Hotel or Bed & Breakfast is recreational and temporary in nature, as opposed to residential and permanent, the criteria delineated in Article III.L.4. and III.L.5. shall be effective and operative with the necessary changes to apply the same to Hotels and Hotel rooms or Bed & Breakfast.

8. All restrictions and requirements generally applicable to business enterprises under Article III.I. shall be applicable to Hotels.

Q. Manufactured Housing.

1. Purpose.

It is the intent of this ordinance to provide regulations over existing, replacement and new manufactured housing within the Town of Epsom. Specifically, it is the intention that lawfully existing manufactured housing as of the time of this ordinance be continued until abandoned. It is further the intention of this ordinance to limit future manufactured housing to manufactured housing parks, and to ensure that the ratio of manufactured homes to single family residences be adjusted proportionately to the average ratio in other towns throughout the state while providing adequate low and moderate income housing within Epsom.

2. Definitions.

a. "Manufactured Housing".

Consistent with RSA 674:31 "manufactured housing" shall mean all structure, transportable in one (1) or more sections, which in the traveling mode is eight (8) body feet or more in width and forty (40) body feet or

more in length, or when erected on site is three hundred twenty (320) square feet or more and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. “Manufactured housing” as defined in this section shall not include pre-site built housing as defined in RSA 674:31-a. Any reference in these ordinances to “manufacturing homes” or “mobile homes” shall be deemed a reference to “manufactured housing”.

b. “Manufactured Housing Park”.

A “manufactured housing park” shall have the same meaning as set forth in RSA 205-a:2, being any parcel of land under single or common ownership or control which contains or is designed, laid out or adapted to accommodate two (2) or more manufactured homes, and shall further incorporate all terms, conditions and further requirements imposed by these ordinances. Any parcel of land used for storage for display of manufactured housing shall not be considered a “manufactured housing park”, but shall not be deemed permitted unless otherwise in compliance with all of the provisions of these ordinances.

c. “Individual Lot Manufactured Housing”.

Any manufactured home situated upon a single residential building lot shall for the purposes of this ordinance be defined as “individual lot manufactured housing”.

d. “Manufactured Housing Subdivision.”

Any subdivision dedicated and approved for manufactured housing only shall for the purposes of this ordinance be defined as a “manufactured housing subdivision”.

3. Prohibitions.

a. “Individual Lot Manufactured Housing”.

As of the effective date of this ordinance, no “individual lot manufactured housing” shall be permitted.

b. “Manufactured Housing Subdivisions”.

As of the effective date of this ordinance, no “Manufactured housing subdivisions” shall be permitted.

4. Manufactured Housing Parks.

- a. As of the effective date of this ordinance, no manufactured housing shall be placed, constructed, or occupied except as provided in these ordinances.
- b. As of the effective date of this ordinance, “manufactured housing parks” shall only be permitted in the R/A and R/C zones.
- c. Reporting Requirement.

The owner (or designee) of every manufactured housing park shall on or before June 1<sup>st</sup> of each year file a report with the Epsom Board of Selectmen which shall contain the following:

- i. A description of the manufactured housing unit occupying each site along with the site designation by number or other lettering system. This shall include the serial number of the unit.
- ii. Name and address of the owner of the manufactured housing unit.
- iii. The date that the unit was placed on the site.

This section shall apply to all manufactured housing parks including pre-existing parks.

- d. No new “manufactured housing parks” shall be permitted without first obtaining the following:
  - i. A “Certificate of Compliance” from the Zoning Compliance Officer.
  - ii. Site plan approval from the Planning Board in accordance with the governing laws and any Site Plan Regulations adopted by the Town of Epsom or hereafter amended or adopted.
  - iv. A Special Exception in accordance with Article V.I.E.5. of these Zoning Ordinances.
- e. No new “manufactured housing parks” nor any expansion to any “manufactured housing parks” existing as of the effective date of this ordinance shall be permitted if the lots, sections or manufactured homes proposed therein, when added to all other manufactured housing units then existing within the Town of Epsom, divided by the total number or housing units then existing in the Town of Epsom result in a number greater than the “benchmark” defined herein. The “benchmark” shall be the most recent available ratio resulting by dividing the total number of the manufactured housing units into the total number of housing units for the entire central New Hampshire region as maintained by the Central New Hampshire Regional Planning Commission or the successor to its duties.

