

TOWN OF SHARON, NEW HAMPSHIRE

ZONING AND BUILDING ORDINANCE

Updated as of October 2025

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ARTICLE I: Purposes

- 1) For the purpose of forming a Master Plan of growth for the Town of Sharon.
- 2) For the purpose of promoting the health, safety, prosperity and general welfare of the inhabitants of the Town of Sharon, by securing safety from fire by providing adequate areas between buildings and various rights of way.
- 3) For the purpose of promoting the most appropriate use of land; facilitating economical and efficient use of public services; allowing land use patterns which preserve trees, water purity, outstanding natural topography and geologic features.
- 4) For the purpose of preserving open land for conservation and recreation.
- 5) For the purpose of preserving the natural rural charm now possessed by the Town of Sharon.

Now, therefore, the following ordinance is hereby enacted by the said Town, pursuant to the authority conferred by Chapters 672 to 677 of the New Hampshire Revised Statutes Annotated, 1990.

ARTICLE II: Land Use Policies

In order to achieve the purposes set forth in Article I, the policies for land use shall be as follows:

- 1) Open space shall be favored even as orderly development takes place.
- 2) Development of wetlands shall be severely restricted in order to avoid water pollution and unnecessary flooding.
- 3) Development of lands with steep slopes shall be restricted in order to avoid erosion, sedimentation and surface water pollution.
- 4) Non-residential development shall be subject to review by the Town in such matters as the location of buildings, parking areas, sewage facilities, access, landscaping and other design requirements.
- 5) Public access to recreational trails, parks and commons shall be encouraged.
- 6) Public acquisition of land in the Town for future Town buildings, open space conservation and recreation shall be encouraged.
- 7) Gravel removal from the Town shall be subject to permitting and review.
- 8) Development in the Town of Sharon shall not impose undue economic hardships on the Town nor jeopardize the safety, health, or general welfare of the Townspeople.
- 9) The Town shall preserve its rural-residential character.
- 10) Orderly procedures, ordinances and regulations shall be set forth in order to implement these policies.
- 11) The Town of Sharon favors a plan for the future by which landowners would voluntarily grant access along back boundaries of properties, streams, shorelines and abandoned roads. These accesses, when linked, would provide trails for recreational purposes.

ARTICLE III: Definitions

Abutter means:

- 1) Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration.
- 2) For the purposes of receiving testimony only, and not for the purpose of notification, the term “abutter” shall include any person who is able to demonstrate that their land will be directly affected by the proposal under consideration.
- 3) In the case of an abutting property being under a condominium or other collective form of ownership, the term “abutter” means the officers of the collective or association as defined in RSA 356-B:3, XXIII (or as amended).
- 4) For purposes of notification and receiving testimony, abutter means all affected towns and the regional planning commission(s) in the cases of a development having regional impact, as determined by the Board.
- 5) Names and addresses of all abutters must be taken from the town records no more than ten (10) business days before the date of filing.

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

Accessory Dwelling Unit (ADU) means a second dwelling unit located on the same lot as a principal dwelling unit which may be detached, attached or interior to the principal dwelling unit. It is a complete housekeeping unit with independent cooking, living, sanitary and sleeping facilities (see Article XXII).

Back Lot means a lot of record which do not meet the frontage requirements set forth in Article V-A:2.

Board means the Planning Board of the Town of Sharon.

Buildable Lot means any lot, which has been demonstrated to fulfill all state and local requirements for lot size, frontage, building setbacks and sewage disposal capability. The Planning Board may, at its discretion, approve a subdivision where one or more lots have not yet been demonstrated to be buildable, provided that a note to that effect is entered on the plat. Before a building permit can be issued for such a lot, its buildability must be demonstrated.

Buildable Back Lot means a back lot which has been demonstrated to satisfy all of the conditions and requirements of Article V-A.4, as well as the additional elements comprising the definition of Buildable Lot set forth in this Article.

Building means a structure designed and built or occupied as a shelter or roofed enclosure for persons, animals, and property of any kind.

Building Development means the construction, erection, or location on any lot of the structure defined as a **Building**.

Camping Trailer - a folding structure, mounted on wheels and designed for travel, recreation and vacation use.

Driveway means a privately-owned road which provides vehicular access across privately owned land onto either a public right of way or a "private way" owned by another.

Dwelling means any building, or portion thereof, which is designed or used exclusively for residential purposes.

Engineer means the duly designated engineer of the Town of Sharon or if there is not such an official, the planning consultant or official assigned by the Sharon Planning Board.

Frontage means the length of the lot bordering on a public right of way.

Front Yard means a space extending for a full width of a lot between the extreme frontline of a building and the

nearest edge of the right of way.

Home Produce and Products means and includes everything of an agricultural nature grown, produced, conditioned or otherwise carried on the property of the resident, also such articles as are manufactured or altered by members of the household or the bona fide resident of any property.

Junk means any old metals, bottles, cotton or woolen mill waste, unfinished cotton or woolen mill yarns, old paper products, two or more unregistered motor vehicles and other secondhand articles, the accumulation of which is detrimental or injurious to the neighborhood.

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

Motor Home - a portable, temporary dwelling to be used for travel, recreation and vacation constructed as an integral part of a self-propelled vehicle.

Non-conforming Building or Structure, the use of which in whole or in part does not conform to the use regulations of the Town of Sharon and which was established or constructed prior to the enactment of this Ordinance.

Overlay district means an area within a particular district that has certain specified characteristics or allowed uses. For example, the Wetland Conservation District consists of all areas in the other defined district that are wetlands as defined below.

Owner means the owner, his agent or servant, the person in charge, the person apparently in charge, whether it be owned by any individual, corporation, partnership or in any other manner.

Pick-up Camper - a structure to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

Plat means the final map, drawing or chart on which the sub-divider's plan of subdivisions presented to the Sharon Planning Board for approval, and which, if approved, will be submitted by the Board to the Register of Deeds of Hillsborough County for recording.

Private Way means a privately-owned means of access, no less than fifty (50) feet wide, from or across a buildable back lot to a public street meeting the criteria of either paragraph (a) or (b) of RSA 674:41,1 (1986). A private way may traverse more than one lot whether or not such lots have the same owner as the buildable back lot. The Town of Sharon shall have no easement over, or responsibility for maintenance of, a private way.

Record Lot means land designated as a separate and distinct parcel in a legally recorded deed filed in the Registry of Deeds, Hillsborough County, New Hampshire provided, however, it is not contiguous with other land of the same owner. All the contiguous land owned by the same owner shall be considered as one parcel and shall be the record lot.

Right of Way means and includes all town, state and federal highways and the land on either side of same as covered by statutes to determine the width of the rights of way.

Sign means any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure or produced by painting on or posting or placing any printed, lettered, figured or colored material on any building, structure or surface; provided, however, the signs placed or erected by the town, state or federal government for the purpose of showing street names or traffic directions or regulations or for other municipal or governmental purposes shall not be included herein, nor shall this include signs that are part of the architectural design of the building.

Street means and includes street, avenue, boulevard, road, alley, highway, and other public way, including the required right of way.

Structure means anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, as well as anything constructed or erected with a fixed location on or in the ground, exclusive of fences.

Subdivision means the division of a lot, tract or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision.

- 1) **Minor Subdivision** refers to an application wherein the applicant intends to separate an existing parcel of land into no more than three parcels.

Travel Trailer - a vehicular structure built on a chassis and designed to be towed by motor vehicle or other means, and used as a temporary dwelling for travel, recreation and vacation; having a body width of not more than eight feet six inches and a body length of not more than fifty feet.

Wetland: See Article VI, D.

ARTICLE IV: Districts

For the purpose of this ordinance, there shall be a Wetlands Conservation District, Highland Conservation District and a Rural-Residential District.

ARTICLE V: Provisions Applicable to All Districts

A) Land Requirements:

- 1) **Area:** In order to preserve the rural character and appearance of the Town of Sharon, the minimum building lot area for all lots which are not buildable back lots shall be five (5) acres.
- 2) **Frontage:** Unless otherwise specified in this Ordinance, frontage for all lots shall be no less than three hundred (300) feet on a street defined in accordance with RSA 674:41 (1986).
- 3) **Depth:** Depth of all lots shall be not less than one hundred and twenty-five (125) feet.
- 4) **Front Yard:** There shall be between the nearest edge of the right of way and the extreme front of any building or accessory building, a minimum distance of one hundred (100) feet.
- 5) **Side and Back Yards:** No building or accessory building, or any part thereof, shall be located nearer than fifty (50) feet from the property lines of any abutter.
- 6) For lots within or partially within an overlay district, such as Wetland Conservation District, Highland Conservation District, or being constructed as workforce housing, the setback requirements detailed in the corresponding articles (Article VI: Wetland Conservation District, Article XVIII: Workforce Housing or Article VIII: Highland Conservation District) shall prevail.
- 7) **Construction on a Back Lot:**
 - a) Construction of a dwelling or other building on a back lot will be permitted only if the back lot fulfills all the criteria and requirements, with the exception of frontage, of a "buildable lot" as defined in Article III of this Ordinance, and the back lot has also been demonstrated to meet the additional requirements of this section. Such back lots shall be called buildable back lots.

- b) **Uses Permitted on Buildable Back Lots:** The only uses permitted on buildable back lots shall be those set forth at Article VII of this Ordinance.
- c) **Access to Private Way:** Each buildable back lot must have direct access to a private way (as defined in Article III). Vehicular Access between the backlot and the public way must be achieved by way of a driveway over the private way, which driveway meets the requirements of the Driveway Regulations. In addition:
 - i) Each private way shall have a width of no less than fifty (50) contiguous feet,
 - ii) In recognition of the potential for future subdivision of land behind or beyond a buildable back lot, each private way must be suitable for upgrade to road construction standards as specified in the Sharon Subdivision Regulations,
 - iii) No private way shall be located within five hundred (500) feet of an existing, approved or proposed private way on the same side of the public road, and
 - iv) Each buildable back lot shall have no less interest in the private way accessing that buildable back lot than a deeded easement allowing free, unobstructed, and unlimited right to use the private way as a means of access.
- d) **Area:** The minimum lot size for a buildable back lot shall be ten (10) acres.
- e) **Number of Buildable Back Lots:** No more than two buildable back lots shall be accessed over a single private way.
- f) **Building Setback from Public Way:** There shall be a minimum distance of three hundred (300) feet between the nearest edge of the public right of way or road accessed by the private way and the nearest edge of all buildings or structures located on a buildable back lot.
- g) **Building Setback from Private Way:** There shall be a minimum distance of one hundred (100) feet between the nearest edge of the private way and the nearest edge of all buildings or structures located on a buildable back lot.
- h) **Application of Zoning Regulations:** Buildable back lots, and all structures and buildings located thereon, are subject to all Zoning Ordinance provisions and requirements not specifically affected or contradicted by this section.
- i) **Future Subdivision:**
 - xi) Any future subdivision obtaining access over a private way shall be permitted only if the private way is upgraded to Town road construction standards and all roads in the subdivision are constructed to Town standards.
 - xii) No future subdivision to be accessed by or over an existing private way will be permitted if the subdivision will create a non-conforming use with respect to an existing buildable lot.
 - xiii) Additionally, no future subdivision to be accessed by or over an existing private way will be permitted unless the subdivision shall have the effect of bringing existing buildable back lots accessed by the same private way into conformance with all of the conditions and requirements imposed by this Zoning Ordinance on lots other than buildable back lots. Accordingly, and without limiting the further application of this subsection, if a future subdivision includes the use of an existing private way as a means of vehicular access between a public street or road and the proposed subdivision: (1) then any existing buildable back lot accessed by that same private way must have a minimum of three hundred (300) feet of frontage on a right of way or road included in the proposed subdivision plan; and (2) any building or structure located on such buildable back lot, must be no closer than one hundred (100) feet from the edge of such proposed right of way or road.

B) Sanitary Protection

- 1) No privy, cesspool, septic tank or sewage disposal area shall be constructed or maintained less than seventy five (75) feet from a well, from adjoining property or from a dwelling other than that to which it is appurtenant, except for a reduction of setback reduced to twenty-five (25) feet from a road.
- 2) No septic tank or leach field may be located closer than one hundred (100) feet to any wetland.
- 3) No waste or sewage shall be permitted to run freely into a public water body or be discharged in such a way

that may be offensive or detrimental to the health of others. All such wastes shall be conveyed away underground through the use of an accepted sanitary system or in such a way that it will not be offensive or detrimental to health.

- 4) All dwellings and sanitary systems shall be constructed and maintained in accordance with standards set and enforced by the New Hampshire Department of Health and Human Services and the New Hampshire Water Supply and Pollution Control Commission.

C) Junk Yards:

No junk yards or places for the storage of discarded machinery, vehicles, glass, cordage, paper refuse or other debris or discarded material shall be maintained in the Town.

D) Recreational Vehicles

- 1) No recreational vehicle shall be used as a permanent dwelling in the town of Sharon.
- 2) The use of a recreational vehicle as a temporary dwelling for recreational or vacation purposes by the property owner or non-paying guest, is permitted for up to 30 days in a 12-month calendar year at any one address. Permission is required from the Board of Selectmen for any stay over 30 days, up to a maximum of 90 days. Documentation of disposal of gray and black water in compliance with NHDES regulations is required for this permission.
- 3) A property owner may apply for a Special Exception from the ZBA for temporary use of a recreational vehicle as a dwelling for up to one year while a permanent dwelling is being constructed or reconstructed. Documentation of disposal of gray and black water in compliance with NHDES is required.
- 4) Per RSA 674:32, II, a property owner may use a recreational vehicle for a temporary dwelling if the permanent dwelling has been damaged by fire or natural disaster for a period up to 12 months or when the permanent dwelling is reoccupied, whichever comes first. Documentation of disposal of gray and black water in compliance with NHDES is required.
- 5) Up to 2 recreational vehicles may be stored by the property owner or non-paying guest during periods of non-use over 90 days. At least one RV must be registered and roadworthy. Stored vehicles cannot be stored within the setbacks.

