

Town of Lincoln, New Hampshire  
**LAND USE PLAN ORDINANCE**



**Last Revised - MARCH 08, 2011**  
By the 2011 Lincoln Town Meeting

LAND USE REGULATIONS  
TOWN OF LINCOLN, NEW HAMPSHIRE

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**ARTICLE I  
TITLE**

This Ordinance shall be known and may be cited as the Town of Lincoln Land Use Plan Ordinance, hereinafter referred to as "This Ordinance."

**ARTICLE II  
PURPOSE**

According to NH RSA 674:16, this Ordinance is designed to guide and protect the development of Lincoln in a manner consistent with the wishes of its citizens and in accordance with the Master Plan.

The purpose of this Ordinance is to promote the health, safety and general welfare of the inhabitants of Lincoln, to protect the value of property, and to prevent the overcrowding of land.

**ARTICLE III  
APPLICABILITY AND NON-CONFORMING USES**

**Section A. Definition.** In this ordinance, "non-conforming use" means a use of land, or of a structure or a building, or an existing structure or building, which lawfully came into existence but which, solely due to the adoption or amendment of this ordinance, no longer conforms to or complies with its terms.

**Section B. Applicability.** A lawful non-conforming use may be continued and such use is not affected by the provisions of Article V and Article VI. Except as expressly provided in this Ordinance, no building, structure, or land shall hereafter be used, constructed, or altered unless in conformity with the applicable provisions of this Ordinance.

**Section C. Non-Conforming Uses.** A non-conforming use may be continued, subject to the requirements set forth in this Section:

1. When any existing non-conforming use has been discontinued for one year, that land, building or structure may thereafter be used only in conformity to this Ordinance, except that the Board of Adjustment, upon application duly made, may grant a special exception pursuant to Article VIII to permit the resumption of the non-conforming use under such conditions as the Board may impose.
2. Any existing non-conforming use shall not be changed to another use, except in conformity with this ordinance.
3. A non-conforming use may not be expanded, except upon a finding by the Board of Selectmen or their designee that (a) the expansion reflects the nature and purpose of the existing non-conforming use so as not to constitute a different use and (b) the expansion will not have a different or detrimental impact on the neighborhood in which the use is located.
4. A non-conforming structure or building which is damaged or destroyed by natural cause, such as fire or other calamity beyond the control of the owner or occupant, may be repaired or rebuilt and any non-conforming use of the structure or building may be resumed, if the following conditions are met:
  - (a) Repair or rebuilding must be completed within one year after the damage or destruction occurs, unless an extension is allowed by the Board of Selectmen for good cause shown;

- (b) The structure or building shall occupy the same footprint as the damaged or destroyed structure or building and its height and volume may not be expanded or extended.
  - (c) Repairs or reconstruction shall be conducted pursuant to a properly issued building permit, and site plan review where applicable, and shall conform to all applicable building, plumbing, electrical and other code and water and sewer regulation requirements.
5. Single-family dwellings with or without accessory apartments are allowed on non-conforming lots of record. All other proposed uses for non-conforming lots of record must receive approval for a Special Exception from the Zoning Board of Adjustment. All uses whether allowed by right or allowed by Special Exception must adhere to the requirements of the District in which the lot is located. A "non-conforming lot of record" means a lot separately designated on the Town of Lincoln Tax Map or a duly approved subdivision plan record in the Grafton County Registry of Deeds, which lot was lawfully created and which, solely by reason of the enactment or amendment of this Ordinance, no longer conforms to the dimensional requirements of this ordinance. Any use of a non-conforming lot of record must demonstrate that it can be safely used and that water supply and sewage disposal are properly available for the use proposed.

#### **ARTICLE IV DEFINITIONS**

Also see Article VI, Section D for additional definitions pertaining to the "Floodplain Development District"

Abutter - Means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.

Accessory Apartment - An accessory apartment is a separate complete housekeeping unit that is contained within, attached to a single-family dwelling, or within an accessory building, in which the title is inseparable from the primary dwelling. An accessory apartment shall have a maximum of 1,000 square feet of floor space. Also see Section D of Article V of this Ordinance.

Accessory Building - Accessory building means a building subordinate to the main building on the lot and used for purposes customarily incidental to those of the main building.

Adult Bookstore or Adult Video Store - Any business that devotes more than 50% of its total display, shelf, rack, table, stand or floor area, utilized for the display and sale of the following:

Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video-cassettes, slides, tapes, records, CD ROMs or other forms of visuals or audio representations, which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1; or, Instruments, devices or paraphernalia which are designed for use in connection with "sexual conduct" as defined in RSA 571-B:1, other than birth control devices.

Amusement Devices - Any use which offers for hire to the general public, access to structures, vehicles, mechanical or electrical contrivances or other facilities which are intended primarily to provide entertainment, amusement or recreation, and in which the patron is engaged on the

premises as an active participant.

Basement - Means any area of a building having its' floor sub grade on all sides.

Building - Any three dimensional enclosure supported by columns or walls intended for the shelter, housing or enclosure or any individual, animal, process, equipment, goods or materials of any kind or nature. Building - also see Structure.

Cluster Development - A subdivision where instead of the entire tract being subdivided into house lots of conventional size, a number of connected housing units or lots of reduced dimensions are scattered or clustered around and within areas of open space.

Development - Means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.

Disabled Housing - Housing intended for, and solely occupied by, persons with a disability. Disabled housing shall provide significant facilities and services specifically designed to meet the physical or social needs of disabled persons.

Duplex - A two-family residential detached dwelling unit designed for or occupied by two (2) families living independently of each other in individual dwelling units, each with a separate entrance.

Elderly Housing - Housing intended for and solely occupied by, persons sixty-two (62) years of age or older. Elderly housing shall provide significant facilities and services specifically designed to meet the physical or social needs of older persons.

Exterior Lighting - See Section C of Article V of this Ordinance.

Fence - A structure that is an artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas of land.

Gaming Facility - Means any facility which is authorized, licensed, regulated, or otherwise allowed by the laws and regulations of the State of New Hampshire to offer the wagering of cash, vouchers, tokens or other prizes through the use of slot machines, electronic/video gaming machines, casino-style table games, card games, non-charitable bingo, horse and dog track betting (to include video/simulcast/offtrack betting), or any other games of chance. This definition is not intended to include charitable bingo and games of chance as allowed by NH RSA 287-D and 287-E. This definition is not intended to include the sale of lotto tickets, scratch tickets and similar games of chance which are authorized to be sold in general retail establishments by the laws and regulations of the State of New Hampshire.

Highest and Adjacent Grade - Means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure - Means any structure that is:

Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on National Register; Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

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

- 1) By an approved state program as determined by the Secretary of the Interior
- 2) Directly by the Secretary of the Interior in states without approved programs

Home Business - Any use of a professional or service character that is customarily carried out in the home and conducted within the dwelling by the residents thereof, which is clearly secondary to the dwelling use for living purposes and does not change the character thereof.

Live/Recorded Adult Entertainment - Any business which during any presentation of a live performance features conduct which meets the definition of "Harmful to Minors" and/or "Sexual Conduct" as set forth in RSA 571-B:1, and/or which presents feature films, motion pictures, video cassettes, slides or other photographic reproductions of which a substantial portion of the total presentation time is devoted to showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

Lot - Shall mean a parcel of land or any part thereof designed on a plat to be filed with the Register of Deeds by its owner or owners as a separate lot - a parcel of land occupied or to be occupied by only one principle use and the accessory buildings or uses customarily incidental to it.

Lot of Record - Means a parcel, the plat or description of which has been recorded at the registry of deeds for the county in which it is located.

Manufactured Housing - Shall have the same meaning as set forth in RSA 674:31.

Motor Vehicle Sales & Service - Businesses may include incidental storage of gasoline and petroleum products but not for retail sale.

Multi-Family Dwelling - A structure or combination of structures on a single parcel of land containing three or more housing units whether for rental, condominium ownership or other form of occupancy.

Natural Woodland Buffer - Means a forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth.

Non-Conforming Structure, Use or Lot - A structure, use or lot that does not conform to the regulations of the district in which it is located.

Open Space - Shall be an area of dedicated land not occupied by any structures nor any areas on which a vehicle may travel.

Ordinary High Water Mark - Means the line of the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernible, the ordinary high water mark may be determined by the Department of Environmental Services.

Outdoor Display Area - The display of merchandise outside of any business location.

Outdoor Storage Area - The outdoor storage of any items not normally associated with the property's allowed use.

Planned Phased Development - A residential development or a multiple use development which contains residential uses that may be allowed as a conditional use granted by the Planning Board under Article VI, Section E.

Primary Building Line - Means a setback from the public boundary line.

Primary Structure - Means a structure other than one, which is, used for purposes wholly incidental or accessory to the use of another structure on the same premises.

Protected Shoreland - Means for natural fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies and for coastal waters and rivers, all land located within 250 feet of the public boundary line of public waters.

Public Waters – Water bodies as defined by RSA 483 B:4

Public Boundary Line - Means:

For natural fresh water bodies without artificial impoundments, the natural mean high water level as determined by the Division of Water Resources of the Department.

For artificially impounded fresh water bodies, the waterline at full pond as determined by the elevation of the top of the impoundment structure.

For coastal waters the mean high tide established by the U.S. Coastal and Geodetic Survey.

Recreational Facilities - A health club or recreation center whose primary function is to provide facilities for activities such as swimming, weight rooms, racquetball, squash or tennis courts.

Recreational Vehicle - A vehicle, which is:

- A. Built on a single chassis
- B. 400 sq. ft. or less when measured at the largest horizontal projection
- C. Designed to be self propelled or permanently towable by a light duty truck designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use

Reference Line - Points of reference as defined by RSA 483 B:4

Removal or Removed - Means cut, sawed, pruned, girdled, felled, pushed over, buried, burned, killed, or otherwise destructively altered.

Residential Unit - Means a structure, or portion thereof, providing complete and independent living facilities, including permanent facilities for living, sleeping, eating, cooking, and sanitation, which are use in common by one or more persons.

Setback - A line parallel to the front, side, and/or rear lot line and set back from said lot line a sufficient distance as specified in this Ordinance. The setback measurements establish the area in which all structures must be erected or placed. No part of a building or structure shall extend across the minimum distance specified in the Dimensional Chart located in Article VI, Section B.

Shrub - Means any multi-stemmed woody plant, which normally grows to a mature height of less

than 20 feet.

Single Family Detached Dwelling - A building containing one (1) dwelling unit which is not attached to any other dwelling unit.

Special Exception - A use of a building or lot, which may be permitted under this Ordinance only upon application to the Board of Adjustment and subject to the approval of that Board in accordance with this Ordinance.

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

Structure - Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground excluding amusement devices. Structure, for floodplain management purposes, also includes a walled and roofed building, a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Subdivision - Means subdivision as defined in RSA 672:14.

Substantial Damage - Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - Means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures, which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Temporary Sales Location - Any temporary free standing sales facility operated by the owner of a property on which the sale will occur.

Tourist Attraction - Any business which provides recreation or entertainment to tourists, but does not provide lodging, food, or retail sales as its primary source of revenue. Tourist attractions may include golf courses, miniature golf courses, natural attractions, outdoor shows, train rides, theme parks, ski areas, riding stables, etc.

Tourist Home - A lodging facility, which is primarily a residential use but includes lodging facilities as an accessory use. Such lodging facilities are limited to no more than six (6) guest rooms.

Urbanization - Means the concentrated development found in the sections of towns or cities where there has been an historic pattern of intensive building for commercial or industrial use, or mixed residential, commercial, and industrial use.

Variance - A relaxation of the terms of this Ordinance, where such relaxation meets the following condition in order to be legally granted:

- A. No diminutions of surrounding properties would be suffered,
- B. Granting the permit would be of benefit to the public interest;
- C. Denial of the permit would result in unnecessary hardship to the owner seeking it;
- D. By granting the permit substantial justice would be done;
- E. The use must not be contrary to the spirit of the Ordinance.

Water Dependent Structure - Means a dock, wharf, pier, breakwater, or other similar structure or any part thereof, built over, on or in the waters of the State.