Illustration:

$$(a+b)/c=X \quad d/e=Y \quad X \text{ may NOT exceed } Y$$

- a= Total number of manufactured housing units in Epsom at the time of application.
- b= The number of manufactured housing units proposed to be constructed in the application.
- c= Total number of housing units in Epsom at the time of the application.
- d= Total number of manufactured housing units in the Central New Hampshire Region as maintained by the CNHRPC.
- e= Total number of housing units in the Central New Hampshire Region as maintained by the CNHRPC.

- f. No “manufactured housing park” shall be less than twelve (12) acres and no such park shall contain less than four (4) manufactured homes. Notwithstanding the definition of manufactured housing in Section 2.a. above, no manufactured home shall be located in Epsom, or transferred from any lot or parcel to any other lot or parcel in Epsom, if containing less than seven hundred eighty (780) square feet of interior.
- g. All piping for water, sewage and utilities shall, from the point of exit from any manufactured home, be constructed, located and maintained underground.
- h. Conservation easements and natural open spaces shall be encouraged in all manufactured housing parks, such that each lot or section therein is given reasonable access to such area. Each “manufactured housing park” shall provide adequate fire protection and planning.
- i. No manufactured home, pre-existing or hereafter created, may be altered, enlarged, improved or rehabilitated, or replaced without first obtaining a permit consistent with Article VI.
- j. The owner of each “manufactured housing park”, whether pre-existing or hereafter created, shall maintain a register, available for inspection by the Zoning Compliance Officer, which register shall include the following information:
  - i. The name and permanent address of the owner of each manufactured home.
  - ii. The name of each occupant of any such manufactured home, if different.

- iii. The make, serial number, year of manufacture, and dimensions of each manufactured home.
  - iv. The lot or identification number for each or section within the manufactured housing park.
  - v. The date of placement or construction of each manufactured home.
- k. Each “manufactured housing park” owner shall have prepared a site plan for the entire tract, prepared by a registered professional engineer or registered land surveyor. Said site plan shall show and locate each manufactured home, roadway, permanent building, buffer zone, common area, lot or section, or other structures or conditions within said park.

5. Conditions of Operation.

Every owner of each “manufactured housing park” hereafter created shall comply with every condition imposed by Epsom Land Use Boards and shall operate only within parameters of the site plan approved and within these ordinances. Every owner of each pre-existing manufactured housing shall comply with all restrictions then applicable either by then-existing ordinances, plans, agreements, decrees, or orders in addition to those conditions specifically made applicable to pre-existing parks by these ordinances.

6. Non-Conforming Uses.

Pre-existing, non-conforming manufactured housing parks shall operate subject to the provisions of Article III.B.3., 4.,5., and 6. of these ordinances as they may be applicable. Any manufactured housing which is placed or constructed on any site shall, however, be required to obtain a Zoning Compliance Permit and a Certificate of Occupancy as delineated under Article VI, regardless of whether such unit is being placed on a new site or a pre-existing site.

7. Deleted 03/14/01.

R. Telecommunication Towers.

1. Purpose and Intent.

This ordinance is enacted in order to establish general guidelines for the sighting of telecommunication towers and antennas and to enhance and fulfill the following goals:

- a. Preserve the authority of the Town to regulate and to provide for reasonable opportunities for the sighting of telecommunication facilities while ensuring that telecommunication providers service remains effective and efficient.