E) Fires, Ruins, Pits and Cellar Holes

No owner or occupant of land shall permit fire or other ruins to be left for a period of more than one year and shall within said year remove and/or refill the same to ground level or repair, rebuild, or replace the structure. No pit or cellar hole shall be left in an unsightly or hazardous condition.

F) Detrimental or Offensive Uses

Any business or industry which would be seriously detrimental or offensive to owners of adjoining property or to the Town or would tend to radically reduce property values of adjoining or other property is prohibited. Commercial piggeries and the storage of poultry manure are specifically prohibited.

G) Signs

- 1) Any and all signs shall be constructed of painted or carved wood, or have the appearance thereof, and shall be unlighted.
- 2) Property owners with approved business, professional or service enterprises in the Town of Sharon shall be allowed two (2) advertising signs not in excess of twelve (12) square feet in area for each sign.
- 3) All business signs shall be restricted to the place of business only.

- 4) Any property owner shall be allowed two (2) signs, not in excess of twelve (12) square feet in area for each sign, pertaining to the lease, sale, or use of a lot or building on which placed.
- 5) With the exception of those signs permitted in the above paragraph, all out of door advertising signs and/or structures are prohibited.

H) Height

- 1) The height of any building or accessory building or structure, shall not exceed forty-five (45) feet above the lowest point of land abutting the building or structure. The Zoning Board of Adjustment may grant Special Exceptions allowing the construction or expansion of such buildings and structures used as farm silos, church spires, antennas, flagpoles, and wind energy systems providing such construction or expansion is found by the Zoning Board of Adjustment to be appropriate in accord with the conditions set forth in Article XII of this Ordinance.
- 2) Excepted from the provisions of this requirement are antennas and related supporting structures used exclusively in the amateur radio services as referenced in RSA 674: 16 and 674:17, Telecommunications Facilities (as detailed in Article XIX), Broadband Facilities (as detailed in Article XX), Small Wind Energy Systems (as detailed in Article XXI) and Large Wind Energy Systems (as detailed in Article VII: B.4).

I) Stone Walls

The Town of Sharon recognizes stone walls as an important resource contributing to the rural character of the New Hampshire countryside. These stone walls constitute a historic and cultural resource that clearly demonstrates the rural nature of Sharon's past and should be maintained. The need for review of potential impacts to stone walls associated with any proposed projects, and the feasibility of preservation or reconstruction, is determined through evaluation requirements of Section 106 of the National Historic Preservation Act of 1966, under revised regulations for "Protection of Historic Properties" (36 CFR 800) effective 2004, as well as New Hampshire State Law RSA 227-C. The New Hampshire Department of Transportation (NHDOT) recognizes stone walls as an important resource contributing to the rural character of the New Hampshire countryside and needs to be evaluated during the environmental review process for NHDOT undertakings. Furthermore, Section 4(f) of the US Department of Transportation Act also requires the examination of project alternatives and selection of the feasible and prudent alternatives to avoid, minimize or mitigate impacts to cultural resources found significant under the Section 106 process.

Stone walls can be considered in one of three categories:

- 1) **Boundary Walls:** stone walls running parallel to a roadway, and commonly indicating the edge of the road right-of-way. These stone walls may not be altered or removed without the written consent of the NH Department of Transportation if bordering a state-maintained road, or the Sharon Select Board if bordering a town-maintained road.
- 2) **Property Walls:** stone walls running between lots and indicate the property line between two lots. These walls may not be altered or removed without written permission of both property owners. A certified copy of the written permission must be filed with the Town of Sharon prior to any alteration or removal.
- 3) **Internal Walls:** stone walls existing within a single lot, often indicating separation of land uses, such as gardens, orchards, cattle enclosures and wood lots. While there are no legal restrictions on the alteration or removal of these stone walls, consideration must be taken of the historic and cultural history they display.
- 4) It is noted that state law RSA 539:4 clearly indicates that removal of stones from any stone walls "*from land holden in common or from the land of another person, or shall aid therein, shall forfeit to the person injured treble damages based on the cost of materials and restoration, and including attorney's fees and costs.*"

For those stone walls that are altered or removed, any significant stones should either be placed aside for future wall repair, or made available to the Sharon Road Agent, who shall store them for utilization in the repair or

replacement of existing stone walls.

ARTICLE VI: Wetland Conservation District

A) Authority & Purpose

In order to promote the public health, safety and general welfare of the Town and as authorized by the provisions of New Hampshire RSA 674:16-17 and 674:20-21 (Zoning Ordinances/Districts/Land Use Controls), a Wetland Conservation District is established for the following purposes:

- 1) Prevent development on wetlands of structures and land uses that could contribute to the pollution of surface and ground water by sewage or toxic substances,
- 2) Prevent the alteration or destruction of wetlands, which provide flood protection, recharge of groundwater supply or augmentation of stream flow during dry periods or are important for reasons as cited in RSA 482-A (Fill and Dredge in Wetlands) or any other applicable statute or regulation,
- 3) Protect potential water supplies, existing aquifers and aquifer recharge areas,
- 4) Protect wildlife habitats and maintain ecological balances,
- 5) Allow uses that can occur harmoniously, appropriately and safely in wetland areas,
- 6) Maintain conservation corridors along rivers, streams and other naturally occurring waterways,
- 7) Prevent the Town from incurring unnecessary or excessive expenses related to the provision and maintenance of essential services and utilities, which could arise due to improper use of wetlands,
- 8) Protect, preserve and enhance those aesthetic values associated with the wetlands of the Town.

In all cases where the Wetland Conservation District is superimposed over another zoning district in the Town of Sharon, the most restrictive regulations shall apply.

B) Definitions: Wetlands

Unless otherwise defined in town ordinances, the following definitions shall apply:

Best Management Practice - When referring to forestry, Best Management Practices are defined in "Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire," prepared by the New Hampshire Department of Resources and Economic Development, Division of Forests and Lands (January 2001), as amended. When referring to agriculture, Best Management Practices are defined in "Manual of Best Management Practices for Agriculture in New Hampshire," prepared by the Agricultural Best Management Practices Task Force and the USDA Natural Resources Conservation Service for the New Hampshire Department of Agriculture, Markets and Food (May 2001), as amended.

Bog - As defined in "The New Hampshire Code of Administrative Rules, Wetlands Bureau, WT 101.08" or as amended. A bog is distinguished by, but not limited to, stunted evergreen trees and shrubs, peat deposits, poor drainage, and/or highly acidic soil and/or water conditions.

Buffer - The vegetated upland area adjacent to wetlands or surface waters.

Ground Cover - Any herbaceous plant of any height, and any woody plant, which grows to a mature height of three (3) feet or less.

Natural Woodland Buffer - A forested area consisting of various species of trees, saplings, shrubs and ground covers in any combination thereof.

Ordinary High-Water Mark - The line on the shore, running parallel to the natural water body, 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. For artificially impounded water bodies refer to the Department of Environmental Services definition of Reference Line to determine ordinary high-water mark.

Sapling - Any woody plant which normally grows to a mature height greater than 20 feet and has a diameter less than five (5) inches at a point four and one-half (4 ½) feet above the ground.

Shrub - Any woody plant that normally grows to a mature height of greater than three (3) feet and less than 20 feet.

Site Specific Soil Mapping – “**Site Specific Soil Mapping Standards for NH & VT Version 2.0**” adopted by the Society of Soil Scientists of Northern New England (publication #3, 1999) as revised.

Tree - Any woody plant which normally grows to a mature height greater than twenty (20) feet and which has a diameter of five (5) inches or more at a point four and one-half (4 ½) feet above the ground.

Vernal Pool - Typically a temporary body of water providing essential habitat for certain amphibians and invertebrates that does not support fish.

Wetlands - Refer to Section D, "Identifying Wetlands Boundaries."

C) Function of Wetlands

Wetlands provide the following functions:

- 1) Protect the town's water supplies by removing pollution from waters that flow through them, and by interacting directly with the groundwater in aquifers.
- 2) Prevent serious flooding by storing water during the wettest parts of the year.
- 3) Provide critical breeding, feeding and nesting habitats for a wide variety of fish and wildlife, including migratory birds, as well as habitat for rare native plants.
- 4) Provide opportunities for scientific research and education, and a general appreciation of the aesthetic beauty of the natural landscape.

D) Identifying Wetlands Boundaries

The Wetlands Conservation District includes all wetlands equal to or greater than ten thousand (10,000) square feet.

- 1) The term "wetland" means an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for a life in saturated soil conditions. Wetlands include but are not limited to swamps, marshes, bogs and similar areas.
- 2) The edge of a wetland shall be determined by on-site inspection of all three characteristics of wetlands, namely:
 - a) Hydrology, and
 - b) Hydric Soils, and
 - c) Hydrophytic Plants,

as recognized by the criteria established in and defined by the Army Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Lab., Dept. of the Army, 1987 or revision

thereof. Such inspection shall be undertaken by a certified soil scientist, certified wetland scientist or certified septic system designer using the Army Corps Delineation Methods described in the aforementioned Wetlands Delineation Manual. When a boundary of a wetland is disputed, or in the event that an area is incorrectly designated on the United States Fish and Wildlife Service National Wetland Inventory Maps, the Planning Board and/or the Conservation Commission may require the applicant to engage a certified soil or wetland scientist to determine the exact location of the wetland, at the applicant's expense. The soil or wetland scientist's report shall include, at a minimum, a map of the area in question delineating the wetland boundary, if any, and a written report of an on-site field inspection. The Planning Board shall reserve the right to withhold action on any plan pending the results of an on-site inspection by the Planning Board or its appointed agents.

E) Permitted Uses

Permitted uses within the limits of the Wetland Conservation District are those uses that will not require the erection or construction of any structure or building, that will not alter the natural surface configuration by the addition of fill or by dredging except as necessary for a permitted use, and shall include the following or similar uses only:

- 1) **Forestry**, which is performed in accordance with best management practices as described in the most recent Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire, published by the NH Department of Resources and Economic Development, Division of Forests and Lands, and with suitable notification to the New Hampshire Wetlands Bureau.
- 2) **Agriculture**, which is performed in accordance with best management practices in the most recent Manual of Best Management Practices for Agriculture in New Hampshire published by the NH Department of Agriculture, Markets and Food, provided that such use is shown not to cause significant increases in surface or groundwater contamination by pesticides, herbicides, fertilizers or other toxic or hazardous substances, and that such use will not cause or contribute to soil erosion.
- 3) Wells and well supply lines.
- 4) Wildlife habitat development and management.
- 5) Conservation areas and nature trails.
- 6) Recreational uses consistent with the purpose and intent of this article, such as hunting, snowshoeing, skiing, hiking, fishing and nature observation.

Dredging, filling, draining or otherwise altering the surface configuration of surface waters, wetlands or lands within the Wetland Conservation District shall require permitting by the New Hampshire Department of Environmental Services or the Wetlands Bureau.

F) Dimensional Requirements

The dimensional and setback requirements outlined in the table below should be calculated from the wetlands boundary as defined in Section D.

1	Buildings, additions, impervious surfaces	75 feet
2	Septic systems	100 feet
3	Salt storage sheds	125 feet
4	Storage of chemicals, petroleum products of hazardous materials	125 feet

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5	Application of fertilizer	25 feet
6	Manure storage	100 feet of vegetated buffer
7	Livestock pastures	25 feet
8	Off-road operation of wheeled or motorized vehicles	25 feet
9	Retention and maintenance of the existing natural woodland and/or vegetated buffer	75 feet
10	Satisfaction of minimum lot size requirements	No more than 50% shall be Wetland Conservation

ARTICLE VII: Rural-Residential District

A) Description

The Rural-Residential District shall consist of all land within the Town of Sharon which is not specifically included in the Wetland Conservation District. A building may be erected, altered, or used, and a lot may be used in the Rural-Residential District only in accordance with the following provisions:

B) Permitted

1) Residential:

- a) Single Family detached residences. No more than one residential building may be permitted on any one lot.
- b) Accessory Dwelling Units (as defined and regulated in Article XXII).
- c) Farms.

2) Home Occupation/Home-Based Business.

Home Occupations and Home-Based Businesses are accessory uses to a residence and involve the manufacture and provision or sale of goods and/or services. Such use shall be clearly incidental and secondary to the primary residential use of the property. It shall not adversely affect or undermine the rural residential character of the neighborhood or Town.

A "Home Occupation" shall be differentiated from a "Home-Based Business" by the impact either may have on the neighborhood or Town.

- a) Home Occupations are permitted in the Rural-Residential District subject to the following standards:
 - i) The activity shall be carried out only by the residents of the premises and involve only a service provided or goods produced on those premises by those residents.
 - ii) It shall be operated entirely within the dwelling unit.
 - iii) It shall result in no external evidence of the activity or change in the residential character of the dwelling.
 - iv) The activity shall have no adverse effect on the environment or the surrounding properties as a result of noise; odor; smoke; dust; light; traffic; soil, water, or air pollution, or electrical or electronic interference of any kind beyond the property wherever or whenever such might occur.
 - v) A Town resident intending to start a Home occupation shall inform the Board of Selectmen of that intent. If the Selectmen agree that the standards noted in paragraphs (i) through (iv) above are met, the resident may proceed with the Home Occupation without further review.