## **ARTICLE V GENERAL REGULATIONS**

**Section A - PARKING AND OFF-STREET LOADING.** Adequate off-street parking facilities (municipal parking facilities excluded) for employees as well as customers and off-street loading facilities shall be provided whenever a new use is established or any existing use is enlarged in accordance with the following specifications:

1. All new construction of institutional, commercial or industrial uses requiring off-street loading facilities shall provide such facilities so that delivery vehicles are parked off the traveled way.
2. All proposed new construction shall provide for adequate off-street parking spaces in accordance with the following standards, subject to modification by the approval of a special exception pursuant to Article V, Section A,3. A single parking space is defined as being two hundred (200) square feet in area and having additional adequate area for maneuvering.
  - A. Residential (including dwellings, timeshare units, quarter share units or other similar types of occupancy as determined by the Planning Board) - two (2) spaces for each residential unit.
  - B. Accessory Apartment – One (1) space
  - C. Hotel, Motel, Tourist Accommodation, Lodging Unit - one (1) space for each unit.
  - D. Commercial - one (1) space for each three hundred (300) square feet of public area.\
  - E. Industrial - one (1) space for each two (2) full-time-equivalent employees on the premises at one time plus a factor of five (5) percent of that requirement to accommodate visitors, etc.

- F. Restaurant - one (1) space for each four (4) seats.
  - G. Public Assembly - any theater, hall or auditorium, provisions for at least one (1) space for each six (6) seats.
  - H. Where one (1) building is used for lodging or motel accommodation with a restaurant - one (1) space for each rental unit, plus one (1) space for each four (4) seats.
  - I. Where the development will provide for mixed uses, including residential units, the Planning Board may wave the two parking space requirement per residential unit and only require one additional space per residential unit, if the Planning Board finds that the off street parking proposed is adequate for the intended use and substantially meets the purposes of this ordinance.
  - J. Auto Service Stations - 3 spaces per repair bay for customer's cars plus 1 space per bay for employees. These spaces must be provided on site.
3. The standards set forth in Article V, Section A,2 may be modified pursuant to a special exception granted by the Zoning Board of Adjustment in accordance with the following:
- A. The applicant's request for special exception shall depict both the parking configuration which would be proposed if the special exception request is not approved and the parking configuration, which is proposed if the special exception request is approved.
  - B. The special exception request shall include a written report from the Lincoln Police Department if parking proposed for an off-site location, which involves a pedestrian (i.e., includes employees) crossing of a public or private highway. A written report from the NH Department of Transportation (District One) is also required if the crossing involves a State Highway.
  - C. The applicant shall first discuss the special exception request with the Planning Board and must obtain a written statement from the Planning Board demonstrating that the Planning Board does not object to the special exception request.
  - D. The Zoning Board of Adjustment shall act upon the special exception request applying the criteria set forth in Article VIII, Section A, 2 and may consider such additional factors as the Zoning Board deems necessary and appropriate for public safety and proper design.
  - E. Any special exception approved under this paragraph shall expire without further action by the Town unless a site plan for development of the site, incorporating the parking scheme as approved in the special exception, is approved within 180 days after the date on which the Zoning Board of Adjustment approves the special exception.

**Section B - TEMPORARY SALES LOCATION** - Temporary structures used as a Temporary Sales Location shall be removed from the property when the sale is not in operation. Any use of property as a Temporary Sales Location may be subject to site plan review and other State laws or other Local Ordinances or Regulations, as applicable.

- 1. Temporary Sales Locations operated on or adjacent to the owners permanent place of business may operate for not more than a total of forty - five (45) days in any calendar year.
- 2. Temporary Sales Locations operated by a property owner who does not operate a permanent business on or adjacent to the Temporary Sales Location may operate for not more than ten (10) consecutive days and not more than a total of twenty (20) days in any calendar year.

**Section C - NOXIOUS USES.** Any use that may be injurious or obnoxious because of the production or emission of smoke, fumes, dust, odor, refuse material, noise, vibration, radiation or like condition, or that may endanger, disturb or annoy the health, safety, peace or enjoyment of the community is prohibited.

1. EXTERIOR LIGHTING. Any light fixture used to illuminate parking areas, buildings, or other portions of the property shall be shielded so as not to shine on streets or adjacent properties.

**Section D - ACCESSORY APARTMENTS.** It is the specific intent and purpose of allowing accessory apartments in the Town of Lincoln on one-family properties to provide the opportunity and development of small rental housing units designed in particular to meet the specific housing needs of low and moderate income couples and single persons both young and old. To help achieve this goal the following specific standards are set forth:

1. The apartment will be a complete separate housekeeping unit that can be isolated from the original unit.
2. Only one accessory apartment will be created within or attached to a single-family structure or accessory building.
3. Any accessory apartment whether an addition to or contained within the single-family structure or accessory building shall have a maximum of 1,000 square feet of floor space.
4. A Special Exception must be granted from the Zoning Board of Adjustment if an accessory apartment is proposed over 1,000 square feet.
5. All applicable regulations of the Town of Lincoln shall be met before an accessory apartment is permitted.
6. Off-street parking shall be provided in accordance with the standards set forth in Article V, Section A for Residential Uses.
7. Accessory apartments are not intended for individual ownership. The title shall be inseparable from the primary dwelling.
8. Accessory apartments may be located in a detached accessory building where allowed in the Land Use Schedule under Article VI only if the detached accessory building contains another accessory use such as a garage or storage building.
9. Accessory apartments may not be a manufactured home.

**Section E - OUTDOOR DISPLAY AND STORAGE REQUIREMENTS**

1. Outdoor display areas shall be located on the same lot as the associated business, and in all zones shall not exceed 100 sq. ft. unless granted by Special Exception under Article VIII, Section A, 2.
2. Outdoor storage areas shall be located on the same lot as the associated use, and in all zones shall not exceed 400 sq. ft. unless granted by special exception under Article VIII, Section A, 2.
3. The maximum areas specified by this section shall not apply to businesses which by the nature of their operations and materials involve outside display and storage as an essential

part of their operations such as lawn & garden shops, wood cutting operations, equipment sales and service, and storage of contractors equipment.

## **Section F - CONSTRUCTION SITE REQUIREMENTS**

1. All construction sites shall be kept in a clean and safe condition with all hazardous areas adequately closed off to the public when work is completed for the day.
2. All demolition and scrap materials shall be removed from the site in a timely manner.
3. Hours for exterior construction or interior construction causing excessive noise shall be from 7:00 am to 7:00 pm.

## **Section G - HOME BUSINESSES**

Home businesses, when allowed as special exceptions or permitted uses in accordance with the land use schedule, shall conform to the following requirements:

1. Home Businesses shall meet all other requirements of this ordinance. A home business, when allowed under the land use schedule, is solely for a use which is allowed within the district in which the property upon which it will be conducted is located.
2. There shall be no exterior display, no exterior storage of materials unless screened from street and neighbors, and no other exterior indication of the home occupation except for an identification sign, which must comply with the Lincoln Sign Ordinance, nor shall there be any other variation from the residential character of the principal building.
3. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
4. Traffic generated shall not exceed volumes normally expected in a residential neighborhood.
5. Parking generated shall be accommodated off-street, other than in a required front yard.
6. The sale of firewood, in a manner that enhances the tourism "look and feel" of the town, is an allowed accessory use to Residential and Commercial entities in all Zoning Districts

## **Section H - TOURIST ATTRACTIONS**

1. Food or Retail Products sold must serve primarily those people visiting the attraction. Maintenance facilities must only serve the tourist attraction.
2. The amount of parking shall not only meet the requirements of Article V, Section A of this ordinance but also the amount of parking must be adequate for the uses as determined by the Planning Board. Shared parking and off site parking shall be allowed but only after review by the Planning Board.
3. Tourist attractions may include golf courses, miniature golf courses, natural attractions, outdoor shows, train rides, theme parks, ski areas, riding stables, etc.
4. Subsidiary or accessory uses of the property upon which a tourist attraction is located, including, without limitation, overnight accommodations or residential housing, shall be allowed only where allowed by the land use schedule and in compliance with all other requirements of this ordinance, including dimensional requirements.

## Section I - FENCES

### 1. Purpose:

The purpose of the fence ordinance is to ensure safe sight distance and limit barriers that may impede vision along a public right-of-way.

### 2. General :

For Commercial & Industrial uses, a fence shall be constructed or installed on a lot only after first acquiring a Building Permit. Residential fences do not require a Building Permit if they conform with the specifications of the Land Use Plan Ordinance. A Certificate of Occupancy is not required for any fence.

### 3. Non-Residential Lots:

- a. On lots having non-residential uses, a Building Permit will be issued for the fence only after the proposed fence is approved by the Planning Board under its Site Plan Review Regulations, or, the Planning Board grants a waiver for the proposed fence from its Site Plan Review Regulations.
- b. The Planning Board may permit the location of a proposed fence to be located within the setback area of the applicable land use district. The Planning Board may allow fences on lots with non-residential use to be higher than eight feet (8') from top of adjacent ground if the Planning Board finds that: a., public safety is not adversely affected; and b., the rights of an abutter are not adversely affected
- c. Fences shall be located at least one (1) foot from the property line unless otherwise permitted by the Planning Board via site plan review.

### 4. Residential Lots:

- a. Residential fences cannot be higher than eight feet (8') from the top of the adjacent ground.
- b. Residential Fences shall be located at least 1 foot from the property line.
- c. Common Fences as defined in RSA 474 may be constructed along the property line.

### 5. Prohibited Fences:

- a. The following fences are prohibited in the Town of Lincoln:
  - i. Spite Fences as described in RSA 476
  - ii. Fences that obstruct a public right-of-way
  - iii. Fences constructed utilizing barbed wire, razor wire, purposeful sharp edges, or other hazardous material.
  - iv. Fences with the interior side (AKA "bad side") facing toward the abutters

### 6. Exempt Fences:

- a. The Following Fences need not comply with the provisions of Section I of the ordinance:
  - i. Fences specifically mandated by State Statute, Chapter Law, or other governmental regulation.
  - ii. Fences constructed prior to March 8<sup>th</sup>, 2011

- iii. Seasonal gardening fences made from temporary materials (e.g. chicken wire)
- iv. Rock walls less than 3 feet in height serving as a boundary line demarcation

## **Section J – LIMIT ON BOARDING HOUSES**

1. In the Village Residential, General Residential, Rural Residential and Mountain Residential districts, no more than 3 persons who are unrelated by blood or marriage shall live together in any residential unit. This prohibition includes one-family detached dwellings, accessory dwelling units, dwelling units within a duplex, and housing units within multi-family housing.
2. This section shall not apply to hotels, motels, motor inns, condominiums, or other facilities furnishing temporary or seasonal accommodations for a 6-month period or less, for transient persons whose primary residence is elsewhere.
3. Residential units, whose use for more than 3 unrelated persons became established before the enactment of this section, may be continued as non-conforming uses under Article III, unless and until such use is abandoned under Section C(1) of Article III, but the number of such persons shall not be increased without a special exception under paragraph 4 below.
4. The Zoning Board of Adjustment may grant a special exception, applying the standards of Article VIII, which waives either the 3-person limit of paragraph 1 or 6-month limit of paragraph 2. The Board shall state specifically what alternative limits will apply to the property.

## **ARTICLE VI DISTRICT AND DISTRICT REGULATIONS**

**Section A - DISTRICTS.** The Town of Lincoln shall have seven distinct districts. They shall be the "Village Residential", "General Residential", "Rural Residential", "Mountain Residential", "Small Business Development", "Village Center", and the "General Use" District. These Districts, as established, are shown on the "Lincoln Zoning Map" which is hereby declared to be a part of this Ordinance. The land area not included in one of the other six districts as shown on the Lincoln Zoning Map shall be the "Rural Residential" District. Abbreviations for the seven Districts, used throughout this Ordinance, are as follows: General Use (G.U.), Village Center (V.C.), Village Residential (V.R.), General Residential (G.R.), and Rural Residential (R.R.), Mountain Residential (M.R.), and Small Business Development (S.B.D.).

1. Where there is doubt as to the location of the District's boundaries, the Board of Adjustment shall determine the location of such boundary, consistent with the intent of this Ordinance and the Zoning Map. All land in the Town of Lincoln shall be subject to the limitations set forth herein.
2. If a lot is located in more than one district, the requirements of each district shall apply to the portion of the lot located in that district.

**Section B - DISTRICT REGULATIONS.** Uses in all districts shall conform to the requirements for the Districts set forth in this section.

1. **LAND USE.** Uses for all zones are in the Land Use Schedule and all activities or uses of land shall conform with that schedule. In the Land Use Schedule a Y means the use is permitted, SE means that the use is only permitted when a special exception is granted by the Zoning Board of Adjustment, and N means that the use is not permitted within that zone. Any use not listed as permitted or which is not allowable by Special Exception shall be prohibited. The Board of Adjustment may however determine if a specific use not listed in the Schedule falls under the category of a listed permitted use provided that the proposed use is sufficiently similar to the

listed use.