- b. Reduce or eliminate adverse impacts such facilities may create. Adverse impacts may include, but are not limited to impacts on aesthetics, impacts on environmentally sensitive areas, impacts to historically significant locations, impacts on flight corridors, reduction in property values, and health and safety concerns.
- c. Provide for co-location and minimal impact sighting options through an assessment of technology, current locational options, future location availability, innovative sighting techniques, and sighting possibilities beyond the geographic boundaries of the Town.
- d. Permit the construction of new towers only where all other reasonable alternatives have been exhausted, and to encourage the owners and users of towers and antennas to configure them in a manner that minimizes visual impacts of said structures.
- e. Require antenna co-location on existing tower structures through cooperation and agreements between providers.
- f. Provide for documentation of scheduling of recurring maintenance and safety inspections for all telecommunications facilities and appurtenances.
- g. Provide for the demolition and removal of abandoned facilities. Provide a procedure for the Town to remove abandoned towers to provide for the health and safety of citizens.
- h. Provide for the removal or upgrade of technologically outmoded facilities.

2. Location.

Telecommunication facilities shall be allowed in accordance with the following:

- a. Permitted, subject to a Special Exception, in the Commercial Zone and the land surrounding the Commercial Zone up to a distance of one thousand (1000) feet to the nearest point falling within the Commercial Zone provided, however, that no such structure may be placed on any point south of the Commercial Zone boundary of Route 28 south of Epsom Circle.
- b. In other areas within the Town, only as a co-location on pre-existing towers, antennas and alternative tower structures.

3. Definitions.

- a. *Act* – The Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include future amendments to the Communications Act of 1934.

- b. *Affiliate* – When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator’s principal partners, shareholders, or owners of some other ownership interest, and when used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.
- c. *Alternative Tower Structure* – Man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also *Stealth Facility*).
- d. *Analog Technology* – Replicates and amplifies voice messages as they are carried from the transmitting antenna to the receiving antenna.
- e. *Antenna* – Any exterior apparatus designed for telephonic, radio, or television communications through sending and/or receiving of electromagnetic waves.
- f. *Antenna Height* – The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and the lowest grades shall be used in calculating the antenna height.
- g. *Antenna Support Structure* – Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.
- h. *Applicant* – A person who applies for a wireless facility sighting. An applicant can be the owner of the property or someone who is representing the owner, such as a builder, developer, optional purchaser, consultant, or architect.
- i. *Broadcast* – To transmit information over the airwaves to two (2) or more receiving devices simultaneously. Information can be transmitted over local television or radio stations, satellite systems, or wireless data communications networks.
- j. *Cell Site* – A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s), and parking, and may include other uses associated with an ancillary to cellular communications transmission.

- k. *Cellular Service* – A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.
- l. *Cellular Telecommunications* – A commercial Low Power Mobile Radio Service licensed by the Federal Communications Commission (FCC) to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.
- m. *Cellular Telecommunications Facility* – A cellular telecommunications facility consists of the equipment and structures involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.
- n. *Co-location* – Locating wireless communications equipment from more than one (1) provider on a single site.
- o. *Common Carrier* – An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated prices.
- p. *Communication Tower* – A guyed, monopole, or self-supporting tower constructed as a free-standing structure or in association with a building, other permanent structure or equipment, containing one (1) or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.
- q. *Communications Facility* – A land use facility supporting antennas and microwave dishes that sends and/or receives radio frequency signals. Communications facilities include structures or towers and accessory buildings.
- r. *Communications Transmission System or Communications System* – A wired communication transmission system, open video system, or wireless communications transmission system regulated by these regulations.
- s. *Comprehensive or Master Plan* – The current adopted Comprehensive/Master Plan of the municipality.
- t. *C.O.W.'s* – “Cells on Wheels”, see *Temporary Wireless Communication Facility*.