- vi) Any activity that does not meet all of the standards of the preceding paragraphs (i) through (v) shall be considered a Home-Based Business. Approval of a Home-Based Business must be sought from the Zoning Board of Adjustment in accord with the provisions of the following paragraph.
- b) Home-Based Businesses are permitted in the Rural-Residential District subject to approval by Special Exception from the Zoning Board of Adjustment and the following criteria:
 - i) The business shall be conducted by the residents and a number of non-resident others as approved by the Zoning Board of Adjustment.
 - ii) Any outdoor display of goods shall be approved by the Zoning Board of Adjustment. Any outdoor storage of materials or equipment shall be screened from roads and surrounding properties in such manner as approved by the Zoning Board of Adjustment.
 - iii) Any hazardous material used or generated by the business shall be disposed of off-site and not allowed to accumulate on-site.
 - iv) The volume of traffic generated by the business shall not create any hazard, nuisance, or disturbance in the neighborhood or Town.
 - v) There shall be no change to the exterior appearance of the residence or any other structure(s) on the property unless approved or required by the Zoning Board of Adjustment. New construction related to the business shall be accomplished in such character as is commonly associated with residential use and as approved by the Zoning Board of Adjustment.
 - vi) The activity shall not have an adverse effect on the environment or the surrounding properties as a result of noise; odor; smoke; dust; light; soil, water, or air pollution; or electrical or electronic interference of any kind beyond the property wherever or whenever such might occur.
 - vii) Parking areas shall be located at the side or rear of the property, subject to the setback requirements for accessory structures, and be screened from roads and surrounding properties in such manner as approved by the Zoning Board of Adjustment.

3. Communications Facilities:

- a) Telecommunications Facilities, subject to the granting of a Conditional Use Permit, as detailed in the Telecommunications Facilities Regulations (Article XIX).
- b) Broadband Facilities, subject to the granting of a Conditional Use Permit, as detailed in the Broadband Facilities Regulations (Article XX).

4. Wind Energy Systems:

- a) Large Wind Energy Systems, subject to the reviews and permits as detailed in the Large Wind Energy System Regulations.
- b) Small Wind Energy Systems, subject of the reviews and permits as detailed in the Small Wind Energy Systems (Article XXI).

C) Control of Land Filling and Excavating

It is hereby declared to be in the best interests of the citizens of Sharon, and to promote their health, welfare and well-being, to control the excavation, quarrying and removal of loam, sand, gravel, clay, stone or similar earth materials and the filling of land with any material. Therefore, no such excavation, etc., as set forth in this paragraph, shall be allowed except by Special Exception of the Zoning Board of Adjustment. See Article XII.C for conditions under which such a Special Exception may be allowed. If the Special Exception is allowed, the applicant must then apply to the Planning Board for an excavation permit. Application procedures are given in "Site Plan Review Regulations Governing Earth Excavations in the Town of Sharon, New Hampshire".

D) Aircraft Activities:

Aircraft takeoffs and landings are not permitted within the rural residential district.

ARTICLE VIII: Highland Conservation District

A) Authority & Purpose

In order to promote the public health, safety and general welfare of the Town and as authorized by the provisions of New Hampshire RSA 674:16-17 and 674:20 (Zoning Ordinances/Districts/Land Use Controls), and RSA 674:21, Innovative Land Use Controls, a Highlands Conservation District is established for the following purposes:

- 1) Protect the public health, safety, and general welfare by controlling and guiding the use of land with elevations greater than 1,300 feet ASV (Above Sea Level) which generally have slopes greater than 15% making these areas especially subject to erosion and excess runoff,
- 2) Protect wildlife habitats and maintain ecological balances,
- 3) Prevent the Town from incurring unnecessary or excessive expenses related to the provision and maintenance of essential services and utilities, which could arise due to improper use of highlands,
- 4) Protect, preserve and enhance those aesthetic values associated with the highlands of the Town of Sharon. In all cases where the Highland Conservation District is superimposed over another zoning district in the Town of Sharon, the most restrictive regulations shall apply to the extent they are not inconsistent with the provisions of this article.

B) Definitions: Highland Conservation District:

Highland Conservation District: All areas shown on the Town of Sharon “Wetlands and Poorly Drained Soils,” Map east of New Hampshire Route 123 and whose elevation is greater than one thousand three hundred (1,300) feet ASB.

Best Management Practices (BMPs): A proven or accepted structural, non-structural, or vegetative measure the application of which reduces erosion, sediment, or peak storm discharge, or improves the quality of stormwater runoff. Measures or practices used to minimize the impact on steep slopes and critical elevation areas, such as those used to control erosion or reduce soil degradation, as referenced in Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire by J.B. Cullen, 1990, or as amended; and Best Management Practices for Erosion Control During Trail Maintenance and Construction. NH Department of resources and Economic Development, 1994, or as amended.

Board refers to the Sharon Planning Board.

Development: Any construction or land grading activities other than for agricultural and civil-cultural practices.

Erosion: The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

Slope is a piece of land that is not flat or level. The percentage of slope is determined by dividing vertical distance (rise) by horizontal distance (run).

Steep Slope: is a slope of fifteen percent (15%) or greater over any 100 ft. segment prior to cut or fill.

C) Application:

An application must be submitted to the Board for approval to develop or subdivide any tract of land in the Highland Conservation District, where one or more of the following are proposed:

- 1) A cumulative disturbed area exceeding 20,000 square feet.
- 2) Construction or reconstruction of a driveway.
- 3) A subdivision.
- 4) A septic system.

D) Requirements:

A comprehensive written operational plan must be submitted which must include the following:

- 1) Project description.
- 2) Existing site conditions including use, topography showing five (5) foot contours, storm water patterns and soils.
- 3) Proposed development.
- 4) Structural measures for erosion control and sedimentation control based on Best Management Practices as defined in this ordinance.
- 5) Temporary nonstructural measures to control erosion and storm run-off.
- 6) Project schedule.
- 7) Provisions for permanent maintenance controlling erosion and run-off.

E) Application Requirements:

- 1) **Layout requirements:** The layout submitted with this application shall comply with the plat requirements specified by the Subdivision Regulations of the Town of Sharon. In addition, the layout shall show the boundaries of the proposed operations within the property lines, the location and size of the proposed structures and other areas where the existing vegetative cover would be disturbed. It shall also show the location of all measures taken by the operation plan.
- 2) All Operational Plans must be prepared by a New Hampshire licensed certified engineer or erosion and sediment control specialist.
- 3) If disapproved, a written list of deficiencies and the procedure for filing a revised plan will be given to the applicant.
- 4) The Board may waive the requirement for all or part of the operational plan or layout if it determines that they are unnecessary or excessive because of size, character or natural conditions of the site or because the proposal has a minimal environmental impact.
- 5) All requests for waivers and actions thereon shall be made in writing by the applicant with supporting technical documentation to demonstrate minimal environmental impact.
- 6) The Applicant shall bear all financial responsibility for plans and layouts deemed necessary by the Board to fulfill the requirements of the application with the Highland Conservation District regulations.
- 7) The applicant shall bear financial responsibility for the installation, construction, inspection and disposition of all stormwater management and control measures required by the provisions of this regulation.
- 8) If the Board determines that additional technical review is required, such review shall be conducted at the applicant's expense. The Board will attempt to limit such expense, but refusal by the applicant to pay for

such technical assistance as the Board determines shall be grounds for denial of the permit.

F) Access and Services:

- 1) Driveways and other land clearing shall be designed so as to not cause erosion. No portion of a driveway in the Highland Conservation District can exceed fifteen percent (15%).
- 2) An adequate surface storm-water drainage system shall be designed in order to minimize erosion and sedimentation to the maximum extent possible both during and after construction.
- 3) Engineering data prepared by an engineer licensed to practice in the State of New Hampshire shall be submitted to show that the following conditions have been met:
 - a) Sediment in the runoff water both during and after construction shall be trapped by the use of sediment basins or other acceptable methods, until the disturbed area is stabilized.
 - b) The storm drainage system and culvert capacity shall be based upon a design flow with a minimum return interval of a 10 year/24-hour storm.
 - c) No new drainage-ways shall be created, nor additional runoff directed to adjacent properties unless necessary easements are obtained.
- 4) If the septic and leaching field are located on a slope of fifteen degrees (15%) or greater:
 - a) The septic system and leaching must be designed by a certified septic designer registered with the State of New Hampshire.
 - b) The septic system must be designed to overcome the adverse land conditions to the satisfaction of the Planning Board. This may include slope stability as well as control of effluent seepage problems.
- 5) If the building site is located on a slope of fifteen degrees (15%) or greater:
 - a) Engineering data shall be submitted to show that the proposed structure is of sound engineering design.
 - b) Footings shall extend to stable soil or rock.
 - c) Setbacks and lot size shall be calculated at one hundred and fifty percent (150%) of the Rural Residential requirements.
 - d) Access roads shall be designed to provide safe access and be approved by the Fire Chief and/or State Fire Marshal. Such access roads will allow for safety and emergency apparatus and vehicles to reach the site without backing or departing the access road.
 - e) No access road within the Highland Conservation District shall exceed fifteen percent (15%) grade.

G) Penalties, Enforcement and Town Liability:

- 1) Any violation of these regulations shall be subject to a penalty of one hundred dollars (\$100) per day for each day of the violation.
- 2) The Board is hereby authorized and empowered to adopt such rules and require such reasonable fees as are necessary for the efficient administration of this ordinance.
- 3) The Selectmen or their appointed agent shall be responsible for enforcement of the provisions of this Ordinance.
- 4) Upon receipt of any well-founded information that this ordinance is being violated, the Board or Conservation Commission shall report the violation to the Selectmen.

Upon receipt that this ordinance is being violated, the Selectmen or their appointed agent shall notify, in writing, the owner or tenant of the property on which the violation is alleged to occur with a copy of such notification to the Board. If appropriate, the Selectmen shall also notify the US Army Corps of Engineers, or such other State or Federal Agency as may have jurisdiction of the violation.

- 5) Any person acting in violation of this ordinance or portion thereof, shall be penalized in accordance with NH RSA 676:15-17.

- 6) In any case where changes in topography alter the course of water flow, normal or excessive, so as to cause damage to the neighboring properties or those down-stream, the Town of Sharon shall be held harmless from any claims for damage resulting from the applicant's action, even if the applicant's Operational Plan has been approved by the Sharon Planning Board.

H) Separability:

If any section, clause, provision, or portion of these regulations is held to be invalid or unconstitutional by any court or competent authority, such holding shall not invalidate any other section, clause, provision, or portion of this article.

I) Effective Date:

This Article shall take effect upon its passage, and as amended.

ARTICLE IX: Building Regulations

A) Residential and Outbuilding Permit Requirements

- 1) The construction of a new residence, or the renovation or enlargement of an existing structure to provide for an Accessory Dwelling Unit, requires the Application for a Building Permit.
- 2) In order to verify set-backs from roads, abutters, wetland and the possible impact on health codes, the town needs to be informed prior to the construction or enlargement of any accessory structure, which can be affected by the filing of a Notice of Intent to Construct/Enlarge a Structure.

B) Residential Dwellings

All residential dwellings built, or buildings converted for residential purposes within the boundaries of the Town of Sharon shall meet the following standards:

- 1) All dwellings except seasonal camps hereinafter erected shall have masonry footings and foundations.
- 2) Footings for eight (8) inch foundations shall be not less than eight (8) inches deep and not less than sixteen (16) inches wide. Footings for twelve (12) inch foundations shall be not less than eight (8) inches deep and not less than twenty (20) inches wide. All footings shall extend below frost action. The presence of ledge, however, shall be considered as sufficient footing and/or foundation.
- 3) Seasonal camps may be built on masonry piers provided that such piers extend below frost action.
- 4) Sidewalls shall be finished with permanent materials. Two years from the start of construction will be allowed for the application of the above sidewall materials.
- 5) Electric wiring shall be installed to conform to the National Electric Code.

C) Building Site Inspector

There shall be a Building Site Inspector, such official to be chosen annually by the Selectmen.

D) Growth Management

The Board of Selectmen shall issue any and all building permits requested when such permit is in accordance with the provisions of this ordinance. The fee for such permits shall be determined by the Board of Selectmen and payable to the Town and shall be related to the costs incurred by the Town in inspecting the premises

involved.

1) Preamble and Purpose:

The Town of Sharon hereby identifies a Comprehensive Planning Program dated 1983 and as amended. In recognition of this document and based on the information and materials developed in accordance with the foregoing, it is hereby determined that the Town of Sharon must limit and control the rate of growth within the Town in order to prevent an excessive expenditure of public funds for the provision of services to accommodate the growth.

In this regard, reference is made to the comprehensive plan, and certain conclusions and findings made therein, that indicate that the Town of Sharon is unique in the area in that it currently has no facilities, other than the Meeting House and town roads, and that it is uniquely susceptible to serious consequences and impact in the event of even a small increase in the population of the Town.

Additionally, it is noted that the town intends to be prepared for and receive its share of regional growth but must do so in a manner that does not place an unreasonable burden on the current taxpayers to finance the cost of public improvements necessitated by the growth, and also in a manner that does not destroy the character of the town as it currently exists, to the extent that the town has dedicated itself to the preservation of the same as outlined in the comprehensive plan.

2) Building Permits:

The Board of Selectmen is hereby instructed to issue building permits to qualified applicants in any given year up to a maximum number of permits as determined below. The calendar year of January 1 to December 31 will control the purposes of this ordinance and the Selectmen are instructed to issue permits on a first come first serve basis to those parties applying for the same. In the event that the work has not commenced as applied for in the permit within a period of ninety (90) days after issuance of the permit, and the Selectmen have determined this by inspection of the premises which are the subject matter of the application for the permit, then the permit shall be revoked by the Board of Selectmen for such non commencement and any other permits that are pending which have not been issued as a consequence of the limitation having been reached shall then be considered for approval in the order received. Such a ninety day limitation shall be printed in boldface type on the permit.

This regulation with respect to building permit limitation shall apply only to new residential construction and shall not limit in any way the Selectmen's right or obligation to issue permits for remodeling, rehabilitation or expansion of existing dwellings or uses.

3) Limitation Formula:

- a) The maximum number of permits that the Selectmen shall be entitled to issue, so long as this ordinance remains in effect, shall be determined by the application of the following formula: Base Population times 5% divided by the average population per household equals the number of permits per year.