2. LAND USE SCHEDULE. See Chart Next Page.

## 2. LAND USE SCHEDULE

RESIDENTIAL USES	S.B.D.	G.U.	V.C.	V.R.	G.R.	R.R.	M.R.
Single- family detached	N	Y	Y	Y	Y	Y	Y
Duplex (two family)	N	Y	Y	Y	Y	Y	N
Attached accessory apts	N	Y	Y	Y	Y	Y	Y
Detached accessory apts	N	Y	Y	N	SE	SE	SE
Elderly or Disabled Housing	N	Y	Y	N	Y	N	Y
Multi-Family Housing	N	Y	Y	N	N	N	Y <sup>1</sup>
Cluster Development	N	Y	Y	N	SE	Y	Y
Planned Phase Development	N	Y	N	N	N	Y	Y
Manufactured Homes	N	Y	N	N	Y	Y	N

<sup>1</sup> Multi-Family Housing is permitted only for five or more units.

## 2. LAND USE SCHEDULE (Continued)

PUBLIC USES	S.B.D.	G.U.	V.C.	V.R.	G.R.	R.R.	M.R.
Libraries	N	Y	Y	Y	Y	Y	N
Houses of Public Worship Related Religious Functions	N	Y	SE	SE	SE	Y	N
Museums & Cultural facilities	N	Y	Y	SE	SE	Y	N
Schools	N	Y	SE	Y	Y	Y	N
Health Care Facilities	SE	Y	SE	N	N	Y	N
Recreational Facilities	SE	Y	Y	SE	Y	Y	Y <sup>1</sup>
Airports & Heliports	N	SE	N	N	N	SE	N

<sup>1</sup> Recreational Facilities are permitted only if they are passive in nature, e.g., continuation of existing cross-country ski trails, including structures (buildings) which are accessory use in nature in support of said passive recreational use

## 2. LAND USE SCHEDULE (Continued)

BUSINESS USES	S.B.D.	G.U.	V.C.	V.R.	G.R.	R.R.	M.R.
Adult Book/Video Store	SE	SE	SE	N	N	N	N
Banks or other monetary institutions	N	Y	Y	N	N	N	N
Campgrounds	N	SE	N	N	N	Y	N
Gaming Facility	N	Y	N	N	N	N	N
Home Businesses	N	Y	Y	Y	Y	Y	Y
Hotel, Motel, Motor Inn, etc.	N	Y	Y	N	N	SE	SE
Live/Recorded Adult Entertainment	N	SE	SE	N	N	N	N
Restaurant	N	Y	Y	N	SE	SE	SE <sup>3</sup>
Drive-up Restaurant	N	Y	SE	N	N	N	N
Tourist Attractions	N	Y	SE	N	SE	Y	N
Tourist Home	N	Y	Y	SE	SE	Y	N
Motor Vehicle Sales & Service	Y	Y	SE	N	N	N	N
Gasoline/Fuel Oil Sale&Storage	Y	Y	SE	N	N	N	N
Retail, Consumer Service, or other business Non-industrial Use other than above which does not qualify as a Home Business	Y	Y	Y	SE	SE	SE	N

<sup>3</sup> Additional criteria is that the restaurant use is to be considered accessory to a larger recreation use and is not to be a separate, free-standing business.

**2. LAND USE SCHEDULE (Continued)**

<u>INDUSTRIAL USES</u>	<u>S.B.D.</u>	<u>G.U.</u>	<u>V.C.</u>	<u>V.R.</u>	<u>G.R.</u>	<u>R.R.</u>	<u>M.R.</u>
Junk Yards	N	SE	N	N	N	N	N
Earth, gravel & stone removals <sup>4</sup>	N	Y	N	N	N	Y	N
Manufacturing other than home Business	Y	Y	N	N	N	N	N
Storage of contractors equip.	Y	Y	SE	N	SE	Y	N
Bulk storage, warehousing	Y	Y	Y	N	N	N	N

<sup>4</sup> Pertains to primary or secondary business operations; is not applicable to operations that are necessary in conjunction with development of a house lot or an approved site plan.

### 3. LOT AREA AND YARD REQUIREMENTS

- A. Building setbacks shall be measured from the property lines except when a river or stream is present. Setbacks shall be measured from the top of the bank of any stream or river. Where there is no bank, the setbacks shall be measured from the visible high water mark.
- C. If a permit is obtained from the State Wetlands Board to relocate or culvert the stream then setbacks from the top of the bank shall not apply.

See Dimensional Chart Next Page.

### 4. LOT AND LOT COVERAGE REQUIREMENTS AND STANDARDS.

- A. The area of any year-round stream or water body shall not be included in determining compliance with minimum lot size under this section.
- B. Lot coverage shall include the buildings, out buildings, roads, parking area (paved or unpaved) and swimming pools or other non-permeable recreational facilities. Treed islands within parking areas shall be excluded from this area.
- C. The area reserved for open space may include sidewalks, walkways, outdoor patios, courtyards, terraces, and permanent planters. Only 10% of the total lot area developed in this manner may be counted towards open space. Treed islands within parking areas shall be included in this area.
- D. Dimensional requirements for the Village Center may be waived by the Planning Board so long as they meet all other Zoning and Building Code requirements

See Dimensional Chart Next Page.

## DIMENSIONAL CHART

	S.B.D.	G.U.	V.C.*****	V.R.	G.R.	R.R.	M.R
Minimum Lot Size (Sq. Ft.) For Duplex Use Only	n/a	22500	22500	12000	15000	22500	n/a
Minimum Lot Size (Sq. Ft.) For All Other Uses****	5000	15000	15000	8000	10000	15000	30,000*****
Front Setbacks (Ft.)	15'	15'	5'	15'	15'	15'	25'
Rear Setbacks (FT.)	5'	15'	15'	10'*	15'	15'	25'
Side Setbacks (FT.)	10'***	15'	10'***	10'*	10'*	15'	25'
Percent of Lot Coverage	80	70	80	60**	50**	50**	50**

\* BOCA codes (the latest revision) for fire protection shall apply to developments where structures are being constructed within 30 ft. of another structure.

\*\* Applies only to non residential uses only.

\*\*\* The setback is 0' for additions to existing structures already in place within the 10' setback as of January 1, 1997. In any event, BOCA codes (the latest version) for fire protection shall apply to developments where structures are being constructed within 30 ft. of another structure.

\*\*\*\* For all other residential uses, the minimum lot size is applicable on a per unit basis; for example, a 3-unit multi-family dwelling in the General Use district requires 45,000 square feet. See \*\*\*\*\* for exception in M.R. to this rule.

\*\*\*\*\*In only Mountain Residential (MR) district the minimum lot size is applicable on a per unit basis, based on 15,000 square feet; for example, a 5-unit multi-family dwelling in the Mountain Residential district requires 75,000 square feet.

\*\*\*\*\* Dimensional requirements for the Village Center may be waived by the Planning Board so long as they meet all other Zoning and Building Code requirements

## 5. ACCESSORY BUILDING SETBACK REQUIREMENTS.

See Dimensional Chart Next Page.

## 6. HEIGHT REQUIREMENTS

A. In the Small Business Development, Village Residential and the General Residential Zone the following height restrictions shall apply:

1. The maximum structure height shall be twenty-five (25) feet measured from ground level to the primary eaves on the uphill side of the structure.
2. There shall not be more than three (3) floors used as living space above or below ground level as measured through any vertical plane of the building.

B. In the General Use, Village Center, Rural Residential and the Mountain Residential Zones the following height restrictions shall apply:

1. The maximum structure height shall be thirty-five (35) feet measured from the primary eaves on the uphill side of the structure.
2. There shall be no more than four (4) floors used as living space above or below ground level as measured through any vertical plane of the building.

## ACCESSORY BUILDING SETBACK REQUIREMENTS

	S.B.D.	G.U.	V.C.*	V.R.	G.R.	R.R.	M.R.
Front Setbacks (FT.)	15'	10'	5'	15'	15'	20'	20'
Rear Setbacks (FT.)	0'	5'	5'	5'	5'	10'	20'
Side Setbacks (FT.)	5'	5'	0'	5'	5'	10'	20'

Accessory buildings larger than 150 sq. ft. or 15 feet to the peak of the roof must meet the setback requirements of section 3.a.

\* Dimensional requirements for the Village Center may be waived by the Planning Board so long as they meet all other Zoning and Building Code requirements

## **Section C - CLUSTER DEVELOPMENTS**

1. Purposes: The purpose of this section is to encourage flexibility and variety in development. By allowing cluster developments, units shall be developed so as to promote the most appropriate use of the land; and to preserve the natural and scenic qualities of the open land in Lincoln for conservation and recreation.
2. General Regulations:
  - A. Each development must be reviewed and approved by the Lincoln Planning Board in compliance with the Lincoln Subdivision Regulations.
  - B. Each development must be connected to the municipal water and sewer system or must provide for safe and adequate water and sewage disposal.
  - C. The existing setback requirements Section 3.a. shall apply to the entire parcel.
  - D. With respect to internal setback requirements, no free standing structure shall be closer than thirty (30) feet from an abutting structure, or such setback as will comply with the latest BOCA requirements for fire protection, whichever is less.
  - E. Open space within the development shall be deeded as open space in perpetuity. Open space shall be left in its natural state or it shall be improved as usable recreational land.
3. Specific Cluster Development Regulations
  - A. Land area must be contiguous.
  - B. The maximum number of lots or units shall not exceed that otherwise permitted within the district in which the property lies. However, the Planning Board may not approve any Cluster Development which is less than 15,000 square feet per unit.
  - C. Lot area for the entire tract shall exclude any year-round stream or water body area.

## **Section D - FLOODPLAIN DEVELOPMENT DISTRICT**

**New Hampshire Model Floodplain Management Ordinance  
For Communities with Special Flood Hazard Areas  
Meets the Minimum Requirements of Section 60.3(b)  
of the National Flood Insurance Program Regulations  
(Amended 1/2004)**

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Lincoln Floodplain Management Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Lincoln Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood Hazard Boundary Maps dated April 20, 2000, which are declared to be a part of this ordinance and are hereby incorporated by reference, and any subsequent revisions thereto.

**Item I - Definition of Terms:**

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

1. "Area of Special Flood Hazard" is the land in the floodplain within the Town of Lincoln subject to a one-percent or greater chance of flooding in any given year. The area is designated as Zone A on the Flood Hazard Boundary Map.
2. "Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.
3. "Basement" means any area of a building having its floor subgrade on all sides.
4. "Building" - see "structure".
5. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations or storage of equipment or materials.
6. "FEMA " means the Federal Emergency Management Agency.
7. "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (i) the overflow of inland or tidal waters, or
  - (ii) the unusual and rapid accumulation or runoff of surface waters from any source.
8. "Flood Insurance Rate Map" (FIRM) means the official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Lincoln.
9. "Flood Insurance Study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
10. "Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").
11. "Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
12. "Floodway" – see "Regulatory Floodway"

13. "Functionally dependent use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
14. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
15. "Historic Structure" means any structure that is:
  - Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - (i) by an approved state program as determined by the Secretary of the Interior, or
    - (ii) directly by the Secretary of the Interior in states without approved programs.
16. "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
17. "Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.
18. "Mean sea level" means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
19. "New construction" means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means

structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

20. "100-year flood" see "base flood"

21. "Recreational Vehicle" is defined as:

- (i) built on a single chassis;
- (ii) 400 square feet or less when measured at the largest horizontal projection;
- (iii) designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

22. "Regulatory Floodway" mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

23. "Special flood hazard area" See - "Area of Special Flood Hazard"

24. "Structure" means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

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

26. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

- (i) The appraised value prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the

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

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

28. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

#### **Item II - Permits:**

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

#### **Item III - Construction Requirements:**

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

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

#### **Item IV - Water and Sewer Systems:**

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

#### **Item V - Certification:**

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

- a. the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- b. if the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.
- c. any certification of floodproofing.

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

**Item VI - Other Permits:**

The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.