- u. *Digital Technology* – Technology that covers voice and data messages into digits that represent sound intensities at specific points of time and data content.
- v. *Directional Antenna* – An antenna or array of antennas designed to concentrate a radio signal in a particular area.
- w. *Dish Antenna* – A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.
- x. *ESMR* – Enhanced Specialized Mobile Radio.
- y. *FAA* – The Federal Aviation Administration.
- z. *FCC* – The Federal Communications Commission.
- aa. *Frequency* – The number of cycles completed each second by a sound wave, measured in hertz (Hz).
- bb. *Governing Authority* – The Epsom Board of Selectmen.
- cc. *Grade* – The lowest point of elevation of the finished surface of the grounds, paving, or sidewalk within the area between the structure and the property line, or when the property line is more than five (5) feet from the structure, between the structure and a line five (5) feet from the structure.
- dd. *Guyed Tower* – A communication tower that is supported in whole or in part by guy wires and ground anchors.
- ee. *Lattice Tower* – A guyed or self-supporting three (3) or four (4) sided, open, steel frame structure used to support telecommunications equipment.
- ff. *License* – The rights and obligations extended by the municipality to an operator to own, construct, maintain, and operate its system within the boundaries of the municipality for the sole purpose of providing services to persons or areas outside the municipality.
- gg. *MHZ* – Megahertz or 1,000,000 Hz.
- hh. *Micro- cell* – A lower power mobile radio service telecommunications facility used to provide increased capacity in high call-demand areas or to improve
- ii. *Microwave* – Electromagnetic radiation with frequencies higher than one thousand (1000) MHz, highly directional signal used to transmit radio frequencies from point to point at a relatively low power level.

- jj. *Microwave Antenna* – A disk-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.
- kk. *Monopole Tower* – A communication tower consisting of a single pole, constructed without guy wires and ground anchors.
- ll. *Omnidirectional Antenna* – An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it was designed.
- mm. *Owner* – The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the office of the Tax Collector. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest assessment record, but who presents to the municipality a copy of a deed or contract of sale showing date of sale or potential sale.
- nn. *Personal Communications Services or PCS* – Digital wireless telephone technology such as portable phones, pagers, faxes, and computers. Such mobile technology promises to allow each consumer the same telephone number where he or she goes. Also known as Personal Communication Network (PCN).
- oo. *Pre-existing Towers and Antennas* – Any tower or antenna for which a permit has been issued prior to the effective date of these regulations and is exempt from the requirements of these regulations so long as the towers or antennas are not modified or changed.
- pp. *Public Property* – Any real property, easement, air space or other interest in real estate, including a street, owned by or controlled by the Town of Epsom or any other governmental unit.
- qq. *Roof and/or Building Mount Facility* – A low power mobile radio service telecommunications facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or building face.
- rr. *Scenic View* – A scenic view is a view that may be framed, wide angle, or panoramic and may include natural and/or manmade 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 far away object such as a mountain or of a nearby object.
- ss. *Self-Support Tower* – A communication tower that is constructed without guy wires and ground anchors.
- tt. *Spectrum* – Relating to any transmissions or reception of electromagnetic waves.

- uu. *Stealth Facility* – Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas; building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles. (See also *Alternative Tower Structures*).
- vv. *System* – The communications transmission system operated by a service provider in the municipality.
- ww. *Telecommunications* – The transmission, between and among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.
- xx. *Temporary Wireless Communication Facility* – Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.
- yy. *Tower* – Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.
- zz. *Wireless Communication Facility* – An all-encompassing definition; any towers, poles, antennas, or other structures intended for use in connection with transmission or receipt of radio and television signals, or any other spectrum-based transmissions/receptions.
- aaa. *Whip Antenna* – An antenna that transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape and are less than six (6) inches in diameter and measure up to eighteen (18) inches in height. Also called omnidirectional, stick or pipe antennas.
- bbb. *View Corridor* – A view corridor is a three-dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would resident in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include 360-degree perspectives. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights may be limited in order to protect the view.