In this regard it is noted that the base population will be defined as the most recent estimate of the town's population either as calculated by the Town using available building permit data or the most recent inventory information, or as estimated by the Office of State Planning, unless another, more accurate, figure is available. The person per household figure shall be calculated using the most recent US Census statistics unless other, more accurate, data is available. Conventional 5/4 rounding shall be used to arrive at a round number of permits. It is hereby declared that the purpose of this regulation is to provide for and limit the growth rate of the Town to no more than five percent (5%) in any given year.

- b) In the event that the Board of Selectmen have not issued the maximum number of permits available for any given year the entitlement in the forthcoming year shall not include any unused portion from the previous year and shall be computed based upon the formula set forth in Section D:3.a and limited to that number.

- c) It is acknowledged that the Town, in establishing the within limitation, is addressing a problem that is perceived to exist based on the studies indicated above and the knowledge of the regional growth experience and the needs of the other towns in the area. In this regard the within ordinance and the limitations imposed shall continue to be the subject matter of the Planning Board inquiry into the continued need for the same as well as the trends in growth within the Town and region. When and if the Planning Board in its continuing efforts and study of the regional growth trends as well as the planning for the Town of Sharon determines that the limitation imposed is no longer necessary or is capable of being modified within the considerations that they are addressing, the Planning Board shall make such recommendations to the Town and propose such amendments to this ordinance as needed to reflect changes in the circumstances as they may come to exist.
- 4) It shall be unlawful to erect or locate any residential dwelling, including accessory buildings, that:
 - a) Requires construction of a sewage disposal system, or
 - b) Would increase the load on an existing sewage disposal system within the meaning of RSA 485-A:38 without first obtaining a building permit from the Board of Selectmen. All structures shall meet existing setback requirements. Building permits issued for the relocation within the Town, shall not be counted in the growth management limitations.
- 5) No permit shall be required for repairing or remodeling unless additional occupancy space is created, or such repair or remodeling increases the load on the sewage disposal system, within the meaning of RSA 485-A:38.
- 6) No permit shall be issued until an approval for construction of the sewage disposal system has been received from the New Hampshire Department of Environmental Services, Subsurface Systems Bureau.
- 7) No building structure or land shall hereafter be used, occupied or erected, moved, or structurally altered unless in conformity with all of the regulations herein specified.

ARTICLE X: Non-conforming Uses and Buildings

- 1) Any lawful use of buildings, structures, premises, land or parts thereof existing at the effective date of this Ordinance or amendments thereto and not in conformance with the provisions of this Ordinance shall be considered to be a non-conforming use.
- 2) Any non-conforming use of land or buildings may continue but it may not be expanded, enlarged or changed to a different non-conforming use except by Special Exception granted by the Zoning Board of Adjustment. See Article XII.D for criteria. A non-conforming use may not be re-established after discontinuance for one year.
- 3) Record Lots: In any district, notwithstanding limitations imposed by other sections and the definition of Record Lot in Article III of this ordinance, single lots of record at the effective date of this ordinance or subsequently having obtained subdivision approval from the Planning Board prior to August 4, 1992 may be transferred, and may be built upon provided that all conditions of this ordinance other than lot size are complied with.

ARTICLE XI: Enforcement

- 1) It shall be the duty of the Board of Selectmen to enforce the provisions of this ordinance.
- 2) Upon any well-founded information that this Ordinance is being violated, the Board of Selectmen shall, on its own initiative, take immediate steps to enforce the provisions of the Ordinance by seeking an injunction in Superior Court or by taking any other appropriate legal action.
- 3) The interpretation of these regulations shall be the sole province of the Planning Board, which may seek

legal advice and counsel as it deems necessary.

- 4) Each day of infraction shall constitute a separate offense.

ARTICLE XII: Zoning Board of Adjustment

- 1) The Selectmen shall make appointments to a Zoning Board of Adjustment of five (5) members and up to three (3) alternative members, each serving three (3) year terms. This board shall have the powers authorized in Chapter 674 and operate under procedures described in Chapters 676-677, New Hampshire Revised Statutes Annotated, 1990, as amended. Vacancies occurring other than through the expiration of a term of office shall be filled by appointment by the Selectmen for the unexpired term (RSA 673:12-II). The members of the Zoning Board of Adjustment shall serve without remuneration.
- 2) The said Board may, in appropriate cases and subject to appropriate conditions and safeguards, make Special Exceptions to the terms of this ordinance in harmony with its general purposes and intent and in accordance with the general and specific rules therein contained. The only cases for which Special Exceptions are allowable are listed below, along with the appropriate conditions and safeguards for each case:

A) Special Exception for Wetlands

- 1) Special Exceptions may be granted by the Zoning Board of Adjustment for the following uses within the Wetland Conservation District:
 - a) Those uses essential to the productive use of land not involved in the Wetland Conservation District, if located and constructed to minimize any detrimental impact upon the wetlands. Those uses include but are not limited to the construction of streets, roads, other access ways; utility rights of way and easements, including power lines and pipelines; and water impoundments for agriculture and wildlife.
 - b) The undertaking of a use not otherwise permitted in the Wetland Conservation District which may include the erection of a structure, dredging, filling, draining, or otherwise altering the surface configuration of the land, if it can be shown that such proposed use will not conflict with the purpose and intention of the Wetlands Conservation District and if such proposed use is otherwise permitted by the Zoning and Building Ordinance. Proper evidence to this effect shall be submitted in writing to the Zoning Board of Adjustment and shall be accompanied by the findings of a review by the Hillsborough Conservation District and, if deemed necessary, the Sharon Conservation Commission of the environmental effects of such proposed use upon the wetlands in question. If a wetland is only partially located on the property for which an application for a Special Exception for development has been submitted, then the Zoning Board of Adjustment shall take into consideration the potential impacts of the proposal on those portions of the wetland located on adjacent properties.
- 2) Each application for a Special Exception with the Wetland Conservation District shall include, but not be limited to, the following:
 - a) Site-specific plan(s) showing roads, streets or access ways, utility rights of way, projected impacts to wetlands and planned sediment and erosion controls,
 - b) Plans showing all contiguous or hydrologically-connected waterways above and below the impacted wetland areas,
 - c) A descriptive narrative describing the need for the project, the impacts to wetland functions, the types of wetland to be impacted and a mitigation plan that demonstrates avoidance and minimization of wetland impacts, as well as the ways in which any lost functions and values of impacted wetland will be compensated for.
- 3) With any application for a Special Exception for Wetlands, the Sharon Conservation Commission shall receive notice no less than fifteen (15) days prior to the scheduled hearing by the Zoning Board of Adjustment and may tender an advisory opinion to the Zoning Board of Adjustment on said application.

B) Special Exception for Temporary Sawmills

The Zoning Board of Adjustment may grant a Special Exception for temporary sawmills in the Rural Residential District if it can be demonstrated that the proposed use will not be seriously detrimental or offensive to residents or property owners or to the Town.

C) Special Exception for Excavation and Land Fills

- 1) The Zoning Board of Adjustment may grant a Special Exception for the excavation, quarrying or removal of loam, sand, gravel, clay, stone or similar earth materials or the filling of land with any such material.
- 2) Before allowing such a Special Exception, the Zoning Board of Adjustment must affirmatively determine that such excavation, etc., will not devalue surrounding property, will not create a public nuisance, will not disturb the neighborhood through excessive noise or traffic, that the public streets leading to the excavation area, etc., are not only adequate to handle the volume and weight of traffic, but that such streets during periods of such traffic will be safe and secure for the travel of vehicles and pedestrians on those streets, and that the hours of operation will be limited as described in Section VII, Operational Standards, of "Site Plan Review Regulations Governing Earth Excavations in the Town of Sharon, New Hampshire".
- 3) If the Special Exception is granted, the applicant must then apply to the Planning Board for an excavation permit. Application procedures are given in the above referenced Site Plan Review Regulations.

D) Special Exception for Expansion of Non-conforming use

The Zoning Board of Adjustment may grant a Special Exception for expansion, enlargement or change of an existing non-conforming use in the Rural-Residential District under the following conditions:

- 1) That the scale of the proposed modification is appropriate to the size and character of the lot,
- 2) That the proposed modification will not have a detrimental effect on the neighborhood or on property values,
- 3) Enlargement of a structure may be allowed if the enlarged structure encroaches no further into any setback than the existing structure. Small entranceways and steps may be allowed to encroach a reasonable distance further into a setback.

Expansion means increasing the intensity of the existing use within the limits of the existing structure.

Enlargement means increasing the area of the footprint of the structure.

Change means a difference in the type of activity taking place on the property.

The Zoning Board of Adjustment shall grant or refuse all Special Exceptions in accordance with the procedures stated in RSA 676:5-7 and RSA 677.

ARTICLE XIII: Amendments

The ordinance may be amended as provided by New Hampshire Revised Statutes Annotated Chapter 675.

ARTICLE XIV: Fines and Penalties

Pursuant to the provisions of RSA 676:17, any violation of this ordinance may be punishable, as determined by the Board of Selectmen by either:

- 1) A civil fine of not more than two hundred and seventy-five dollars (\$275.00) for the first offense and five

hundred and fifty dollars (\$550.00) for subsequent offenses for each day that such a violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the town that he is in violation of this ordinance, whichever date is earlier; or

- 2) A criminal penalty, which shall be a misdemeanor if the violation is by a natural person; or a felony if the violation is committed by any other person.

ARTICLE XV: Saving Clause

If any section, provision, portion, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by any court, such holding shall not affect, impair or invalidate any other section, provision, portion, clause or phrase of this Ordinance.

ARTICLE XVI: When Effective

This Ordinance shall take effect upon passage.

ARTICLE XVII: External Lighting

A) Purpose and Intent

Good outdoor lighting at night benefits everyone. To recognize that inappropriate and poorly designed or installed lighting causes unsafe and unpleasant conditions, limits residents' ability to enjoy the nighttime sky, contributes to sky glow, and detracts from the rural character of the Town of Sharon, the following regulations are established.

B) Definitions: Lighting:

Disability Glare is caused by stray light within the eyes, producing a veiling luminance upon the retinal image of an object to be seen, resulting in reduced object visibility.

Foot-candle: A unit of measure for luminance. A unit of luminance on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

Full cut-off fixture: A luminaire that by design of the housing does not allow any light dispersion or direct glare to shine at a vertical angle above 90 degrees above vertical axis or nadir.

Horizontal luminance: The measurement of brightness from a light source, measured in foot-candles or lumens, which is taken through a light meter's sensor at a horizontal position.

Light trespass: Light from an artificial light source that is intruding into an area where it is not wanted or does not belong.

Lumen: A unit of luminous flux. One foot-candle is one lumen per square foot. For the purposes of this ordinance, the lumen-output value shall be the initial lumen output rating of a lamp.

Luminaire: A complete lighting unit consisting of a lamp or lamps and ballasts (when applicable) together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

Up lighting: Any light source that distributes illumination above a vertical angle of 90 degrees above vertical axis or nadir.

C) Regulations

All public and private lighting installed in the Town of Sharon shall be in conformance with the requirements established by this ordinance.

- 1) **Control of Glare - Luminaire Design Factors**
 - a) Any luminaire with a lamp or lamps rated at a total of more than 900 lumens shall not emit any light above the horizontal plane through the lowest direct-light-emitting part of the luminaire, nor shall they produce disability glare or horizontal luminance.
 - b) Any luminaire with a lamp or lamps rated at a total of more than 900 lumens shall be mounted at a height equal to or less than the value $3 + (D/3)$, where D is the distance in feet to the nearest property boundary. The maximum height of a luminaire may not exceed twenty-five (25) feet.
- 2) For the purpose of these regulations, the mounting height of a luminaire shall be defined as the vertical distance from the bulb to the ground directly below.
- 3) No luminaire shall be directed or focused such as to cause the shining or reflectance of light produced by a luminaire beyond the boundaries of the property on which it is located. Light trespass is prohibited.
- 4) Lighting of streets or parking areas shall use full cut-off fixtures. The lamps shall be High Pressure Sodium (HPS) not greater than 50 watts, or equivalent. Such fixtures shall not produce disability glare, nor direct or indirect light that causes light trespass.
- 5) Seasonal (3 month) holiday lighting using multiple low-wattage bulbs during the months of November, December and January will be exempt from the provisions of this section, provided that such lighting does not create dangerous glare on adjacent streets or properties.
- 6) Temporary lighting and emergency lighting needed by the police or fire departments or other emergency services, as well as all vehicle luminaries, shall be exempt from the requirements of this article.
- 7) **Law governing conflicts:** Where any provision of federal, state, county or town statutes, codes or laws conflicts with any provision of this code, the most restrictive shall govern unless otherwise regulated by law.

D) Prohibitions

- 1) **Laser source light:** The use of laser source light or any similar high-intensity light for outdoor or entertainment purposes, such that light is projected off-site, is prohibited.
- 2) **Searchlights:** The operation of searchlights for other than public safety purposes is prohibited.
- 3) **Internal or external illumination of outdoor signs** is prohibited.
- 4) **Up lighting** is prohibited.

E) Effective Date and Grandfathering of Nonconforming Luminaires

- 1) This ordinance shall take effect immediately upon approval by the voters of the Town of Sharon at an annual or special Town Meeting and shall supersede and replace all previous ordinances pertaining to outdoor lighting.
- 2) All luminaries lawfully in place prior to the date of this ordinance shall be grandfathered. However, any luminaire that replaces a grandfathered luminaire, or any grandfathered luminaire that is moved, must meet the standards of this ordinance.
- 3) Grandfathered luminaries that direct light toward streets or parking lots that cause disability glare to

motorists or cyclists shall be either shielded or re-directed within 90 days of notification.