**Item VII - Watercourses:**

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

"No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

Item VIII - Special Flood Hazard Areas:

1. In special flood hazard areas the Building Inspector shall determine the 100-year flood elevation in the following order of precedence according to the data available:
  - a. In Zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
  - b. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).
2. The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in zones A and AE that:
  - a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation.
  - b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
    - (i) Be flood proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - (iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
  - c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100-year flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
  - d. All recreational vehicles placed on sites within Zones A or AE shall either:
    - (i) Be on the site for fewer than 180 consecutive days;
    - (ii) Be fully licensed and ready for highway use; or,

- (iii) Meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c) (6) of Section 60.3.
- e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
- (i) The enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
  - (ii) The area is not a basement;
  - (iii) Shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

**Item IX - Variances and Appeals:**

1. Any order, requirement, decision or determination of the building inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law that:
  - a. The variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
  - b. If the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
  - c. The variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that:
  - a. The issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
  - b. Such construction below the base flood level increases risks to life and property.
  - c. Such notification shall be maintained with a record of all variance actions.

4. The community shall:

a. Maintain a record of all variance actions, including their justification for their issuance,

and

b. Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

## **Section E: SHORELAND PROTECTION DISTRICT**

The Shoreland Protection District is an overlay which is superimposed over the conventional existing zoning and includes within its boundary the protected shorelands adjacent to all public waters within the municipality.

### **1. PROHIBITED USES**

A. Establishment or expansion of:

1. Salt storage sheds;
2. Automobile junk yards;
3. Solid or hazardous waste facilities

B. Use of fertilizer, except lime and/or wood ash, on lawns or areas with grass on residential properties.

### **2. RESTRICTED USES**

A. Construction of water dependent structures shall be constructed only as approved by the State wetlands board pursuant to RSA 482-A.

B. Public water supply facilities as permitted by the Commissioner of the Department of Environmental Services.

C. Public water and sewage treatment facilities as permitted by the Commissioner of the Department of Environmental Services.

D. Hydro electric facilities, including, but not limited to dams, dikes, penstocks, and powerhouses, shall be recognized as water dependent, as permitted by the Commissioner of the Department of Environmental Services.

E. Public utility lines and associated structures and facilities as permitted by the Commissioner of DES.

F. An existing solid waste facility which is located within 250 feet of the public boundary line of protected waters under this chapter may continue to operate under an existing permit, provided it does not cause degradation to an area in excess of that area under DES permit.

G. No solid waste facility shall place solid waste within 250 feet of the public boundary line of protected waters under this chapter except as expressly permitted under RSA 483-B:9, IV- c. However, any solid waste facility may be allowed, subject to permitting conditions under RSA 149-M:10, to erect accessory structures and conduct other activities consistent with the operation of the facility within 250 feet of the public boundary line of protected waters under this chapter, such as filling, grading and installing monitoring wells and other drainage structures as is consistent with its solid waste permit as issued by the Department of Environmental Services. Under no circumstances shall the toe of any slope encroach within 150 feet of the public boundary line.

### 3. NATURAL WOODLANDS BUFFER

A. Where existing, all reasonable attempts shall be made to maintain a natural woodland buffer within 150 feet of the public boundary line. The purpose of this buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrients and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and under-story, preserving fish, bird and wildlife habitat, and respecting the overall natural condition of the protected shore-land.

B. Within the natural woodland buffer of the protected shore-land under conditions defined in RSA 483-B:9, V the following shall apply:

1. Not more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose in a 20-year period. A healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems shall be left in place. Replacement planting with native or naturalized species may be permitted to maintain the 50 percent level.
2. Trees, saplings, shrubs and ground covers which are removed to clear an opening for building construction, accessory structures, septic systems, roadways, pathways, and parking areas shall be excluded when computing the percentage limitations under section 3.b.(1).
3. Dead, diseased, unsafe, noxious or fallen trees, saplings, shrubs, or ground cover may be removed. Their removal shall not be used in computing the percentage limitations under section 3.b.(1).
4. Stumps and their root systems which are located within 50 feet of the [public boundary] reference line shall be left intact in the ground.

### 4. SUBSURFACE WASTE DISPOSAL SYSTEMS

All uses shall be connected to the Lincoln Sewer System. Subsurface waste disposal systems shall not be allowed in this district.

### 5. EROSION AND SEDIMENTATION CONTROL

- A. All construction and/or development activities shall incorporate design standards for erosion and sedimentation control which at a minimum reflect the recommendations of the publication Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire prepared by the Rockingham County Conservation District, prepared for the Department of Environmental Services in cooperation with the USDA Soil Conservation Service, August, 1992.
- B. Disturbance of a contiguous area in excess of 50,000 square feet requires a permit from the Department of Environmental Services pursuant to RSA 485-A:17, I.

## 6. MINIMUM LOT REQUIREMENTS

Lots with shoreland frontage shall be serviced by municipal sewers and shall meet the area and width requirements of the underlying District or minimum size requirements of the zoning ordinance.

## 7. SETBACKS

Primary building setback shall be 50' from the reference line or as allowed by state regulation, whichever is less stringent. Accessory building setback shall be 15'.

## 8. LAND CLEARING FOR AGRICULTURE PURPOSES

All agricultural activities and operations in the State as defined in RSA 21:34-a and as governed by RSA 430, including the use of animal manure, lime, wood ash, irrigation and the clearing of land for agricultural utilization, and other agricultural technologies, shall be exempt from the provisions of this ordinance, provided such activities and operations are in conformance with the most recent best management practices determined by the United States Department of Agriculture Cooperative Extension Service and the Department of Agriculture. Persons carrying out such agricultural activities and operations in the protected shoreland shall work directly with the local representatives of the above agencies for their particular property.

## **Section F - PLANNED PHASED DEVELOPMENT**

1. Purposes The purpose of this section is to encourage long-term planning of developments with an acceptable degree of flexibility in implementing development approvals over time. Any such development shall be developed as a cluster development so as to achieve the purposes of Article VI, C, I, but it may include residential units or dwellings and commercial, recreational or other uses which conform to Article VI, Section B, 2, Land Use Schedule.
2. Procedures for Acceptance and Initial Approval A planned phased development is not a permitted use, but may be approved only as a conditional use by the Planning Board pursuant to RSA 674:21 in districts where allowed pursuant to the land use schedule. The Planning Board shall consider an application for approval of a planned phased development pursuant to its subdivision regulation and site plan procedures,

including all requirements for notice and hearing, provided that the Planning Board shall first consider, after public hearing, whether the proposal is appropriate for further consideration under this section. Any determination to proceed with further consideration shall not bind either the applicant or the Board in such further proceedings.

### 3. Standards

A. In order for a proposed Development to receive conditional approval of its Master Plan under this section, The Planning Board must determine that proposed Development meets all of the following requirements.

- (i). The Development is proposed for a minimum of 5 acres of developable land.
- (ii). The proposed site design effectively protects unique natural features, wetlands and sensitive habitats.
- (iii). The plan shows an effective network of pedestrian paths, trails & sidewalks within the Development and to adjacent properties.
- (iv). The existing & proposed road network is designed or will be upgraded to adequately handle the expected increase in traffic.
- (v). Adequate water and sewer capacity to service the Development is available or will be upgraded to adequately handle expected use.
- (vi). Approval of the Planned Phased Development is deemed by The Planning Board to be in the best interest of the public.
- (vii). The over-all density of the project must conform to the District in which the project is located.

B. To assist the Board in evaluating the proposed Master Plan, they may require:

- (i). An analysis of the expected traffic impacts and their effect on the surrounding roadway network. The Planning Board may approve the Development and set conditions on the development of phases contingent on the construction of improvements to the surrounding roadway network.
- (ii). An analysis of the towns water and sewer system and the expected impacts of the development on this infrastructure. The Planning Board may approve the Development and set conditions on the Development of Phases contingent on the construction and improvements of water and sewer facilities planned by The Town.
- (iii). Special investigative studies, such as environmental assessments, or other studies necessary to make an informed decision. Expert services may be required by the Planning Board to review plans or documents for such matters as fire protection, water supply, sewerage, legal documents or other areas of technical concern to enable the Board to make an informed decision. The cost of such studies, investigations, experts, consultants or other professionals shall be paid by the

applicant, in an amount determined to be reasonable and appropriate by the Board. The applicant shall be advised of the costs prior to the studies being performed. The fees shall be paid prior to the approval or disapproval of the plan.

4. Master Plan Requirements The master plan must contain the following elements:
- A. Master Plan - A base map shall show existing and proposed development phases and their relationship to topography and adjacent land uses. The base map shall be completed at a scale of not greater than 1"=100'. Contours shall not be greater than 10' and may be digitized from aerial photography. Development phase lines shall be delineated with area computations. A table of areas, densities, and maximum units shall also be submitted. All wetland areas shall be delineated on this plan.
  - B. Road Plans - A base map showing the proposed roadway network, horizontal and vertical alignment of major roads, including preliminary curve data and grades by general profile, shall also be submitted. The plans shall show access to phases, and minor road networks if necessary. Typical cross sections of all collector streets, as defined by Lincoln Subdivision Regulations, shall be provided. The main road preliminary profile shall be completed at a scale not greater than 1"=100', vertical scale 1"=20'.
  - C. Open Space and Recreation plan - A base map (or layer on the Master Plan) showing open spaces and their acreage, active and passive recreation areas, pedestrian paths and/or recreational vehicle trails shall be submitted. Typical cross sections shall be provided for pedestrian paths and recreational trails. This plan shall be at the same scale as the Master Plan. This plan shall designate land for open space, recreation areas, path and trail networks and their acreages.
  - D. Infrastructure Plan - A plan at the same scale as the Master Plan showing the major components of sewer, water, electric, and other utility systems shall be submitted. This utility plan shall be designed in conformance with the Town of Lincoln water and sewer regulations. The Plan shall show schematic sewer collector systems and show major pipes and man-holes. A statement of sewer sizes and flows, allocations and phasing shall be submitted. The plans shall show the water system, major pipes, pumps, and tanks. A statement of water main sizes and flows, pressure and tanks is required. Location of all electric/telephone/CATV transmission lines and service stations shall be located on the plan. Statement by all utility companies shall be provided stating that they are able to provide the necessary services for the development.
  - E. Hydrology Plan - A plan shall be submitted at the same scale as the Base map showing topography, location of water bodies and wetlands, watersheds, and the proposed drainage system. A report describing the impacts of drainage on adjacent properties, and the permits required for construction shall be provided. The method of Wetlands delineation shall be consistent with the NH Wetlands Board Rules as amended (Administrative Rules WT 100-800). General wetlands data sheets and a chart of wetland areas and types shall be provided. Pre-and post-development runoff calculations (by rational method) shall be computed based on the maximum number of units or density proposed. The storm water drainage system shall be designed including the major components and retention areas. Any potential impacts on downstream drainage structures shall be identified. Existing and future wetlands permit locations shall

be located on the plan. A chart detailing the locations and the amount of wetlands impacted by the development shall be provided.

5. Development Agreement - An agreement shall be signed between the town and the developer restricting further development/subdivision on the site which materially differs from the project master plan. The agreement shall encumber the property by restricting the maximum number of units which may be developed on the property and within each cluster. The overall number of units shall not be diminished except as allowed by the Development agreement or mutual agreement.
6. Procedures for Approval of Phases - Applications and plans for final approval of each phase shall include all of the information required by the Lincoln Subdivision & Site Plan Review Regulations. Each phase of the project must conform to the approved Master Plan and Development agreement and does not need to conform to District area requirements.
7. Rights Associated with Approvals - The approval of a planned phased development by the Planning Board under this section shall not create any vested rights in the entire proposal not contained in the Development agreement. Any vesting or exemption for changed regulations pursuant to RSA 674:39, RSA 676:12 or any other statute or legal principle shall apply only to phases approved for implementation under subsection 4

## **Section F – IMPACT FEE ORDINANCE**

### Article A. Impact Fees.

#### **1 Authority and Purpose.**

This article is adopted pursuant to RSA 674:16 and RSA 674:21. The purpose of this article is to allow the Town to equitably allocate the costs associated with development to meet the needs occasioned by particular development for the construction or improvement of off-site capital facilities owned or operated by the Town.

#### **A.2 Definitions.** In this article:

“Impact fee” means a fee or assessment imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space.

“Development” means the construction, improvement, replacement, addition, expansion, or other use of a structure or land which requires approval of the Planning Board, Zoning Board of Adjustment, or the issuance of a building permit or certificate of occupancy. Development also includes, without limitation by reason of enumeration, subdivisions, nonresidential development of land, construction or expansion of structures, or

commencement or expansion of uses which may reasonably be expected to have an impact on the municipal facilities described in A.2 (A). "Development" does not include such structures or uses which may not be reasonably expected to have an impact on such municipal facilities, including the lawful, in-kind replacement or reconstruction of an existing structure that was damaged or destroyed by fire, accident or other natural disaster, if the replacement occurs within 2 years after such damage or destruction.