4. Telecommunication Facilities Procedural Requirements.
  - a. A scaled plan in accordance with Non-Residential Site Review Regulations shall be submitted to the Planning Board including the following additional information: a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent land uses (up to 200 feet away), and any other information deemed necessary by the Planning Board.
  - b. Written proof that the proposed use/facility complies with FCC regulations on radio frequency (RF) exposure guidelines and the FAA regulations on tower lighting requirements shall be submitted to the Planning Board.
  - c. The applicant shall submit written proof that any evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA submission of the EA or EIS to the Board prior to the beginning of the federal thirty (30) day comment period, and the Town's site review process, shall become part of the application requirements. The applicants shall submit copies of any EIS or EA documents no later than ten (10) days before the submission of any such documents to FCC for final approval.
  - d. Each applicant for an antenna and/or tower shall provide to the Planning Board an inventory of its existing towers that are within the jurisdiction of the Town and those within two (2) miles of the boarder thereof, including specific information about the location, height, and design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or Special Exemption Permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however, that the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. This evidence shall consist of one (1) or more of the following:

- i. Substantial evidence that no existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements, provided that a description of the geographic area required is also submitted.

- ii. Substantial evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements and why.
- iii. Substantial evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- iv. Substantial evidence that applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- v. Substantial evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- vi. Substantial evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.
- vii. Information on the number of sites for wireless telecommunication facilities each provider will require.
- viii. Information on sites outside of the Town of Epsom that are being considered.
- ix. Information on how future technology may reduce or eliminate the need for tall antenna sites.
- x. Information on how the siting of a wireless telecommunication facility will affect the ability to allow a competitor's antennas on the same property.
- xi. Information of whether any or all of the wireless telecommunications carriers providing service to central New Hampshire use the system known as cable micro-call integrator/headed interface converter ("CMI/HIC") which utilizes cable television lines and small transceivers mounted on utility poles to communicate with wireless telephones.
- xii. Information on whether there are any such carriers using CMI/HIC in surrounding cities and towns.
- xiii. Information on whether it is feasible for carriers to locate base station equipment underground.

- e. The applicant proposing to build a new tower shall submit an agreement with the Town that allows for the maximum allowance for co-location 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 co-location 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.
  - f. The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with NH RSA 676:4(g).
  - g. Each applicant for a tower, monopole or alternative structure shall submit a design certified by a competent engineer that the structure has been engineered to accommodate the maximum number and type of all compatible telecommunication media antenna.
5. General Regulations.
- a. All wireless communication facilities shall require a building permit. Additional requirements are as follows:
    - i. Existing Structures: Epsom encourages the placement of wireless communication facilities on existing towers or on existing structures so long as such placement is consistent with the purposes and standards of these regulations. A new or updated site plan approved by the Planning Board shall be required if a new antenna or other facilities are installed on an existing tower or on or in an existing structure, other than a street-side utility pole, so long as the height of that tower or structure is not increased. Nothing in these ordinances prohibits the placement or construction of more than one (1) tower on the same parcel of land.
    - iii. Reconstruction of Existing Structures: Towers in existence prior to the adoption of these regulations may be reconstructed in kind with an updated Site Plan, so long as there is not increase in height, so long as the reconstruction will not result in increased visual or environmental impact, and so long as there is not expansion or substantial modification of ancillary facilities or driveways. If additional ancillary facilities are needed or if other site modifications are required, the project shall require a new site plan approval. If reconstruction will result in an increase in height or a significant modification of the appearance or type of tower, then a

full approval as mandated for new facilities under these ordinances shall be required.

- iii. **Street-side Utility Poles:** Street-side utility poles are those poles which are located in or within twenty-five (25) feet of a road right-of-way. The placement of new wireless telecommunication facilities on existing street-side utility poles will require a new approval under these ordinances. Antennas that can be incorporated into existing freestanding streetlights or utility poles shall only require site plan approval by the Planning Board.