F) Violations, Legal Actions and Penalties

- 1) If the Board of Selectmen determines that any provision of this ordinance is being violated, it may institute such proceedings as it deems appropriate, including the issuance of cease and desist orders pursuant to RSA 676:17-a, and the issuance of citations for the commission of violations pursuant to RSA 676:17-b; provided, however, that notice of such violation shall be given by hand delivery or certified mail return receipt requested, to the owner and/or to the occupant of such premises, demanding that such violation be abated by the owner and/or occupant at least thirty (30) days prior to the commencement of such proceedings.
- 2) **Penalties:** A violation of this ordinance, or any provision thereof, shall be punishable by a civil penalty of fifty dollars (\$50), and each day of violation after the expiration of the thirty-day period provided in Paragraph 1 shall constitute a separate offense for the purpose of calculating the civil penalty.

ARTICLE XVIII: Workforce Housing

A) Purpose:

The purpose of this article is to promote and maintain the pastoral nature of the Town of Sharon, and provide for the safety, health, prosperity and general welfare of the inhabitants, while fulfilling the requirements to provide reasonable and realistic opportunities for the development of Workforce Housing, as delineated in NH RSA 674:58- 61, as amended.

Any proposal to develop or construct dwellings intended to qualify as Workforce Housing must adhere to the Town of Sharon Zoning and Building Ordinance, Land Subdivision Control Regulations and Site Plan Review Regulations.

B) Definitions: Workforce Housing:

Workforce Housing Dwelling Space: A structure or part of a structure that provides adequate living space for a family, including kitchen and bathroom facilities, living space and a minimum of two (2) bedrooms.

Single Family Dwelling: A dwelling structure standing alone that contains one Workforce Housing dwelling space, providing a minimum of eight hundred fifty (850) square feet of living space and a maximum of twelve hundred (1,200) square feet, excluding unfinished basements, attics, garages and any unheated areas.

Multi-Family Building: A structure containing five (5) to eight (8) Workforce Housing dwelling spaces constructed in accordance with National Building Code Standards, with all spaces, including attics and basements, protected by approved fire suppression devices, with each dwelling space providing a minimum of seven hundred fifty (750) square feet and a maximum of eleven hundred (1,100) square feet of living space, excluding unfinished basements, attics, garages and any unheated areas.

C) General Plan of Regulation:

Any applicant desiring to qualify a project as “Workforce Housing” must obtain Planning Board approval, which approval shall include site plan approval:

- 1) The applicant shall participate in a Preliminary Consultation with the Planning Board in accordance with Section III:B of the Land Subdivision Control Regulations.
- 2) Each application for qualification as Workforce Housing shall include the following:
 - a) Calculation of the affordability of the proposed Workforce Housing units, including:
 - i) For the purpose of this ordinance, the annual schedules most recently available promulgated by the New Hampshire Housing Finance Authority currently identified as “HUD Metropolitan Fair Market Rent Areas (HMFA)” in the publication entitled

“Workforce Housing Purchase and Rent Limits, RSA 674:56-61” will determine the maximum permissible values for purchase and rental. The Town of Sharon is included in the area identified as “Hillsborough Co. NH (Part).

- ii) For dwelling units intended for sale, the sales price shall be established at an amount so that the combined costs of mortgage loan debt services (assuming a 5% down payment, private mortgage insurance and a thirty-year amortization), property taxes and homeowner’s insurance premium does not exceed thirty percent (30%) of the median income for a 4-person household in Hillsborough County, as shown in the above-cited annual schedules.
- iii) For those dwelling units intended for rent, the combined rental and utility costs do not exceed thirty percent (30%) of the median income for a 3-person household in Hillsborough County, as shown in the above-cited annual schedules.
- b) A deed restriction in form suitable for recording, the form and content of which shall be subject to approval by the Planning Board, to ensure that the proposed dwelling units will be administered as “Affordable Workforce Housing” for a period of not less than thirty (30) years following first occupancy. Said restrictions shall run with the land, shall be adequately reflected in all deeds and leases, and on all plats filed with the Hillsborough County Registry of Deeds.
- c) The restrictions as set forth above shall include the understanding that, during the thirty (30) year period, the town may require the seller of any Workforce Housing property to confirm the full sale price at the time of sale, and the owner must, upon request, provide the town with the then existing rental prices on all occupied rental units.

D) Site Dimensional Requirements:

- 1) Any Workforce Housing shall be constructed on a site of not less than eight (8) acres, of which no less than four (4) acres must be determined buildable in accordance with regulations in the Zoning and Building Ordinances of the Town of Sharon.
- 2) Any project developed as Workforce Housing must provide for a minimum of five (5) Workforce Housing dwelling spaces, and a maximum of eight (8) Workforce Housing dwelling spaces.
- 3) Within each Multi-Family Workforce Housing project, one Workforce Housing dwelling space may be constructed for each fifty thousand (50,000) square feet of land.
- 4) Each Single-Family Dwelling for Workforce Housing shall be constructed on a lot no less than one-half (½) acre in area, with a minimum frontage on the access highway of one hundred fifty (150) feet.
- 5) Fifty percent (50%) of the land area within the Workforce Housing Subdivision must be designated as common area.
- 6) A homeowner’s association shall be formed to manage the common lands and, as applicable, any infrastructure facilities of the development.
 - a) The members of the homeowners’ association shall be the owners of properties within the Workforce Housing Subdivision.
 - b) All common lands and facilities shall be protected by covenants, easements and/or restrictions running with the land, which shall include permanent restrictions prohibiting erection of buildings and structures, and which shall be approved by the Planning Board prior to any conveyance to the homeowner(s). Documents setting forth such restrictions, etc., shall be recorded in the Hillsborough County Registry of Deeds with the approved plan.
 - c) Persons or entities having ownership interests in the common lands and facilities shall be responsible for their continued upkeep and proper maintenance.

E) Setbacks and Access Requirements:

- 1) Access to Workforce Housing Subdivisions shall be limited to paved highways only. The location of site

access from the highway must be in accordance with all state and town regulations and ordinances.

- 2) In a Workforce Housing Subdivision, no building shall be located nearer than twenty-five (25) feet from any property boundary, or nearer than fifty (50) feet from any public highway or subdivision road. No Multi Family Workforce Housing building shall be located nearer than one hundred (100) feet from any property boundary.
- 3) All Multi-Family Workforce Housing buildings, as defined in paragraph B, shall be located on land with frontage on New Hampshire Route 124, to assure residents of adequate transportation opportunities and prompt access to emergency services.

F) Site Preparation and Landscaping:

- 1) These regulations are intended to provide requirements relative to site preparation and initial landscaping that will permit the subdivision to quickly conform to the pastoral nature of the Town of Sharon.
- 2) To retain this pastoral nature, Workforce Housing developments shall be set back from any existing highway a minimum of one hundred (100) feet and shall be screened from any existing highway by trees, vegetation and other natural features, to the extent possible.
- 3) Existing trees, vegetation and other natural features shall be used for screening along the side and back lines of a Workforce Housing Subdivision for a minimum of fifty (50) feet.
- 4) The applicant shall provide a complete landscaping plan, indicating existing and future plantings on all subdivision land.
- 5) The minimum setback area surrounding any Multi-Family Workforce Housing buildings shall be a vegetative screen.

ARTICLE XIX: Telecommunication Facilities

A) Authority and Purpose:

This Article has been adopted by the Town of Sharon, New Hampshire, in accordance with the authority granted by the New Hampshire Revised Statutes Annotated 674:16, IV and 21, II.

This Article has been enacted in order to establish general guidelines for the siting of telecommunications towers and antennas (commonly known as cell towers and cell antennas), and to enhance and fulfill the following goals:

- 1) Preserve the authority of the Town of Sharon to regulate and provide for reasonable opportunity for the siting, construction and maintenance of telecommunications facilities without cost to the town, or adjacent property owners, either directly or indirectly.
- 2) Reduce the adverse impacts such facilities may create on, including, but not limited to, migratory bird flight corridors, impacts on aesthetics, environmentally sensitive areas, historically significant locations, health, and safety by injurious accidents to person and property, and diminution of property values.
- 3) Preserve Sharon's unique viewsheds, visual beauty, rural character, sensitive natural environment and scenic values, in particular those associated with Temple Mountain.

Regulations relating to the siting, construction and maintenance of Fixed Wireless Transmitters and Antenna Facilities (commonly known as broadband internet access facilities) are set forth in Article XX: Broadband Facilities.

B) Definitions: Telecommunications:

Antenna: Means any apparatus designed for communications through the sending and/or receiving of electromagnetic waves of any frequency or bandwidth.

Average Tree Canopy Height: Means the average height found by inventorying the height above ground level of all trees forming the canopy within a radius of one hundred and fifty feet (150'). Canopy height is determined utilizing the Forest Ecosystem Rapid Assessment Scorecard (FERAS).

Compound: Means the tower site and includes any and all accessory structures and exposed equipment, including security fencing.

Existing Structure: Means a residential or commercial building, barn, silo, public utility transmission power or tower, or other similar structure where telecommunications facilities are to be deployed.

Tower: Means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.

Telecommunications Facility ("Facility"): Means any antenna, tower, or other structure intended for use in connection with the transmission or reception of electromagnetic signals, and commonly utilized for transmission of voice, and data using cell phone technology.

C) Permitted Uses:

- 1) **Principal or Secondary Use:** Telecommunications facilities may be considered either principal or secondary uses. The presence of an existing permitted use or structure on a lot shall not preclude the installation of a facility nor may commencement of a permitted use on a lot upon which a facility exists be precluded. In determining compliance with district development regulations, including but not limited to setback and lot coverage requirements, the dimensions of the entire lot shall control, even though the facility may be located on a leased parcel within such lot. Facilities that are installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure. Any alteration of the original permitted use and/or device configuration of the facility will require a new approval by the Planning Board ("Board").
- 2) **Amateur Radio:** The installation or use of a tower and/or an antenna less than seventy feet (70) in height above ground, which is operated and used exclusively by a federally licensed amateur radio station operator is not subject to the provisions of this Article.
- 3) **Essential Services & Public Utilities:** Telecommunication facilities shall not be considered infrastructure, essential services, or public facilities, as used elsewhere in the Town's Ordinances and Regulations. Siting for facilities is a use of land and is addressed by this Article.

D) Construction Performance Requirements:

- 1) **Federal Requirements:** All Facilities must meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate such Facilities. If such federal standards and regulations are changed, the owners of facilities governed by this Article shall achieve compliance within six (6) months of the effective date of the changes, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring facilities into compliance with any changes in federal requirements shall constitute grounds for the removal of the tower or antenna at the owner's expense, in accordance with Section H hereinbelow through execution of the posted security.
- 2) **Building Codes/Safety Standards:** To ensure the structural integrity of towers and antennas, all facilities shall be inspected to determine structural safety every year by a licensed engineer approved by the Town, with the cost to be paid by the owner. The engineer will submit a report to the Town. If the report concludes that a tower fails to comply with all applicable codes and standards and constitutes a danger to persons or

property, the owner will receive notice to bring such tower and/or antenna into compliance with such codes and standards within thirty (30) days of receipt of such notice. If the owner fails to comply within thirty (30) days, such action shall constitute an abandonment and grounds for the removal of the tower or antenna, in accordance with Section H hereinbelow, at the owner's expense through execution of the posted security.

E) Additional Requirements for Telecommunications Facilities:

These requirements shall supersede any and all other applicable standards found elsewhere in Town Ordinances or Regulations that are less strict.

- 1) **Height:** Facilities shall be erected and maintained at the lowest feasible height. In no case shall the height of any facility exceed thirty-five (35) feet above the Average Tree Canopy Height, or one hundred (100) feet above ground, whichever is greater.
- 2) **Setbacks and Separation:** In addition to compliance with the minimum zoning district setback requirements for all structures, towers shall be set back a distance equal to 125% of the height of the tower from all property lines. For locations adjacent to wetland, there shall be a setback of at least one hundred (100) feet from the boundaries of a wetland conservation district.
- 3) **Security Fencing:** Towers shall be enclosed by security fencing not less than six (6) feet in height and be equipped with appropriate anti-climbing devices. Any accessory structure shall be situated fully within twenty feet (20') of the tower and within the fenced area.
- 4) **Landscaping:** A buffer shall be provided and maintained that effectively screens the view of the compound from adjacent residential property. The standard buffer shall consist of existing indigenous vegetation within the setback required in paragraph 2 above. Existing vegetation and natural landforms on the site shall be preserved to the extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer. The access road must be located and constructed to minimize its visual impact to the Facility.
- 5) **Camouflaging:**
 - a) 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 surrounding environment.
 - b) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a 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 visually unobtrusive.
- 6) **Balloon Test:**
 - a) For the siting of any tower or similar structure, the applicant shall provide notice of a date on which a balloon (or balloons) will be floated at the proposed site and provide photographs from locations specified by the planning board.
 - b) All towns within twenty (20) miles of the proposed location will be notified of the test, by certified mail, to be paid by the applicant. A notice will also be posted in a newspaper of general circulation within such municipalities.
 - c) Such notice shall be published not less than seven (7) days nor more than twenty-one (21) days prior to the test date. The test will be continued for a minimum of three (3) hours and if cancelled or delayed by inclement weather, such as limited visibility or wind velocities above ten (10) miles per hour, the test will be rescheduled and re-noticed, as detailed above.
- 7) **Fall Zone:** In order to ensure public safety, no structures (other than those within the compound) shall be located within an area of setback, as detailed in paragraph 2 above.

F) Conditional Use Permits:

1) General:

- a) Telecommunications Facilities are permitted only after obtaining a Conditional Use Permit from the Board. All such uses must comply with other applicable Ordinances and Regulations of the Town of Sharon, except where they conflict with this Article.
- b) The applicant shall use the Application for Telecommunications Facilities as provided by the Town.
- c) Requests for waivers from the applicant (Section G) must be made in writing, noting the name of the project, and the date of application, and shall become a part of the application.