### **A.3 Administration.**

This article shall be administered by the Planning Board which shall adopt regulations establishing procedures and guidelines for the implementation of this article. As this article is adopted pursuant to the innovative zoning provisions of RSA 674:21, administrative decisions made by the Planning Board under this article may not be appealed to the Zoning Board of Adjustment, but shall be appealed pursuant to RSA 677:15. The Planning Board may adopt regulations which establish threshold levels of development of for consideration of impact fee assessments under this article.

### **A.4 Assessment and Determination of Impact Fee.**

Any development as defined in A.2 (B) shall be liable for the payment of an impact fee in accordance with this article. The amount of the impact fee shall be determined as follows.

#### **Site Specific Impacts.**

The Planning Board shall review each development as defined in A.2 (B) to determine if an off-site impact is generated that is subject to an impact fee determination under this article. The development shall be subject to such a fee if the Planning Board finds that the costs required for construction or improvement of the municipal infrastructure described in A.2 (a) or any other Town owned or operated municipal capital facilities is appropriate. To determine if it is appropriate to impose such an impact fee, and if so, the amount of the impact fee, the Planning Board shall determine the off-site improvements to the payment of costs for such improvements is appropriate. In making such determination, the Planning Board shall consider the future and indirect benefits accruing to the development from the improvement(s), noting that permanent improvements are not made solely with reference to present conditions. The Planning Board may then determine the amount of the impact fee which shall be that portion of the cost which bears a rational nexus to the needs created by, and special benefits conferred upon, the subdivision and which considers the burdens imposed upon the Town either forthwith or in the immediate future.

Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

### **A.5 Assessment Handling, and Collection of Impact Fees.**

An impact fee shall be accounted for separately and shall be segregated from the Town's general fund. An impact fee: may be spent upon order of the Board of Selectmen, shall be exempt from all provisions of RSA 32 relative to limitation and expenditure of Town moneys. And shall be used solely for the capital improvements made in anticipation of the needs which the fee was collected to meet. Each impact fee imposed pursuant to this article shall be assessed prior to, or as a condition for, the

issuance of a building permit or other appropriate permission to proceed with the development. An impact fee shall normally be collected as a condition for the issuance of a certificate of occupancy or prior to the occupancy of the development if a certificate of occupancy is not required by the Town. However, in projects where off-site improvements are to be constructed simultaneously with a project's development, and where the Town has appropriated the necessary funds to cover such portions of the work for which it is responsible, the Planning Board may advance the time of collection of an impact fee, the Planning Board and the assessed party from establishing an alternate, mutually acceptable schedule of payment. Any portion of an impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected shall be refunded, with accrued interest, after the expiration of 6 years from the date it is collected. When an impact fee calculation has been predicated upon some portion of capital improvement costs being borne by the Town, a refund shall be made upon the failure of the Town Meeting to appropriate the Town's share of the capital improvement costs within 6 years.

#### **A.6 On-Site Improvements.**

This article shall not affect the authority or ability of the Planning Board or the Zoning Board of Adjustment to consider and impose conditions relating to on-site conditions associated with development, including, but not limited to internal roads, drainage, water and sewer connections, and other factors as may be appropriate to the circumstances.

#### **A.7 Waivers.**

The Planning Board may waive the imposition of an impact fee upon written request of the developer or person assessed if the Board finds that good cause is demonstrated for such waiver. Prior to the approval of any such waiver, the Planning Board shall notify the public and the Selectmen and shall hold a public hearing on the waiver request. The burden shall be upon the person requesting waiver to demonstrate that it is in the public interest to do so and that good cause for the waiver exists.

Effective Date. This article shall take effect upon its adoption. (3/9/2004 Town Meeting)

### **Article VI-A TELECOMMUNICATIONS EQUIPMENT AND FACILITIES**

#### **Section A. Findings And Intent.**

1. The Town of Lincoln finds that regulation of the placement, spacing, installation, location and number of wireless and telecommunications facilities is in the public interest so as to: conserve and enhance property values; minimize the visual impact of such facilities upon natural landscape and scenic vistas; minimize the number of towers or reduce the height and visual impact of towers; avoid congestion in the location of such facilities; and assure that the Town accommodates the needs of wireless communication users in a reasonable manner.
2. The Town intends not to discriminate against or favor providers of telecommunications facilities and services.

3. The purposes of this article are:
- (i) To preserve the authority of the Town to regulate the siting of wireless and telecommunications facilities while facilitating the proper location of facilities to provide service to the community quickly, effectively, and efficiently.
  - (ii) To reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values.
  - (iii) To encourage, and when appropriate require, collocation and minimal impact siting options through assessment of technology, present and future location options, innovative siting techniques, and regional siting possibilities.
  - (iv) To permit the construction of new towers only where all other responsible opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes adverse visual impact.
  - (v) To assure responsibility for adequate telecommunications maintenance and safety inspections for facilities; to provide for the prompt, safe removal of abandoned facilities; and to provide for the removal or upgrade of facilities that are technologically outdated.

**Section B. Definitions.** In this article:

1. "Act" means the federal laws governing telecommunications facilities, as amended, including the Telecommunications Act of 1996, and FCC regulations promulgated thereunder.
2. "Alternative tower structure" means an innovative siting technique or structure such as 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.
3. "Antenna" means any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.
4. "FAA" means the Federal Aviation Administration.
5. "FCC" means the Federal Communications Commission.
6. "Height", when referring to a tower or other structure, means the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
7. "Preexisting tower or antenna" means any tower or antenna lawfully constructed or permitted prior to the adoption of this article (March 12, 2002).

8. "Telecommunications Facility" includes both:
  - (i) Wireless telecommunications facilities" such as any structure, antenna, tower, or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services; and
  - (ii) Conventional telecommunications facilities" such as any telecommunications facility installed within, upon, or across a public right-of-way including poles, wires, conduits, and similar equipment or property, whether installed above or below ground.
9. "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one 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.

### ***WIRELESS TELECOMMUNICATION FACILITIES***

**Section C. General Siting Standards and Policies.** Wireless telecommunications facilities shall be permitted within the Town only in accordance with this ordinance and this article. In the case of conflict with any other provision of this ordinance or any Town ordinance or regulation, that provision imposing the more stringent standard shall apply.

**Section D. General Provisions.**

1. Wireless telecommunications facilities may be allowed as primary or secondary uses, either as permitted uses or by conditional use permit issued in accordance with § G. In any case, however, the facility shall conform to all other applicable ordinances and regulations, and must be approved by the Planning Board through site plan review. If allowed by the Planning Board, an applicant may seek to combine conditional use permit review with site plan review.
2. A different primary use of the property shall not preclude the use of the property for an antenna or tower, provided that the Planning Board approves such use as a conditional use under § G.
3. For purposes of determining whether the installation of a tower or antenna complies with dimensional requirements of this ordinance, including but not limited to setback requirements, lot-coverage requirements, and other requirements, the dimensions of the entire lot shall control, even though the antenna or tower may be located on a leased parcel within the lot, provided that the tower location and tower lot comply with the dimensional requirements of this article.
4. Towers and antennas may be permitted and installed only in accordance with this article and may not be installed as expansions of nonconforming uses or accessory uses.

**Section E. Zoning District Requirements.**

1. Wireless telecommunications towers and antennas may be located within the Town only in accordance with the following table:

Zoning District	New Tower Construction	Collocation on Existing Tower	Collocation on Existing Structure
Small Business District	P	P	P
General Use	P	P	P
Village Center	Not Allowed	CUP	CUP
Village Residential	Not Allowed	Not Allowed	Not Allowed
General Residential	Not Allowed	Not Allowed	Not Allowed
Mountain Residential	Not Allowed	Not Allowed	Not Allowed
Rural Residential	Not Allowed	Not Allowed	Not Allowed

Notes:

“P” means permitted without a conditional use permit, but site plan review is required, and subject to any restrictions on the existing tower or structure.

“CUP” means allowed only by conditional use permit issued under Section G, Number 1, and site plan review also required.

“New Tower Construction” permits construction of a tower for one or more antennas, as allowed in the permit issued by the Planning Board.

“Collocation on existing tower” permits additions of antenna(s) to an existing telecommunications tower in the manner permitted in the conditional use permit or site plan review as appropriate.

“Collocation on existing structure” permits the placement of an antenna on an existing structure other than a telecommunications tower in the manner permitted in the conditional use permit or site plan review as appropriate.

2. Wireless telecommunications structures other than towers and allowed amenities may be located on property only in conformity with the use and dimensional requirements otherwise applicable to the property.
3. Where allowed and as approved in site plan review, a telecommunications tower may include reasonable minor, accessory amenities such as one storage building not to exceed 100 square feet and a parking area not to exceed 200 square feet (only with a surface approved by the Planning Board). Any other structure or larger parking area is permitted only as allowed by otherwise applicable provisions of this ordinance.
4. The maximum height for any telecommunications tower or support for an antenna shall be 100 feet. Any height limit imposed by this section may be decreased or increased by the Planning Board by approval of a conditional use permit if the Board affirmatively finds (a) the intent of the ordinance will be preserved, (b) a modification is reasonably necessary and appropriate to further the purposes of this article; and (c) a modification is necessary to allow for the provision of telecommunications service in the area of the community affected which can otherwise be effectively serviced.

**Section F. Applicability To Specific Cases.**

1. **PUBLIC PROPERTY.** Upon application of the Selectmen, the Planning Board may allow new antennas or towers to be located on property owned, leased, or otherwise controlled by the Town in any zone without the requirement to obtain a conditional use permit. If a person other than the Town will use or operate the tower or antenna, that use shall be required to obtain site plan approval from the Planning Board which may deny approval if it finds that such usage is inconsistent with the purposes of this article.

2. **AMATEUR RADIO; RECEIVE-ONLY ANTENNAS.** In accordance with RSA 674:16, IV, this article shall not apply to any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator and is used exclusively for receive-only antennas.

3. **ESSENTIAL SERVICES AND PUBLIC UTILITIES.** Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in this ordinance or any other Town ordinance or regulation. Siting for telecommunication facilities constitutes a use of land and is regulated by this article.

**Section G. Conditional Use Permits and Site Plan Review; Criteria; Construction and Performance Standards**

1. **GENERAL STANDARD.** In acting upon a conditional use permit, or in applying its site plan review regulations to a wireless telecommunication facility, the Planning Board shall apply and utilize the criteria and standards set forth in this section, in addition to such other standards and criteria as it may establish. The Planning Board may waive one or more of these requirements, in accordance with § K, only if it determines that the goals of this article are served thereby.

2. **AESTHETICS AND LIGHTING.**

- (i) Towers shall have a galvanized steel finish, subject to any applicable FAA standards, or shall be painted a neutral color so as to reduce visual obtrusiveness. The Planning Board may allow a different color scheme or finish if it finds that the purposes of this article would be furthered.
- (ii) At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment. Service roads and other related facilities shall be designed to be as unobtrusive as possible.
- (iii) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (iv) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the Planning Board may review the

available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

- (v) Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind, except as allowed by the Planning Board in the interests of public safety.

**3. FEDERAL REQUIREMENTS.** All towers and antennas must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners or operators of the towers and antennas shall bring such towers and antennas into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna in accordance with § J, at the owner's expense or through the execution of the posted security.

**4. ADDITIONAL REQUIREMENTS.** These requirements shall supersede any less stringent applicable standard found elsewhere in this ordinance or any other Town ordinance or regulation.

**(i) Setbacks and Separation**

- a. Towers shall be located within the tower lot so as to provide a fall zone free of any structures equal to 125% of the height of the tower. When appropriate the Planning Board may include consideration of falling ice and snow in determining the size of the fall zone.
- b. Tower, guys, and accessory facilities shall comply with the minimum zoning district setback requirements.
- c. Towers over 100 feet in height shall not be located within one-quarter mile of any existing tower that is over 100 feet in height.

**(ii) Security Fencing.** Towers shall be enclosed by security fencing not less than 6 feet in height and shall also be equipped with an appropriate anti-climbing device.

**(iii) Landscaping.**

- a. Towers shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least 10 feet wide outside the perimeter of the tower compound. Natural vegetation is preferred.
- b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived entirely, in accordance with § 14.
- c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. For towers sited on large wooded

lots, natural growth around the property may be deemed a sufficient buffer, if approved by the Planning Board.

**(iv) Construction.** The applicant shall submit site specific engineering information regarding the construction of the tower and antenna which demonstrates that the facilities can be safely installed and maintained with no danger to property or persons.