2) Issuance of Conditional Use Permits:

- a) In granting the Conditional Use Permit, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect the proposed tower may have on adjoining properties and property values, and to comply with the intent of this Article.
- b) The Board may deny the granting of a Conditional Use Permit if the proposed facility does not substantially increase cell phone coverage within the Town of Sharon.

3) Procedure on Application:

- a) The Board shall act upon the application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4. Each applicant shall pay an application fee as specified on the form of Application for Telecommunications Facilities. If the Board determines that additional technical review is required, such review shall be conducted at the applicant's expense. The board will attempt to limit such expenses, but refusal by the applicant to pay for such technical assistance as the board determines to be necessary shall be grounds for denial of the permit.
- b) If the application requests approval to erect or to heighten a tower, all towns within twenty (20) miles of the proposed location will be notified of the public hearing, by certified mail, to be paid by the applicant. A notice will also be posted in a newspaper of general circulation within such municipalities. Such notice shall be published not less than seven (7) days nor more than twenty-one (21) days prior to the public hearing date.

4) Decisions: All decisions shall be rendered in writing. A denial of the Conditional Use Permit or any waivers requested by the applicant must be based upon substantial evidence contained in the written record. Conditions required by the Board will be detailed in the letter of approval and within the minutes of the Board.

5) Plan Requirements: Each applicant requesting a Conditional Use Permit under this Article shall submit a scaled plan showing or accompanied by the following information:

- a) Title block that shows the name of the development or project.
- b) Written acknowledgement by the property owner(s) of approval of this project (if other than the applicant).
- c) North arrow, date of plat, scale; name, address and seal of all persons preparing the plat
- d) Signature block for Board endorsement.
- e) Vicinity sketch and zoning district(s).
- f) Total area of the parcel in acres and square feet.
- g) Lot frontage.
- h) Boundary lines and recorded dimensions and bearings.
- i) Tax map and lot numbers.
- j) Locations and descriptions of any existing or proposed easements, deed restrictions, or covenants.
- k) Physical features on the site and within two hundred feet (200') of the site.
- l) Soil information based on the Hillsborough County Soil Survey.
- m) All natural features, such as streams, ponds, wetlands, etc.
- n) Existing and proposed grades and contours, at five-foot (5') intervals, and base flood elevations.
- o) Shape, size, height, location, and use of existing and proposed structures on the site.

- p) Existing buildings and structures within five hundred feet (500') of the site.
 - q) Access to the site, with location and width of existing and proposed driveways.
 - r) If required, a driveway permit granted from either the New Hampshire Department of Transportation or the Town of Sharon.
 - s) Locations, names, right-of-way and travel widths of any existing and proposed roads on the property and within two hundred feet (200') of the site.
 - t) For access using private ways, written verification of permission of the owner(s) of the private way.
 - u) Final road profiles and cross sections for any new roads.
 - v) Locations and sizes of all electric and telephone lines on the site.
 - w) Existing and proposed fire hydrants and/or fire ponds.
 - x) Existing and proposed methods of handling storm water runoff, and the direction of the flow indicated by arrows.
 - y) Size and locations of all storm water drainage lines, catch basins, drywells, drainage ditches, retention basins, and culverts.
 - z) Location, types, and sizes of all existing and proposed landscaping and screening.
 - aa) Location of any proposed lighting and certification that it meets the requirements of Article XVII – External Lighting.
 - bb) Confirmation that all reasonable steps have been taken to mute any noise that might be emitted from the campus, including sound deadening practices and the use of propane generators.
- 6) **Other Information Required:** In order to assess compliance with this Article, the Board shall require the applicant to submit the following prior to any approval by the Board:
- a) Propagation map showing proposed radio frequency coverage.
 - b) Photographic documentation of the balloon test(s).
 - c) The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
 - d) The applicant shall submit written proof that it has conducted an evaluation of any requirements of the National Environmental Policy Act (NEPA) pertaining to the proposed facility, as may be required under applicable FCC rules, and the results of any such evaluation. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and/or NEPA, the applicant shall submit the EA or EIS to the Board prior to the beginning of the federal 30-day comment period; the Town proceedings with respect to the proposed facility shall become part of the FCC application requirements.
 - e) The applicant will provide the Board with the following information:
 - i) The number of sites for telecommunication facilities each provider will require,
 - ii) Sites outside of the Town for the particular coverage area that has been considered,
 - iii) How the siting of a telecommunication facility will affect the ability to allow a competitor's antennas on the same property?
- 7) The applicant will provide the Board with studies of alternative sites in Town that the applicant has considered for siting.
- 8) The applicant shall enter into an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such agreement shall, at a minimum, require the applicant to supply an available co-location for reasonable fees and costs to other wireless telecommunication providers.
- 9) An opportunity for co-location is not to be considered a justification for excessive height of towers. Co location opportunities shall also not exclude the investigation of alternative sites.
- 10) The applicant will provide the Board with a copy of the federal license received from the FCC establishing that it, or its contracted client, is eligible to deploy its systems under the Federal Telecommunications Act of 1996 (and amendments, revisions or replacements thereof).

Upon request, the applicant will provide:

- 1) Detailed maps showing all of the carrier's current externally visible tower and monopole locations in the state within a 20-mile radius, both active and inactive; and
- 2) Site descriptions for each of the above locations showing the antenna height and diameter, and all externally visible structures.
- 3) An agreement with the Town which will indemnify and hold the Town harmless on account of any extraordinary fire or safety events.

G) Waivers:

- 1) Any requirement of this Article may be waived or modified when, in the opinion of the Board, strict conformity would pose an unnecessary hardship to the applicant and such waiver would not be contrary to the spirit and intent of this Article or that specific circumstances relative to the project indicate that the waiver will properly carry out the spirit and intent of this Article.
- 2) The basis for any waiver granted by the Board shall be recorded in the minutes of the Board and detailed in the decision of the Board.
- 3) **Conditions:** In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of the Article.
- 4) **Procedures:** A petition for any such waiver shall be submitted in writing by the applicant for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

H) Bonding and Liability Insurance:

- 1) The applicant shall provide a surety bond or other appropriate security to the Town in an amount sufficient to cover the costs of removal and disposal of the facility components. The Board shall set the form and amount of the security. The Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed facilities prior to construction.
- 2) The term of the bond shall be determined by the Board. The Selectmen shall administer the bond requirements. In addition, if the Board requires an engineering assessment in order to set the amount of the bond, the cost shall be borne by the applicant.

I) Removal of Abandoned Antennas and Towers:

- 1) Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections with results satisfactory to the Board. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Town.
- 2) A declaration of abandonment shall be issued only following a duly noticed public hearing, in accordance with Town regulations. Abutters and the last known owner/operator of the tower shall also receive notice. If the abandoned tower is not removed within ninety (90) days, the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

J) Administration and Enforcement:

It shall be the duty of the Board of Selectmen, and they are hereby given the power and authority, to enforce the provisions of this Article. The Selectmen may appoint an agent to enforce this Article. Upon any well-founded information that this Article is being violated, the Selectmen shall take immediate steps to enforce the provisions

thereof by seeking an injunction in the Superior Court or by any other legal action.

K) Appeals:

Pursuant to RSA 676:5, any decision made under this Article cannot be appealed to the Zoning Board of Adjustment, but to the superior court as provided by RSA 677:15.

ARTICLE XX: Broadband Facilities

A) Authority and Purpose:

This Article has been adopted by the Town of Sharon, New Hampshire, in accordance with the authority granted by the New Hampshire Revised Statutes Annotated 674:16, IV and 21, II. This Article has been enacted in order to establish guidelines for regulating the installation of facilities for enhanced broadband services and fulfill the following goals:

- 1) Preserve the authority of the Town of Sharon to regulate and provide reasonable opportunity for the siting, construction and maintenance of broadband services without cost to the town, or adjacent property owners, either directly or indirectly.
- 2) Reduce the adverse impacts such facilities may create on, including, but not limited to: migratory bird flight corridors, impacts on aesthetics, environmentally sensitive areas, historically significant locations, health and safety by injurious accidents to person and property, and diminution of property values.
- 3) Preserve Sharon's unique viewsheds, visual beauty, rural character, sensitive natural environment and scenic values, in particular those associated with Temple Mountain.

Regulations relating to Telecommunications Facilities (commonly known as cell towers and cell phone antennas) are set forth in Article XIX: Telecommunications Facilities.

B) Definitions: Broadband:

Average Tree Canopy Height: Means the average height found by inventorying the height above ground level of all trees forming the canopy within a radius of one hundred and fifty feet (150'). Canopy height is determined utilizing the Forest Ecosystem Rapid Assessment Scorecard (FERAS)

Compound: Means the tower site and includes any and all accessory structures and exposed equipment, including security fencing.

Existing Structure: Means a residential or commercial building, barn, silo, water tower, public utility transmission power pole, tower or other similar structure where fixed wireless broadband technology is to be deployed.

Fixed Wireless Transmitter Tower Structure: Means a structure that supports one or more antenna(s) that receives and transmits fixed wireless signals to provide subscribers with high-speed (broadband) internet access capabilities.

Fixed Wireless Transmitter Antenna Array: Means any series of antenna or array of antennas that receives and transmits fixed wireless signals to provide subscribers with high speed (broadband) internet access capabilities.

Over-the-Air Reception Devices (OTARD): The Federal Communications Commission adopted the OTARD rule in 1996 (47 C.F.R. Section 1.4000). OTARD rules as amended in 2000 prohibit restrictions on property that impair the use of certain antennas. The rule applies to customer-end antennas serving customers on the premises that transmit and/or receive fixed wireless signals. Fixed wireless signals are defined to be any commercial non broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location.

C) Permitted Uses

- 1) **Amateur Radio:** The installation or use of a tower and/or an antenna less than seventy feet (70') in height which is operated and used exclusively by a federally licensed amateur radio station operator is not subject to the provisions of this Article.
- 2) **Essential Services & Public Utilities:** Fixed Wireless Broadband Facilities shall not be considered infrastructure, essential services, or public facilities, as used elsewhere in the Town's Ordinances and Regulations. Siting for fixed wireless broadband facilities is a use of land and is addressed by this Article.

D) Construction Performance Requirements:

- 1) **Federal Requirements:**
 - a) All Facilities must meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate such Facilities. If such federal standards and regulations are changed, the owners of Facilities governed by this Article shall achieve compliance within six (6) months of the effective date of the changes, unless a more stringent compliance schedule is mandated by the controlling federal agency.
 - b) Failure to bring facilities into compliance with any changes in federal requirements shall constitute grounds for the removal of the tower or antenna at the owner's expense, in accordance with Section H herein below through execution of the posted security.
- 2) **Building Codes/Safety Standards:**
 - a) To ensure the structural integrity of towers and antennas, all facilities shall be inspected to determine structural safety every year by a licensed engineer approved by the Town, with the cost to be paid by the owner. The engineer will submit a report to the Town.
 - b) If the report concludes that a tower fails to comply with all applicable codes and standards and constitutes a danger to persons or property, the owner will receive notice to bring such tower and/or antenna into compliance with such codes and standards within thirty (30) days of receipt of such notice.
 - c) If the owner fails to comply within thirty (30) days, such action shall constitute an abandonment and grounds for the removal of the tower or antenna, in accordance with Section H hereinbelow, at the owner's expense through execution of the posted security.
- 3) **Fixed Wireless Transmitter Tower Structures:** This Article shall supersede any and all other applicable standards found elsewhere in Town Ordinances or Regulations that are less strict:
 - a) **Height:** Facilities shall be erected and maintained at the lowest feasible height. In no case shall the height of any Facility exceed thirty-five (35) feet above the Average Tree Canopy Height, or one hundred (100) feet above ground, whichever is greater.
 - b) **Setbacks and Separation:** In addition to compliance with the minimum zoning district setback requirements for all structures, towers shall be set back a distance equal to 125% of the height of the tower from all property lines. For locations adjacent to wetland, there shall be a setback of at least one hundred (100) feet from the boundaries of the wetlands conservation district.
 - c) **Security Fencing:** Towers shall be enclosed by security fencing not less than six (6) feet in height and be equipped with appropriate anti-climbing devices. Any accessory structure shall be situated fully within twenty feet (20') of the tower and within the fenced area.
 - d) **Landscaping:** A buffer shall be provided and maintained that effectively screens the view of the compound from adjacent residential property. The standard buffer shall consist of existing indigenous vegetation within the setback required in paragraph 2 above. Existing vegetation and natural landforms on the site shall be preserved to the extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer. The access road must be located and constructed to minimize its visual impact on the Facility.
 - e) **Camouflaging:**

- i) 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 surrounding environment.
- ii) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a 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 visually unobtrusive.

4) Balloon Test:

- a) For the siting of any tower or similar structure, the applicant shall provide notice of a date on which a balloon (or balloons) will be floated at the proposed site and provide photographs from locations specified by the Planning Board ("Board").
- b) All towns within twenty (20) miles of the proposed location will be notified of the test, by certified mail, to be paid by the applicant. A notice will also be posted in a newspaper of general circulation within such municipalities. Such notice shall be published not less than seven (7) days nor more than twenty one (21) days prior to the public hearing date.
- c) The test will be continued for a minimum of three (3) hours and if cancelled or delayed by inclement weather, such as limited visibility or wind velocities above ten (10) miles per hour, the test will be rescheduled and re-noticed, as detailed above.

5) Fall Zone: In order to ensure public safety, no structures (other than those within the compound) shall be within an area of setback, as detailed in paragraph 2 above.