## **Section H. Permit Procedures.**

### **1. GENERAL.**

**(i) State Law.** Any person seeking to construct or install a wireless communication facility shall first comply with all requirements of RSA 12-K:3, IV. If a permit is sought from the Planning Board the information required by said statute shall be submitted as part of the application for the permit. If a permit is not required, such information shall be submitted prior to application for a building permit for such facility.

**(ii) Site Plan Review/Permit Application.** All persons seeking to construct or install a wireless communications facility (unless expressly exempted by this article) shall apply to the Planning Board for Site Plan Review, in accordance with Site Plan Review Regulations. In addition, applications which are required to obtain a conditional use permit shall submit the information required by this section. All applications shall be handled as required by RSA 676:4, including applicable time limits.

### **2. INFORMATION REQUIRED.**

**(i) Submission.** Each applicant requesting a Conditional Use Permit or Site Plan approval shall submit at the time of application: all information required by RSA 12-K:3 (including a listing of all municipalities within a 20 mile radius in which the facility may be visible); a scaled plan in accordance with the Site Plan Review Regulations; a scaled elevation view; topography; radio frequency coverage; tower height requirements; setbacks; drives; parking; fencing; landscaping; adjacent uses (up to 200 feet away from the tower site); and any other information required by site plan review regulations adopted by the Planning Board under this article. The application shall include a Site Plan Review application fee of \$30, the costs of all notices, including notice costs to other municipalities in which the facility might be visible.

**(ii) Additional Information.** The applicant shall also submit the following prior to any approval by the Planning Board:

- a. Written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
- b. Written proof that an evaluation has taken place which demonstrates that the use/facility satisfies the requirements of the National Environmental Policy Act (NEPA). 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 30 day comment period, and the Town process, shall become part of the application requirement.
- c. An inventory of existing towers that are within the jurisdiction of the Town and those within two miles of its borders, including specific information about the location,

height, design of each tower, as well as economic and technological feasibility for the collocation on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this section or other organizations seeking to locate antennas within the jurisdiction of the Town, 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.

- d. 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 may consist of:
  - (1) Substantial evidence that no existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements, including a description of the geographic area required.
  - (2) Substantial evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements, and why.
  - (3) Substantial evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - (4) Substantial evidence that the applicant's proposed antenna would cause electromagnetic interference with antennae on existing towers or structures, or antennae on existing towers or structures would cause interference with the applicant's proposed antenna.
  - (5) Substantial evidence that the fees, costs or contractual provisions required by the owner to share the existing tower or structure are unreasonable.
  - (6) Substantial evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.
- e. The applicant shall also submit such other information as may be deemed necessary by the Planning Board to assess compliance with this article.
- f. An applicant proposing to build a new tower shall execute an agreement that allows for the maximum allowance of co-location upon the new structure, which shall become a condition of any approval. This agreement 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 denial of approval for the tower.
- g. The applicant shall submit engineering information detailing the size and coverage required for the facility location.

**(iii) Technical Review.** The Planning Board may require any of the information submitted in an application to be reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternate locations, or any

other matter required by the application. Cost for this review shall be borne by the applicant in accordance with RSA 676:4, I(g) and RSA 12-K:4.

**3. FACTORS CONSIDERED IN DECISIONS.** The Planning Board shall consider at least the following criteria when acting upon an application for a conditional use permit:

- a. Height of proposed tower or other structure.
- b. Proximity of tower to residential development or zones.
- c. Nature of uses on adjacent and nearby properties.
- d. Surrounding topography.
- e. Surrounding tree coverage and foliage.
- e. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- f. Proposed ingress and egress to the site.
- g. Availability of suitable existing towers and other structures.
- h. Visual impacts on viewsheds, ridgeline and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.
- i. Availability of alternative tower structures and alternative siting locations.

**4. DECISIONS.**

- a. In granting a conditional use permit, the Planning Board may impose conditions necessary to minimize any adverse effect of the proposed tower on adjoining properties, and to preserve the intent of this Ordinance.
- b. The Planning Board may approve, approve with conditions, or deny an application. All decisions shall be in writing and a denial shall be based upon the record.

**5. EXPEDITED REVIEW.** The Planning Board may, by regulation, provide for an expedited review for facilities that utilize existing facilities or sites designated by the Planning Board and Selectmen as desired sites for such facilities.

**Section I Security.** As a condition of approval for any new tower and when deemed appropriate for other facilities, the Planning Board shall require the applicant to post adequate surety for the costs of maintenance, repair, or removal thereof. The amount and form of the surety shall be determined by the Planning Board.

**Section J Abandonment, Discontinuance, Repair, Replacement, Removal.**

To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries

Association, as amended from time to time. If, upon inspection, the Town finds that a tower fails to comply with such codes and standards or otherwise constitutes a danger to persons or property, it shall notify the tower owner who shall, within 30 days, bring the tower into compliance with such standards or eliminate the danger. If the owner fails to bring the tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal of the tower or antenna, at the owner's expense through execution of the posted security, in accordance with § I.

**Section K**     **Waiver/Appeal.**

- a. In compliance with Section 253 of the Act, the Town does not intend to create barriers to the ability of any entity to provide interstate or intrastate telecommunications services. If any such entity, having duly exhausted all applicable avenues to providing such service, believes that the procedures or standards established by this article have created such a barrier, the entity may apply within 20 days after the final administrative decision, to the Planning Board for administrative relief in accordance with this section.
  
- b. Upon application duly made in accordance with the procedures required for a conditional use permit, the Planning Board may grant waivers from the strict application of the requirements of this article where the Board finds, on the probability of evidence presented to it, with the burden upon the applicant for the facility, that:
  - (i) Strict adherence to the requirements of this chapter is not required to effectuate the purposes hereof;
  
  - (ii) Strict compliance would create practical difficulty and unnecessary inconvenience;
  
  - (iii) Strict compliance could potentially cause a conflict with the Act.

Effective Date: This amendment to the Lincoln Land Use Plan Ordinance shall take effect on March 13, 2002, if it is adopted at the 2002 Annual Meeting of the Town of Lincoln.

**ARTICLE VI-B  
LINCOLN SIGN ORDINANCE  
AS AMENDED BY TOWN MEETING 3/2008**

**PURPOSE**

The purpose of this ordinance is to permit signage that will effectively direct movement, advertise and inform the public while not, by reason of size or location, confuse, mislead or obstruct the vision necessary for traffic safety, or otherwise endanger public health and safety. Further, the purpose of this ordinance is to encourage signage that will protect and improve our community's appearance, not adding to visual clutter nor unnecessarily detracting from or obstructing scenic vistas nor competing with the natural environment, which are the major assets of our town's tourist-based economy.

**GENERAL PROVISIONS**

**Section A.**    APPLICATION

1. All applications for a sign permit shall be filed by and bear the signatures of the property owner, business owner or duly authorized agent. Applications shall be filed with the Town of Lincoln Planning Board on forms provided by the Planning Board. All approved applications shall bear the signature of an authorized member of the Planning Board or their designee.
2. The application for a sign permit must include a detailed, scale drawing of the proposed sign and its support system including all dimensions, materials, colors, lettering style and graphic details, Tax Map and Lot Number, location of the sign on the property, including distances to property lines, principal building and other permanent structures or public rights-of-way, and any other details deemed necessary by the Planning Board to insure that the proposed sign complies with all applicable codes.
3. All applicants for a sign permit shall be required to submit a non-refundable fee for filing and no permit shall be deemed complete until all fees are paid to the Town of Lincoln. The Board of Selectmen may adjust the schedule of fees for sign permits at its discretion. Such fee adjustments shall not be deemed to be an amendment to this Ordinance.

#### **Section B. DEFINITIONS**

1. Ancillary Business: An Ancillary Business is a collocated business operating under the umbrella of a larger or more dominant parent company.
2. Archway Sign: A freestanding sign painted on or otherwise affixed to an arch.
3. Awning Sign: A message printed on or affixed to the surface of an awning.
4. Banner: An imprinted sign made of fabric, cloth or other flexible material that might be suspended by one or more staffs or attached to the side of a building or railing serving as an invitation to do business, announcement or advertisement.
5. Changeable Copy Sign: Signs with letters, which must be manually moved in order to change the message or wording of the sign.
6. Construction Sign: A sign identifying any construction project and the parties involved in the project.
7. Directional Sign: Signs identifying entrances, exits, parking area, loading docks or other messages necessary to direct vehicles and pedestrians to, through or within a site.
8. Electronic Message Board: Electronically controlled signs, which can change messages without the physical movement of the letters.
9. Externally Illuminated Sign: Any sign illuminated by a light source from the exterior of the sign.
10. Flag: A piece of cloth or fabric varying in size, color, and design used as a symbol, standard, signal, or emblem, usually attached to a staff or hung from a structure.

11. Free Standing Sign: Any sign supported by a structure permanently anchored to the ground, which is independent from any building.
12. Home Occupations Sign: Any sign located at a private residence advertising a home business.
13. Industrial Building Sign: A permitted sign in the Small Business Development Zone or other industrial location.
14. Informational Sign: Any sign used to inform the public about the business's operation. Signs may include, but are not limited to, open signs, hours of operation, restrictions, directory signs, building number signs, handicap parking signs and no parking signs that are generally not visible from a public right of way.
15. Internally Illuminated Sign: Any sign illuminated by a light source from the interior of the sign.
16. Merchandise Sign: Goods, vehicles, or other items that may be bought, sold, leased or repaired, and are the commodities of or represent the commerce of a business, that are strategically displayed for the sole purpose of advertising a business, or merchandise with advertising applied or affixed to the merchandise for the sole purpose of advertising a business are, by definition, a sign.
17. Multi-Business Property: A Multi-Business Property consists of two (2) or more businesses sharing a common building or parcel of land. Examples include, but are not limited to, strip shopping centers, enclosed shopping malls, professional office buildings, small store fronts occupied by several businesses, such as an antique mall or food court.
18. Neon Sign: A sign consisting of bent glass tubes, neon gas and a transformer.
19. Off Premises Sign: A sign that serves as advertising for a business, and that is not located on property of the business that is being advertised.
20. Off Premises Directional Sign: A sign for the purpose of directing the general public to a business, activity, service or community event that is not located on property of the business providing the direction.
21. Portable Sign: A sign capable of being readily removed or relocated, and not attached to the ground, a building, or another sign. This includes, but is not limited to, moveable signs mounted on a chassis with wheels or support legs, any type of "A" frame or sandwich board sign.
22. Projecting Sign: A one or two-sided sign projecting at any angle from a building.
23. Public Event Banner: A banner as defined in Article II, Section B. Paragraph 4 used to advertise special events including, but not limited to, concerts, carnivals and parades
24. Real Estate Sign: A sign advertising the sale, lease or rental of a property or business.

25. Reflecting Sign: A sign that uses glass beads, luminescent paint (glow in the dark) or some artificial substance whose primary purpose is to reflect light and cause the sign to glow when illuminated.
26. Residential Zone: As used in this Sign Ordinance, the term Residential or Residential Zone includes the General Residential Zone, the Village Residential Zone, the Rural Residential Zone and the Mountain Residential Zone as defined by the Town of Lincoln Zoning Maps.
27. Roof Sign: A sign that is erected, constructed, and maintained on or above the roof of a building. This includes any painting on the roof of a structure or design in the roofing material that effectively constitutes a sign.
28. Sign: Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, numbers, figures, design, symbols, fixtures, colors, illumination, or projected images.
28. Subdivision Sign: A sign which states the name of the subdivision only and does not advertise lots and/or homes for sale nor agents to contact for such sales. Examples of such signs are: "Lincoln Station", "Clearbrook", and "Riverfront".
29. Vehicle Sign: A vehicle with words, letters, figures, designs, symbols, or graphics applied or affixed to its sides, front or back or a sign attached anywhere on the vehicle that is then parked at a location so as to display rather than to be used primarily as a vehicle is, by this definition, a sign.
30. Wall Lettering/Wall Graphics: Letters, numbers, or other graphical depictions painted onto or directly affixed to the outer wall of a business.
31. Wall Sign: A sign affixed to the outer wall of a business.
32. Window Sign or Lettering: A sign visible from a sidewalk, street, or other public place, painted onto or affixed to glass or other window material or located within 2 feet of a window interior. Graphics in connection with customary window display of products is not considered a Window Sign.

### **Section C. GENERAL SPECIFICATIONS**

1. The measurement of a sign's area shall be the product of its total height and total width including all lettering or elements of a sign, but not including any support framework or structure that is incidental to the message portion of the sign and is not designed to attract attention. The structure can be supportive or architectural in nature.
2. The area of the structure of the sign can be a maximum of 50% of the allowed sign area and is calculated on the structural elements above the bottom of the sign. Posts or support structure below the sign are not included in this calculation nor is it considered a part of the sign's area.
3. The maximum number of signs used for advertising a business is limited to four (4) for any one business at any one location, except where the "linear road frontage rule" applies to

Free Standing signs; see Section D, #10, Free Standing Sign. In determining the maximum number of signs, the count is based on Free Standing, Wall, Projecting, Awning, Archway, Portable, Wall Graphics, Wall Lettering and Roof signs. All Wall Signs that meet the allowed aggregate square footage count as one (1) sign. Excluded from the sign count are Directional Signs, Informational Signs, Banners, and Flags.

4. Permits are issued for signs that must be located on the property where the business is located except as allowed by this Ordinance.
5. Materials for signs may include wood, engineered wood products, plastic, metal, concrete, stone or stone like products, foam, polystyrene or other appropriate materials common to the sign making industry.
6. For purposes of this Sign Ordinance, an Ancillary Business is considered to be a separate, stand alone business. An Ancillary Business, therefore, would be entitled to all the signage rights of any other single business except that an Ancillary Business is not allowed to have a Free Standing Sign.

#### **Section D. DIMENSIONAL AND DISPLAY SPECIFICATIONS**

1. Archway Sign: Any archway that spans a private road or driveway requires Planning Board Site Plan Review approval. A sign may be affixed to each side of the horizontal portion of an archway. The maximum size of the Archway Sign is thirty-two (32) square feet and may not extend above or below the archway structure. Signs attached to the columns of the archway are not allowed.
2. Awning Signs: Awnings may have a message painted on, affixed or attached, or otherwise incorporated into the awning and against the surface of the awning but not extend above, below or beyond the awning or attached to the underside. For purposes of square foot requirements and limitations, awnings with messages printed on them are considered a type of wall sign.
3. Banner: A maximum of two (2) banners per business are allowed. Banners may be one (1) or two (2) sided and shall not exceed thirty-two (32) square feet. A Banner may be suspended, attached to the side of a building or railing or otherwise supported and serves as an invitation to do business, announcement or advertisement. Each banner may be displayed for no more than an aggregate of one hundred and twenty (120) days per calendar year. If a business closes for the season, Banners must be removed.
4. Changeable Copy Signs: Only one (1) Changeable Copy Sign, or two (2) on a double sided sign with the same message, is allowed per business and only within the General Use and Village Center zones. Changeable copy signs must be located at the business location and may only be a Wall or Free Standing Sign, or part of a Wall or Free Standing Sign. The maximum size of a Changeable Copy Sign, or the changeable portion of a permitted sign, may not exceed twelve (12) square feet.
5. Construction Signs: Only one Construction Sign, located at the site of a new project is allowed. The maximum size shall not exceed thirty-two (32) square feet and can be a Free Standing Sign or Wall Sign on a building or project under construction, repair or renovation identifying the parties involved in the project. A sign permit is not required.

6. Directional Signs: Directional Signs in all Zones, except resort property in the General Use Zone, may be Free Standing or Wall Signs, bear no advertising and must be located on the business property, except real estate directional signs. (See Real Estate Signs, Article II, Section D, Paragraph 23). A free standing Directional Sign may not exceed three (3) square feet with a maximum height of six (6) feet above grade. A wall mounted Directional Sign may not exceed three (3) square feet with a maximum height of six (6) feet above grade. Directional Signs include, but are not limited to, signs indicating entrances, exits, parking, directional arrows, loading docks, and messages necessary to direct vehicles and pedestrians to, through or within a site

Directional Signs on a resort property in the General Use Zone, such as Loon Mountain Resort and South Peak Resort, are allowed Directional Signs that may be Free Standing or Wall Signs, bear no advertising and must be located on property in which the business owns, leases or, possesses an equity interest. Directional Signs in this category may not exceed thirty-two (32) square feet with a maximum height of twelve (12) feet above grade. A wall mounted Directional Sign may not exceed sixteen (16) square feet with a maximum height of ten (10) feet above grade. Directional Signs include, but are not limited to, signs indicating entrances, exits, parking, directional arrows, loading docks, and messages necessary to direct vehicles and pedestrians to, through or within a site.

7. Electronic Message Signs: Electronic Message Signs are not allowed.
8. Externally Illuminated Signs: Signs may be externally illuminated for public visibility. Any light used shall only illuminate the sign and shall not cast light, glare or reflected light upon adjacent buildings or roadways or create a nuisance or distraction to abutters, passing vehicles or pedestrians. Illumination shall be white and continuous light of the lowest intensity necessary to illuminate the sign.
9. Flags: Non-governmental flags that have symbols, emblems, logos or words, such as, "Open", "Antiques", etc, are limited to one per business. The maximum size of non-governmental flags shall not exceed fifteen (15) square feet.
10. Free Standing Sign: In the Village Center and General Use Zones, only one (1) Free Standing Sign is allowed per business or Multi-Business Property and must be located at the business location, with the exception of a business that qualifies under the "linear road frontage rule". If a business in the General Use Zone has a minimum of 450 ft of linear road frontage on a single road it will qualify for an additional Free Standing sign and for each additional continuous 450 ft will qualify for another Free Standing sign. For example, a business that has 900 feet of linear road frontage may have a total of 3 Free Standing signs. These Free Standing signs are to advertise the parent company only and do not apply to any ancillary business as defined under Section B, General Provisions.

Free Standing signs in the Village Center Zone may not exceed 50 square feet per single business excluding structure or 100 square feet in the General Use Zone. Multiple business properties are permitted one Free Standing sign with only 32 square feet allowed per business, not to exceed one hundred and fifty (150) square feet, excluding the structure.

Support structure for a Free Standing Sign may not exceed 50% of the allowable sign square footage. The maximum height for a Free Standing Sign, except in a Residential Zone, is twenty (20) feet above grade and the maximum depth is one (1) foot except when

the support structure is natural stone or stone-like product where the maximum depth is two (2) feet.

A freestanding sign in any Residential Zone may not exceed nine (9) square feet, excluding structure, and a maximum height of (6) six feet above grade. Support structure for a Free Standing sign in a Residential Zone may not exceed 50% of the allowable sign square footage.

11. Home Occupation Sign: A Home Occupation is allowed one (1) Free Standing Sign per household with a maximum sign area of nine (9) square feet and a maximum height of six (6) feet above grade. Wall Signs advertising a Home Occupation may not exceed two (2) square feet at a maximum height of six (6) feet above grade.
12. Industrial Business Signs: Each business in the Lincoln Business Park is permitted a sign in accordance with the provisions of this Ordinance except the maximum sign area is limited to twenty (20) square feet, excluding the sign structure. Multi-Business buildings within the Lincoln Business Park must follow the provisions herein with respect to allowable signs except the maximum Free Standing Sign area is limited to thirty-two (32) square feet, excluding the sign structure. A Free Standing directory sign, listing the various businesses located within the Lincoln Business Park and located at the entrance to a business park, is permitted. The maximum size of the Free Standing Directory Sign is limited to thirty-two (32) square feet excluding the sign structure. Support structure for the Signs in the Zone may not exceed 50% of the allowable sign square footage.
13. Informational Signs: Informational Signs in all Zones, except resort property in the General Use Zone, may be Free Standing or Wall Signs, bear no advertising and must be located on the business property. A free standing Informational Sign may not exceed two (2) square feet with a maximum height of six (6) feet above grade. A wall mounted Informational Sign may not exceed two (2) square feet with a maximum height of six (6) feet above grade. Informational Signs include, but are not limited to, signs such as open, closed, vacancy, credit card, telephone, restroom, convey regulations or restrictions and similar informational messages to provide guidance to the general public.

Informational Signs on a resort property in the General Use Zone, such as Loon Mountain Resort and South Peak Resort, are allowed Informational Signs that may be Free Standing or Wall Signs, bear no advertising and must be located on business property that the business owns, leases or owns by way of an equity interest. The free standing Informational Signs in this category may not exceed sixteen (16) square feet with a maximum height of ten (10) feet above grade. A wall mounted Informational Sign may not exceed sixteen (16) square feet with a maximum height of ten (10) feet above grade. Informational Signs include, but are not limited to, signs such as open, closed, vacancy, credit card, telephone, restroom, bus stops, convey regulations or restrictions and similar informational messages to provide guidance to the general public.

14. Internally Illuminated Signs: Only one (1) internally illuminated sign is allowed per business and only in the General Use Zone. Internally illuminated signs must be located at the business location and may only be either a Wall sign or Free Standing sign. The maximum size of an internally illuminated sign, or the internally illuminated portion of a Wall or Free Standing sign may not exceed twenty four (24) square feet. Internally Illuminated Signs are not allowed in the Village Center Zone.

15. Merchandise Sign: Merchandise Signs are not allowed.
16. Neon Sign: Exterior Neon Signs are not allowed. Neon Signs located within the business interior that are visible from a sidewalk, street, or other public place, or located within two (2) feet of the window may not exceed four (4) square feet.
17. Off Premises Signs: Off Premises Signs are not allowed; except by special exception as provided in article VIII of this Ordinance.
18. Off Premises Directional Signs: Off Premises Directional Signs are not allowed, except real estate directional signs (See Real Estate Signs, Article II, Section D, Paragraph 23) or by special exception as provided for in Article VIII of this Ordinance.
19. Portable Signs: Only one (1) Portable Sign is allowed per business. The maximum size of a portable sign will be twelve (12) square feet. Portable signs must be placed within twenty-five (25) feet of the primary entrance to the business. All portable signs shall be removed from public view when the business is not open.
20. Projecting Signs: The maximum size of a projecting sign shall be 4% of the business wall it is attached to, not to exceed thirty-two (32) square feet. Where a building houses more than one business, such as in a Multi-Business Property, only the wall of the business using the projecting sign shall be included in determining maximum size. If businesses share such a sign, the total area of the walls of the all businesses sharing the sign shall be included in determining the permitted size, not to exceed thirty-two (32) square feet. If walls cannot be attributed directly to businesses in a Multi-Business Property, then the size of the sign shall be based on the proportionate share of the business's floor space in the building when calculating the permitted sign area based on the 4% rule, not to exceed thirty-two (32) square feet. Projecting Signs shall be located at the business location. Projecting signs are to be hung so as to not to overhang the property boundary or impede safe vehicle or pedestrian line of sight.
21. Public Event Banners: Maximum of two (2) per event, each being no greater than one hundred and twenty (120) square feet. They may be displayed for not more than twenty-one (21) days prior to the event, and must be removed within seven (7) days following the event.
22. Real Estate Signs: Real Estate signs advertising the sale of a residential property are limited to one per property, except in the case of a corner lot where one sign is permitted for each side of the lot facing a public right-of-way, with a maximum sign size of six (6) square feet. A maximum of three (3) Off Premises Directional Signs for residential properties are allowed with a maximum size of four (4) square feet per directional sign. Real Estate signs for residential properties do not require a sign permit.

Non-residential properties are limited to one per property, except in the case of a corner lot where one sign is permitted for each side of the lot facing a public right-of-way, with a maximum sign size of thirty-two (32) square feet. A maximum of three (3) Off Premises Directional Signs for non-residential properties are allowed with a maximum size of four (4) square feet per directional sign. Real Estate signs for non-residential properties require a sign permit and written permission signed by the landowner granting permission to place the Off Premises Directional Sign(s).

Real Estate Off Premises Directional Signs shall not contain any advertisements. Phrases such as, "For Sale", "Available" or "Building Sites Available", directional arrows, contact information, and/or corporate logos are allowed.

Real Estate Signs advertising the sale of a new sub-division are limited to one and shall not exceed thirty-two (32) square feet and may be two (2) sided. Real Estate Signs for a sub-division require a sign permit.

23. Reflecting Signs: Signs that use glass beads or some artificial substance with the primary purpose of reflecting light or glowing when illuminated are allowed. Signs with luminescent paint that glows in the dark are not allowed.
24. Roof Signs: Only one (1) Roof Sign is allowed per business when the business is located in a shopping center type of Multi-Business Property and only in the Village Center or General Use Zones except as allowed by this Ordinance. The maximum size of a Roof Sign is forty (40) square feet. A Roof Sign may not be placed more than five (5) feet up on a roof beyond the drip edge of a roof nor project above the peak of the roof.