6) Fixed Wireless Transmitter Antenna Array:

- a) The array may be located on an existing structure in any zoning district but may not exceed five (5) feet above the existing structure. Before attaching any fixed wireless transmitter antenna array technology to any public utility transmission towers or poles the written approval of the Board of Selectmen must be obtained. The applicant shall provide any and all information or documents requested.
- b) The written approval shall be subject to such conditions as the Selectmen may require. Before attaching a fixed wireless transmitter antenna array to any existing residential or commercial building, governmental building, barn, silo or other similar structure, an application for a Conditional Use Permit shall be submitted to the Board as set forth in Section E hereunder.
- c) If an antenna is installed on the exterior of a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a 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 visually unobtrusive.

E) Conditional Use Permits:

1) General:

- a) Fixed Wireless Transmitter Towers or Antenna Arrays are permitted upon obtaining from the Board a Conditional Use Permit (excluding those attaching to public utility transmission towers and approved by the Board of Selectmen). All such uses must comply with other applicable Ordinances and Regulations of the Town of Sharon, except for those specifically noted herein.
- b) The applicant shall use the form of Application for Fixed Wireless Transmitter Tower and Antenna Facilities as provided by the town. Requests for waivers from the application (Section F) must be made in writing, noting the name of the project, and the date of application which request shall become a part of the application.
- c) Conditional Use Permit approval may be granted by the Board pursuant to RSA 674:21 after a public hearing. All applications for Tower Structure shall contain a scaled plan in accordance with the Site Plan Review Regulations and further information including a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses (up to two hundred feet [200'] away), and any other information

deemed necessary by the Board to assess compliance with this Article.

- d) The Board may decline to grant a Conditional Use Permit if the proposed Fixed Wireless Transmitter or Antennae Array Facility does not provide significant additional broadband capabilities for the residents of the Town of Sharon.
- 2) **Issuance of Conditional Use Permits:**
 - a) In granting the Conditional Use Permit, the Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower or antennas on adjoining properties and preserve the intent of this Article.
- 3) **Procedure on Application:**
 - a) The Board shall act upon the application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4. Each applicant shall pay an application fee as specified on the form of Application for Fixed Wireless Transmitter Tower and Antenna Facilities.
 - b) If the Board determines that additional technical review is required, such review shall be conducted at the applicant's expense. The Board will attempt to limit such expenses, but refusal by the applicant to pay for such technical assistance as the Board determines to be necessary shall be grounds for denial of the permit.
 - c) The Board will consider the following factors before making a decision regarding a request for Waiver or the granting of a Conditional Use Permit:
 - i) Article.
 - ii) Design, construction and maintenance methods are established to minimize detrimental impacts.
 - iii) The activity is a productive and reasonable use of the land and is in compliance with the purpose of this Factors that will be considered in granting decisions:
 - (1) Height of the proposed supporting tower structure.
 - (2) Mechanical safety of the structure.
 - (3) Compliance with Radiofrequency Electromagnetic Fields (RF) exposure guidelines.
 - (4) Proximity of tower structure to residential development.
 - (5) Nature of uses on adjacent and nearby properties.
 - (6) Surrounding topography.
 - (7) Surrounding tree coverage and foliage.
 - (8) Design of the tower with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - (9) Proposed ingress and egress to the site.
 - (10) Visual impacts on viewsheds, ridgelines, and other impacts by means of tower structure location, tree and foliage clearing and placement of incidental structures.
 - (11) Availability of alternative tower structures and alternative siting locations.
 - d) If the application is for the construction of a free standing Fixed Wireless Transmitter Tower Structure, the requirements detailed under Article XIX: Telecommunications Facilities, Section E - Plan Requirements will apply.
- 4) **Decisions:** All decisions shall be rendered in writing. A denial of the Conditional Use Permit or any waivers requested by the applicant must be based upon evidence contained in the written record. Conditions required by the Board will be detailed in the letter of approval and the minutes of the Board.

F) Waivers:

- 1) Any requirement of this Article may be waived or modified when, in the opinion of the Board, strict conformity would pose an unnecessary hardship to the applicant and such waiver would not be contrary to the spirit and intent of the Article or that specific circumstances relative to the project indicate that the waiver will properly carry out the spirit and intent of this Article.
- 2) The basis for any waiver granted by the Board shall be recorded in the minutes of the Board and recorded in

the decision of the Board.

- 3) **Conditions:** In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of this Article.
- 4) **Procedures:** A petition for any such waiver shall be submitted in writing by the applicant for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

G) Bonding and Liability Insurance:

- 1) The applicant shall provide a surety bond or other appropriate security to the Town in an amount sufficient to cover the costs of removal and disposal of the facility components. The Board shall set the form and amount of the security.
- 2) The Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed facilities prior to construction.
- 3) The term of the bond shall be determined by the Board. The Selectmen shall administer the bond requirements. In addition, if the Board requires an engineering assessment in order to set the amount of the bond, the cost shall be borne by the applicant.

H) Removal of Abandoned Antennas and Towers:

- 1) Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections with results satisfactory to the Board.
- 2) The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Town. A declaration of abandonment shall be issued only following a duly noticed public hearing in accordance with Town Regulations. Abutters and the last known owner/operator of the tower shall also receive notice.
- 3) If the abandoned tower is not removed within ninety (90) days, the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

I) Administration and Enforcement:

- 1) It shall be the duty of the Board of Selectmen, and they are hereby given the power and authority, to enforce the provisions of this Article. The Selectmen may appoint an agent to enforce this Article.
- 2) Upon any well-founded information that this Article is being violated, the Selectmen shall take immediate steps to enforce the provisions of the Article by seeking an injunction in the Superior Court or by any other legal action.

J) Appeals:

- 1) Pursuant to RSA 676:5, any decision made under this Article cannot be appealed to the Zoning Board of Adjustment, but to the Superior Court as provided by RSA 677:15.

ARTICLE XXI: Small Wind Energy Systems

A) Purpose and Intent:

Article XXI: Small Wind Energy Systems is enacted in accordance with RSA 674:62-66, and the purposes

outlined in RSA 672:1 III-a. The purpose of this Article is to accommodate small wind energy systems in appropriate locations, while protecting the public's health, safety, and welfare. In addition, this Article provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

These regulations provide for small wind energy systems that accommodate generation of electricity (SWES Electric) and small wind energy systems that accommodate other uses, such as pumping water, energizing a grist or saw mill, and similar uses (SWES-Other). Some portions of this article relate only to SWES-Electric or only to SWES-Other and will be so identified. All other components of this Article will apply to both SWES-Electric and SWES-Other.

B) Definitions: Small wind energy systems:

Average Tree Canopy Height: means the average height found by inventorying the height above ground level of all trees forming the canopy within a radius of one hundred and fifty (150') feet. Canopy height is determined utilizing a clinometer or laser rangefinder

Meteorological Tower (met tower): includes the tower base plate, anchors, guy wires and hardware, anemometers wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devised that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resources at a given location. For the purposes of this ordinance, met towers shall refer only to those whose purpose is to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

Modification: Any change to the small wind energy system that materially alters the size, type or location of the Small wind energy system. Like-kind replacements shall not be construed to be a modification.

Net metering: (SWES-Electric) The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

Power grid: (SWES-Electric) The transmission system, managed by ISO New England (or successors), created to balance the supply and demand for electricity in New England.

Shadow flicker: The visible flicker effect when rotating blades of the wind generator pass between the sun and an observer, casting readily observable, moving shadows on the observer and his/her immediate environment thereby causing a repeating pattern of light and shadow.

Small wind electric energy system: (SWES-Electric) A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rate capacity of 100 kilowatts or less and used primarily for onsite consumption.

Small wind other energy system: (SWES-Other) A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion systems to provide mechanical energy to operate non-electrical machines.

System height: The vertical distance from ground to the tip of the wind generator blade when it is at its highest point.

Tower: The monopole, guyed monopole or lattice structure that supports a wind generator. **Tower height:** The height above grade of the fixed portion of the tower, excluding the wind generator or blades.

Wind generator: The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

C) Procedure for Review:

- 1) **Conditional Use Permit:** Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. No small wind energy system shall be erected, constructed or installed without first receiving a Conditional Use Permit from the Planning Board. A Conditional Use Permit shall be required for any physical modification to an existing small wind energy system.
- 2) **Applications:** Applications submitted to the Planning Board shall contain a site plan with the following information:
 - a) Property lines and physical dimensions of the applicant's property.
 - b) Location, dimensions, and types of existing major structures on the property.
 - c) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
 - d) Tower foundation blueprints or drawings.
 - e) Tower blueprints or drawings.
 - f) Setback requirements as outlined in the ordinance.
 - g) The rights-of-way of any public road that is contiguous with the property.
 - h) Any overhead utility lines.
 - i) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity (SWES-Electric).
 - j) Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with the applicable electric utility provider.
 - k) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
 - l) Electric components in sufficient detail to allow for a determination that the manner of installation conforms to the applicable Building Code (SWES-Electric).
 - m) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
 - n) A notarized list of all abutters to the applicant's property, prepared no more than thirty (30) days prior to submission.
 - o) Scaled plans or drawings showing the location and distance in feet of any abutter's structures within five hundred (500) feet of the proposed tower.
- 3) **Abutter and Regional Notification:**
 - a) When the Planning Board receives an Application for a Small Wind Energy System, which includes a listing of abutters and appropriate fees, the Board shall notify all abutters and the local governing body by certified mail of a Public Hearing. In accordance with RSA 674:66, the Public Hearing must be scheduled at least thirty (30) days after notification and indicate that the applicant is making application for a Conditional Use Permit to construct a small wind energy system.
 - b) The Board shall also review the application for regional impacts per RSA 36:55 and if determined to have potential impacts, the Planning Board shall follow the procedures set forth in RSA 36:57, IV.
 - c) At the aforementioned Public Hearing, the Planning Board will first determine that the application is complete, as detailed in Section 2 above. Any written comments received that bear on the completeness of the application will be read aloud, and the applicant may speak to the completeness of the application, followed by members of the public and/or regional representatives.
 - d) Upon closing the discussions with the applicant and public, the Planning Board will determine if the application, as presented, is complete. If not complete, the application will be returned to the applicant with information detailing the missing information. If found to be complete, the Board may reopen the Public Hearing for discussion on the merits of the application or may adjourn the Public Hearing to a determined time and place.
 - e) The Public Hearing shall allow the applicant to describe the proposal and respond to any questions from the Board. Prior to opening the hearing to comments from the abutters, local and regional officials and the public, any submitted written comments will be read by the secretary.
 - f) Upon completion of the period of comment by the public, the Board will close the public session, but may further question the applicant. The Board will then vote to approve, conditionally approve or

deny the application or adjourn to a later date for continued board review.

- g) The Board's decision will be made and transmitted to the applicant and the abutters within forty-five (45) days of the final adjournment of the public hearing. If the decision is to conditionally approve or to deny, the decision announcement will include all conditional requirements or the reason(s) for denial. The conditions or reasons for denial may be appealed to the Zoning Board of Adjustment, as provided in RSA 676-677, as amended.

D) Standards:

- 1) **Setbacks:** The setback shall be calculated based on the system height multiplied by the following standards:
Occupied building on Participating Landowner Property - 0
Occupied building on Abutting Property - 1.5
Property lines of Abutting Property - 1.25
Utility Lines - 1.1
Public Road - 1.5

Small wind energy systems must meet all setback requirements for principal structures within the zoning district in which the system will be located, except that guy wires used to support the tower are exempt from all setback requirements.
- 2) **Tower:** The tower shall be erected and maintained at the lowest feasible height. In no case shall the height of any tower exceed thirty-five (35) feet above the Average Tree Canopy Height, or One hundred (100) feet above ground, whichever is greater.
- 3) **Sound level:** The small wind energy system shall not emit sounds that exceed fifty-five (55) decibels using a scale (dBA) as measured at the site property line, except during short-term events such as severe windstorms and utility outages.
- 4) **Shadow Flicker:** Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than thirty (30) hours per year of occurrences of shadow flicker on the abutting residential buildings. The applicant bears the burden of proving that the shadow flicker will not have a significant adverse impact on adjacent or neighboring uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
- 5) **Signs:** All signs including flags, streamers, and decorative items, both temporary and permanent, are prohibited on the small wind energy systems, except for manufacturer identification or approved warning signs.
- 6) **Code Compliance:** The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
- 7) **Aviation:** The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, Subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-B, as amended.
- 8) **Visual Impacts:** It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the applicant's access to the optimal wind resources on the property.
 - a) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground except when the financial costs are prohibitive.
 - b) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white, or gray.
 - c) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA

determination to establish the required markings and/or lights for the small wind energy system.

- 9) Approved Wind Generators: (SWES-Electric). The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the State of New Hampshire, if available.
- 10) Utility Connection: (SWES-Electric) If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to the provisions of RSA 362-A:9, as amended.
- 11) Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- 12) Clearing: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations and ordinances.

E) Abandonment:

- 1) At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the Planning Board by certified U.S. Mail of the proposed date of abandonment or discontinuance of operations.
- 2) Upon the abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within ninety (90) days from the date of abandonment or discontinuance of use. The period may be extended at the request of the owner and at the discretion of the Planning Board. "Physically remove" shall include but not be limited to:
 - a) Removal of the wind generator and tower and related above-grade structures.
 - b) Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading, or below-ground foundation may remain in its same condition that existed at the time of initiation of abandonment.
- 3) In the event that an owner fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous twelve (12) month period. After twelve (12) months of inoperability, the Planning Board may issue a Notice of Abandonment to the owners of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. After reviewing the information provided by the owner, the Planning Board shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the Planning Board shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
- 4) If the owner fails to respond to the Notice of Abandonment or if, after review by the Planning Board, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator within three (3) months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the Board of Selectmen may pursue legal action to have the small wind energy system removed by the town at the owner's expense.

F) Violation:

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance. Small wind energy systems installed prior to the adoption of the ordinance are exempt from this ordinance except when modifications are proposed to the small wind energy system, or if such small wind energy system has not been operated for a period of twelve (12) months, which would invoke Section E: Abandonment.