Stand alone buildings on a corner that have a horizontal roof line separated by at least 90 degrees will be allowed to use up to two (2) additional areas of the roof for signs. The combined square footage of these two (2) signs is not to exceed the maximum forty (40) square feet of the primary roof sign or the three (3) signs may be divided into any combination to a maximum of eighty (80) square feet as long as no one sign exceeds forty (40) square feet.

25. Sub-Division Signs: Only one (1) Sub-Division Sign is allowed per entrance to a sub-division. The maximum size of the Sub-Division sign is thirty-two (32) square feet, exclusive of the support structure. Support structure for a Sub-Division sign may not exceed 50% of the allowable sign square footage. A Sub-Division sign must state the name of the sub-division only and shall not advertise lots and/or homes for sale nor the agents to contact for such sales.

26. Vehicle Signs: Vehicle Signs are not allowed.

27. Wall Signs: If one business or a Multi-Business Property uses a Wall Sign(s) as a primary sign and there is no Free Standing Sign, the maximum size of the Wall Sign(s) will be limited to 20% of the wall area of the business or businesses wall it is attached to, as defined herein and shall not exceed a maximum of 300 square feet. Businesses with multiple exterior walls separated by at least 90 degrees will be allowed to use up to two (2) additional walls of the building for a Wall Sign(s) provided the area of the additional Wall Signs does not exceed 50% of the primary Wall Sign allowed by this Ordinance.

If one business or a Multi-Business Property uses a Wall Sign(s) as a secondary sign(s) with a Free Standing Sign as the primary sign, the maximum size of the Wall Sign will be limited to 20% of the wall area of the business or businesses, as defined herein, and shall not exceed an aggregate of fifty (50) square feet per 500 square feet of wall space with a maximum size of 300 square feet.

A Projecting Sign may be used on the same wall as a Wall Sign but the area of the Projecting Sign will be added to the aggregate area when calculating maximum coverage.

Where a building houses more than one business, such as in a Multi-Business Property, only the wall of the business using the Wall Sign shall be included in determining maximum size. If businesses share such a sign, the total area of the walls of all businesses sharing the sign shall be included in determining the permitted size. If walls cannot be attributed directly to businesses in a Multi-Business Property, then the size of the sign shall be based on the proportionate share of the business' share of the gross floor space in the building when calculating the permitted sign area.

In the Lincoln Business Park, the maximum size of the Wall Sign will be limited to 20% of the wall area of the business or businesses as defined herein and shall not exceed an aggregate of fifty (50) square feet when used as the primary sign. If a Free Standing Sign is the primary sign, Wall Signs shall not exceed an aggregate of thirty-two (32) Square feet with no one sign greater than 6 square feet.

In Residential Zones, Wall Signs may not exceed four (4) square feet at a maximum height of six (6) feet above grade.

28. Wall Lettering/Wall Graphics: Wall lettering or a wall graphic may be substituted for or used in combination with a wall sign(s) provided the sum of all Wall Signs and Wall Lettering or Wall Graphics do not exceed the allowed aggregate area. The area on which the lettering or graphics are placed may not exceed the 20% of the wall area of the business or businesses wall it is attached to, as defined herein and shall not exceed a maximum of 300 square feet. In calculating the building square footage only the portion of the building that is used for that business purpose may be included. Buildings that have a split or multiple use (eg. an apartment above a store) must use only the related business portion for this formula. Wall Lettering and Wall Graphics are not allowed in the Residential Zones.
29. Window Signs: A Window Sign does not require a permit but may not be a sign that flashes, strobes or has intermittent lighting, which creates the visible effect of movement.

### **EXEMPT SIGNS**

The following signs may be erected and maintained without permits or fees, provided that such signs otherwise comply with the requirements of this Sign Ordinance:

1. Signs erected or posted and/or maintained for public safety and welfare or pursuant to governmental function, law, regulation or ordinance.
2. Directional Signs as permitted by this Ordinance. (See Article II, Section D, Paragraph 6)
3. Signs relating to trespassing, hunting, hiking or walking. These signs shall not exceed 2 square feet of sign surface area.
4. Flags as permitted by this Ordinance.
5. Flags and insignia of Federal, State and Local government.
6. Number and name plates identifying residences, mounted on a house, apartment or a mailbox not exceeding 2 square feet in sign surface area.

7. Informational Signs as permitted by this Ordinance. (See Article II, Section D, Paragraph 13)
8. Yard Sale Signs of private owner merchandise not exceeding two (2) square feet in sign surface area for a period not to exceed seven (7) days.
9. Real Estate Signs except as required by this Sign Ordinance.
10. Construction Signs as permitted by this Ordinance.
11. Political signs, in accordance with State law.
12. Portable signs and banners in conformity with this Ordinance.

### **PERMITTED SIGNS**

All new signs of any description that are to be placed in the Town of Lincoln require a permit application and approval prior to the placement of the sign except signs specifically exempted in Article III of this Ordinance. Any alteration to an existing sign or a change of use, except the simple changing of the wording, requires an application and permit.

### **PROHIBITED SIGNS**

**Section A:** It shall be unlawful to erect:

1. Any sign that impairs or causes confusion for vehicular or pedestrian traffic in their design, color, placement or display characteristics, one that is positioned or lighted such that street traffic would be endangered by obstructing a clear view or one that conflicts with official street signs and signals.
2. Any flashing signs or signs with visible or non-visible moving parts of intermittent lighting which can create the visual effect of movement.
3. Any sign placed on any public right-of-way or on and above any public road. The only exception shall be public event banners.
4. Inflatable signs and tethered balloons.
5. Pennants, ribbons, streamers, spinners or similar moving, fluttering or revolving devices.
6. Signs attached to fences, trees, utility poles, rocks or other parts of a natural landscape, or in a position that will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety and welfare of the general public.
7. Luminescent (glow in the dark) signs.
8. Any sign in the Residential Zone, except a Free Standing Sign or Wall Sign.
9. Any other sign not expressly permitted by this Sign Ordinance.

### **REMOVAL OF SIGNS**

**Section A.** MAINTENANCE

1. Any sign that pertains to an abandoned or former use or business later than six months after discontinuance of that use or business must be removed by the owner and at the owner's expense.

2. Any sign, which is neglected and/or dilapidated must be removed or repaired by the owner and at the owner's expense. These signs may only be replaced if they are in conformance with this Ordinance.
3. Any sign, which is insecure, in danger of falling or is otherwise unsafe, shall be removed or repaired by the owner and at the owner's expense.

**Section B.** EXISTING NON-CONFORMING SIGNS

1. It is the intention of this ordinance to encourage existing, non-conforming signs to come into conformity with the provisions of this ordinance.
2. Existing, non-conforming signs are allowed to remain even though these signs are not in compliance with this ordinance. These signs may be maintained and continue to exist as long as they are not structurally altered, there is no change of business use.
3. Any existing, non-conforming sign, which is to be structurally altered or relocated, must conform to this Ordinance.

**ADMINISTRATION**

**Section A.** ADMINISTRATION

1. It shall be the duty of the Board of Selectmen or their designee to administer this Ordinance.

**Section B.** PERMITS

1. It shall be unlawful to erect, alter or relocate any sign without first obtaining a permit from the Board of Selectmen or their designee. The permit must be posted on site and be easily visible during sign construction.
2. Permits must be exercised within one year from the date of issuance of the Sign Permit, otherwise, the Permit is null and void and the applicant must re-apply for a Permit and pay another Application Fee.

**Section C.** ENFORCEMENT

1. The Board of Selectmen or their designee, upon well founded information of any violation, is hereby authorized to initiate immediate steps for enforcement of this Ordinance by issuing due notice to stop and desist such violation. Violation of the Ordinance shall be subject to fines and penalties as set forth in RSA 676:17. The following actions or fines may apply at the discretion of the Board of Selectmen:
  - A. A letter notifying the individual or business of a violation of the Sign Ordinance granting thirty (30) days to correct the violation.
  - B. After 30 days from the date of a notice, there may be a fine of \$50 per day until violation is corrected.
  - C. After sixty (60) days from the date of a notice, there may be a fine of \$100 per day until the violation is corrected. The Board of Selectmen may consider seeking injunctive relief from the courts with the violator paying all legal fees in accordance with RSA 676:17.

**Section D.** APPLICATION FEES

1. A NON-REFUNDABLE Application Fee shall be required for each sign permit application. The Board of Selectmen may adjust the schedule of fees for sign permits at its discretion. Such fee adjustments shall not be deemed to be an amendment to this Ordinance.

## **BOARD OF ADJUSTMENT**

### **Section A.** BOARD OF ADJUSTMENT

The Zoning Board of Adjustment, appointed under the Lincoln Land Use Plan Ordinance, shall have the same powers and duties as are vested in it, by that Ordinance, in relation to this Sign Ordinance.

### **Section B.** APPEALS

1. Any aggrieved person seeking relief from the regulations of the Lincoln Sign Ordinance may appeal to the Lincoln Zoning Board of Adjustment for a special exception in the manner prescribed by RSA 674:13 and 674:15 of the New Hampshire Planning and Land Use regulations.
2. Prior to a hearing, the costs of advertising, posting and mailing notices of the hearing shall be paid by the person making the appeal.

## **AMENDMENTS**

This Ordinance may be amended in accordance with the provisions of NH TITLE LXIV as it is or may be amended.

## **SAVING CLAUSE**

If any provision of this Sign Ordinance is deemed by a court of law to be invalid, it shall not affect the validity of any other provision.

## **ARTICLE VII ADMINISTRATION**

**Section A - ENFORCEMENT.** It shall be the duty of the Board of Selectmen or their designees to administer this Ordinance.

**Section B - BUILDING PERMITS.** The permitting process is established to ensure harmonious growth and development within the community.

Building Permits. It shall be unlawful to construct a new building or make exterior dimensional additions to a building without first obtaining a permit from the Board of Selectmen or their designee. Permits must be posted on the site and be easily visible. Building Permits are also required before any site work is started on any proposed or approved site plan or subdivision.

**Section C - CERTIFICATE OF OCCUPANCY.** A Certificate of Occupancy must be obtained before the use or physical occupancy of any property, or building under but not limited to the following circumstances: all newly constructed buildings or additions thereto, additions to existing structures, significant change of use of facilities, and before any vacant land can be occupied.

1. Standards to be met before Certification of Occupancy is granted:

- A. All uses shall conform to the current Land Use Plan Ordinance and any other applicable ordinances, including, but not limited to, Subdivision and Site Plan Review Regulations.
  - B. All building permits, restrictions and requirements therein, and any other applicable Town regulations and ordinances must have been met.
2. Administration of Certificate of Occupancy:
- A. The Application for a Certificate of Occupancy shall, when possible, be integrated with the Building Permit.
  - B. The property owner shall inform the Enforcement Officer or the Town Planning Office as to when construction is complete and the Certificate is requested.

**Section D - ENFORCEMENT.** The Board of Selectmen or their designees, upon well founded information of any violation, is hereby authorized to initiate immediate steps for enforcement of this Ordinance by issuing due notice to stop and desist such violation. Violation of the Ordinance shall be subject to fines and penalties as set forth in RSA 676:17.

## **ARTICLE VIII BOARD OF ADJUSTMENT**

**Section A - BOARD OF ADJUSTMENT.** A five person Board of Adjustment and three alternates will be appointed by the Selectmen as provided by RSA 673:3. Upon application the Board of Adjustment shall have the powers set forth in RSA 674:33, including the power to:

1. Review and decide on alleged error in administrative finding, or;
2. After review and in adherence to all specific criteria in this Ordinance, the Board of Adjustment may grant a special exception, provided that:
  - A. The development is architecturally compatible with the surrounding residential district.
  - B. Traffic access to and from the development will not alter the character of the district.
  - C. Lighting and noise level will be of such design as not to disturb the tranquility of the district.
  - D. The proposed use will not be incompatible with, or undesirable in relation to existing uses in the area.
3. Grant a variance as defined in Article IV.

### **Section B - APPEALS.**

Appeals to the Board may be taken by any aggrieved person or by any officer, department, board, or bureau of the Town of Lincoln affected by any decision of the Selectmen or their designee in the manner prescribed by RSA 674:33 and RSA 676:5-7 within the time limit set by the Board of Adjustment according to said statutes.

Prior to a hearing, the costs of advertising, posting and mailing notices of the hearing shall be paid by the person making the appeal.

**ARTICLE IX  
AMENDMENTS**

This Ordinance may be amended with the provisions of NH RSA TITLE LXIV as it is or may be amended.

**ARTICLE X  
SAVING CLAUSE**

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