G) Penalties:

Any person who fails to comply with any provision of this ordinance or a Conditional Use Permit or a Notice of

Abandonment issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by RSA 676:17 and 676:17-a.

H) Separability:

If any section, clause, provision, or portion of these regulations is held to be invalid or unconstitutional by any court or competent authority, such holding shall not invalidate any other section, clause, provision, or portion of this regulation.

ARTICLE XXII: Accessory Dwelling Units

A) Purpose:

For the purpose of providing expanding housing opportunities and flexibility in household arrangements, accessory dwelling units shall be permitted in any residential district in conformance with this article, and with the purpose and authority granted under New Hampshire RSA 674:71-73 effective July 1, 2025, or as subsequently amended.

B) Definitions: Accessory Dwellings Units:

Accessory Dwelling Unit (ADU) means a residential living unit that is located on a lot containing a single-family dwelling, that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling unit it accompanies. ADUs may be constructed at the same time as the principal dwelling unit.

Attached ADU means a unit that is within or physically connected to the principal dwelling unit, or completely contained within a pre-existing detached structure.

Detached ADU means a unit that is neither within nor physically connected to the principal dwelling unit, nor completely contained within a pre-existing detached structure.

Memorandum of Adequate Notice means a document filed in the Hillsborough County Registry of Deeds that gives notice of the conditions of approval for a Conditional Use Permit for an ADU to be granted to the owner(s) of the subject property as imposed by the Sharon Planning Board.

Owner - for the purpose of this article, an owner shall be the individuals or entities named on the property deeds and/or town records as having an obligation for property taxes on the property where the ADU is located. For those properties owned by a corporation, limited liability company, partnership, family trust or other entity, there must be one or more individuals designated as the authorized representative of the ownership entity. Ownership of the property cannot be as a condominium or cooperative.

Principal Residence - for the purpose of this article, the principal resident shall be considered as the property wherein the individual owner(s) or a designated representative(s) of the ownership entity (as defined above) resides for the majority of the year (a minimum of 183 days within a calendar year).

C) Requirements and Limitations:

- 1) **Owner Occupied:** Either the principal dwelling unit or the ADU shall be occupied as a Principal Residence.
- 2) **Only one ADU**, either attached or detached, shall be allowed per principal, single-family dwelling unit on the property. No ADU shall have more than two (2) bedrooms. Occupancy of the bedrooms within the ADU must conform to the policy adopted by the United States Department of Housing and Urban Development, as outlined in the "Keating Memoranda" dated February 21, 1991, and March 20, 1991.
- 3) **Attached ADUs** shall have either an independent means of ingress and egress or ingress and egress through a common space shared with the principal dwelling unit. Any new entrances or exits shall be located to the side or rear of the principal structure whenever possible.
- 4) **The ADU** shall have an area no greater than Seven Hundred and Fifty (750) square feet, measured by the

outside dimension of an exterior wall of a detached ADU or the interior dimension of an attached ADU. There must be an internal door between the principal dwelling unit and an ADU. Such door shall be lockable, and the resident owner(s) or owner's designated resident representative shall retain a key.

- 5) Attached ADUs shall be designed to allow for re-incorporation of the ADU into the principal dwelling unit and must share internal heated living space access through a common wall.
- 6) Each ADU must have at least two (2) access/egress routes, and each unit must be equipped with fire alarm and carbon monoxide warning systems.
- 7) As required by RSA 485-A:38, the owner(s) shall submit an application for approval of a newly-designed or newly approved sewage disposal system to the NH Department of Environmental Services (NHDES) prior to adding an ADU. The newly designed or approved system does not have to be installed unless the property's existing sewage disposal system is in failure or never received state approval. If the existing sewage system is in failure or never received State approval, a newly-designed sewage disposal system approved by the NHDES must be installed prior to receipt of a Conditional Use Permit. Copies of the NHDES approval(s) must be provided to the Planning Board prior to final approval of an ADU.
- 8) The existing or proposed water source must indicate sufficient volume and recharge capability to service the combined residence and ADU.
- 9) At least one (1) off-street parking space must be provided for the ADU, and adequate provisions must exist for ingress, egress and turning of vehicles on the property. Both the principal residence and ADU must share a single curb or driveway break.
- 10) The practice of renting or leasing of either the principal residence and/or the ADU for periods less than thirty-two days must be treated as a Bed and Breakfast and be pre-approved by the Zoning Board of Adjustment pursuant to the requirements for such usage.

D) Owner Occupied:

- 1) The principal dwelling unit or the ADU shall be owner-occupied, as required in Section C)1).
- 2) If the Owner cannot comply with this provision due to hardship, such as, but not limited to, job relocation, medical/family emergency, or military deployment, the Owner may apply to the Zoning Board of Adjustment for a Special Exception. Such relief may be reviewed by the Zoning Board of Adjustment annually, but may not be extended for a continuous term greater than two (2) years without a new application and approval.
- 3) During any period when the residence and/or ADU is not owner-occupied, adequate provision shall be made for performance of the Owner's responsibilities, including property maintenance and adherence to the provisions of this Article, and as may be required in the Zoning Board of Adjustment's Special Exception approval.

E) Existing Accessory Dwelling Units:

- 1) To be considered a legal non-conforming ADU, it must have been constructed or installed prior to March 9, 2010. Upon application to the Planning Board for such determination, the Board will review the application, and consider such factors as the adequacy of proof of the construction or installation of the ADU prior to such date, whether the unit meets the safety, sanitation and building codes and complies with all the State requirements, prior to the granting of a Conditional Use Permit (which will indicate that such unit is a "Legal Non-conforming Accessory Dwelling Unit."
- 2) Any ADU constructed after March 9, 2010, being contrary to the Zoning Ordinance in effect at that time, shall require an application to the Planning Board for review of compliance with the foregoing regulations, and shall include requests for any necessary waivers of applicable requirements. Such application shall be accompanied by a "Memorandum of Adequate Notice" filed at the Hillsborough County Registry of Deeds, the filing fee, a plan showing all relevant details about the ADU, and any other documentation requested by the Board to enable it to evaluate the application.

F) Failure to Comply:

If an Owner fails to comply with the requirement of this article, the use of the ADU shall be terminated within six (6) months following the date of written notice of noncompliance from the Town Administrator. The Owner shall then be subject, under the provisions of RSA 676:17, to the civil penalty for each day that such noncompliance is found to continue after the date the Owner receives notice thereof. Each day that a violation continues shall be considered a separate offense.

G) Preliminary Review:

- 1) All applicants are encouraged to participate in a preliminary review with the Planning Board, the purpose of which is to discuss the proposed ADU plan in conceptual terms, to acquaint the applicants with the application process and information that the Planning Board may request, to suggest methods for resolving any problems in the development design and layout, and to make the potential applicant aware of any pertinent conditions that might impact the property in question.
- 2) Such a preliminary review shall not invoke the jurisdiction of the Planning Board. As such, no processing time limits, as delineated in RSA 676: 4 shall apply, the preliminary review being informational only and not binding on an applicant or the Planning Board. An applicant desiring to participate in a preliminary review should advise the Board in writing, at least ten (10) days prior to a scheduled Board meeting.

H) Application:

- 1) All Applications for a Conditional Use Permit for an ADU shall be made on forms supplied by the Town Administrator or as available on the Town's Website and shall be submitted to the Planning Board together with applicable fees, supporting documentation, and requests for waivers. Such applications must be received by the Planning Board at least twenty-one (21) days prior to a scheduled board meeting.
- 2) Upon receipt of an Application for a Conditional Use Permit for an ADU, the Planning Board will review the application and determine if all necessary information has been provided. If all information has been provided, the Planning Board will schedule a Public Hearing on the merits of the application, which will be duly noticed, and with certified letters (return receipt requested) forwarded to all listed abutters.
- 3) If an application is found incomplete, the applicant will be advised in writing of the insufficient items within five (5) business days. The applicant may then amend the application by providing the missing items or may withdraw the application.

I) Standard for Review:

- 1) In reviewing a proposed application, the Planning Board shall take into consideration the basic objectives of the Zoning and Building Ordinance and the specific objectives set forth in this article. In order to be approved, the proposed project must conform with the regulations of this article and with the purpose and provisions of New Hampshire RSA 674:71-73 effective July 1, 2025, or as subsequently amended.
- 2)

In reviewing an application regarding adequate provisions of off-street parking, the Planning Board shall require that:

- a) Each vehicle parking space shall not be less than two hundred (200) square feet, and not less than ten (10) feet wide. In addition, there shall be provided adequate entrance and exit driveways interior to connect each parking space with the public right-of-way.
- b) All such off-street parking and driveway areas shall be so drained as to prevent damage to abutting properties and public streets and shall be designed and installed in accord with standards set forth by the Planning Board in regard to the grade of each parking space, and the surface treatment and marking of the parking and driving areas. Such areas shall be properly maintained to ensure continuing compliance with the Board's requirements.

J) Approval:

- 1) A Conditional Use Permit will be issued to the Owner(s) when, in the opinion of the Planning Board, the proposed use fulfills the intent and criteria for ADUs set forth herein and a “Memorandum of Adequate Notice” has been recorded at the Hillsborough County Registry of Deeds.
- 2) The Planning Board may attach such conditions to the approval of an ADU application as it deems reasonable and necessary to assure that the proposed use will be consistent with the purpose, intent and provisions of these regulations.

K) Waivers:

The Board may waive any portion of this Ordinance if it finds, by majority vote, that:

- 1) Strict conformity would pose an unnecessary hardship to the applicant and such waiver would not be contrary to the spirit and intent of the Ordinance; or
- 2) Specific circumstances relative to the ADU plan, or the conditions of the property where the ADU would be located, indicate that the waiver will adequately carry out the spirit and intent of the Ordinance.
- 3) No motor home, pick-up camper or travel trailer shall be considered for approval as an ADU.
- 4) The basis for any waiver granted by the Planning Board shall be recorded in the minutes of the board.

Article XXIII: Solar Collection Systems

A) Authority and Purpose

The Article XXII: Solar Collection Systems is enacted in accordance with RSA 674:17(I)(j), and the purposes outlined in RSA 672:1-III-a as amended. The purpose of this Article is to accommodate solar energy collection systems and distributed generation resources in appropriate locations, while protecting the public’s health, safety and welfare. The Town of Sharon intends to facilitate the State and National goals of developing clean, safe, renewable energy resources in accordance with the enumerated policies of NH RSA 362-F and 374-G that include national security and economic and environmental sustainability.

B) Definitions: Solar Collection Systems:

Residential renewable energy system: A residential renewable energy system is defined as a solar electric system designed to provide power for the principal use of the property on which the energy system is located. It shall not be used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated to the local utility company or the storage of such excess energy by the installation of batteries or similar devices. Such systems of up to 30kW shall be allowed as a right, requiring only compliance with setbacks. A building permit and electrical inspection may be required to ensure compliance with electrical and building code provisions.

Shared Solar Energy System: A solar energy system that serves a group of local energy users situated on one or more separate lots, which are not necessarily contiguous. These systems may be connected to privately owned distribution lines or utility owned distribution or transmission lines. Users are typically connected to the shared system through a group net metering agreement, power purchasing agreement, or other similar agreement or method.

All other solar: Systems intended to provide power for non-residential use, or intended primarily to produce power for sale, shall be allowed in all zoning districts but are subject to a modified site plan review by the Planning Board and use permitted by a Conditional Use Permit.

C) Specific Solar System Requirements and Exemptions:

- 1) Any Solar Collection system must meet all setbacks and heights regulations of the Town of Sharon.
- 2) Any Solar Collection system must meet all State and Federal requirements.
- 3) The applicant must provide notice of the expected output (kW).
- 4) If connected to a utility, copies of the utility approval must be provided.
- 5) For a roof-mounted solar array no further review is required.
- 6) Freestanding solar array shall be allowed by Application for site plan review (detailed below) to the Planning Board.
- 7) **Municipal Systems:** All solar collection systems for municipal use are exempt from land use regulations pursuant to NH RSA 674:54.
- 8) **Shared-Solar Energy System:** Together with the requirements listed below, the application must include a certified copy of the agreement of all principals involved with the collaboration, detailing the intended management of the system, the ongoing financial requirements and the procedure regarding the change.
- 9) Details of ownership or withdrawal of any principals.

D) Application Requirements:

Application for site plan review shall be submitted to and processed by the Planning Board in the same manner as applications for subdivision approval. (See Section III, Sharon Land Subdivision Control Regulations.). A completed application shall consist of the following items unless a written request for waiver(s) is granted by the Board.

- 1) A completed application form, accompanied by:
 - a) Names and addresses of all abutters, as defined in Sharon's Zoning and Building Ordinance, Article III, Definitions,
 - b) A letter of authorization from the owner, if the applicant is not the owner,
 - c) Names and addresses of all holders of conservation, preservation, or agricultural preservation restrictions,
 - d) Payment to cover filing and notification fees, and
 - e) Six (6) paper copies of the plan.
- 2) The plan shall have the following information:
 - a) Names & addresses of owner(s) of record; name & address of applicant, if different from owner; tax map and lot number(s).
 - b) Signature, license number, and/or seal of the preparer of the plan, and every engineer, architect, land surveyor, and soil scientist whose professional seal appears on the plan.
 - c) Lot lines for parent lot(s) with metes & bounds description showing dimensions to the hundredths of a foot, bearings to at least minutes, and curve data.
 - d) Approximate location of driveways and/or roads to abutting properties within 200' of the site.
 - e) Location of buildings and location of all applicable setbacks.
 - f) Natural Features/Environmental Conditions: including location of any rivers, streams, ponds, lakes, or other watercourses or bodies of water, wetlands and location of open space and wooded areas.
 - g) Location and height (in feet) of all buildings and any other structures on the site.
 - h) Location and type of existing easements and location of stone walls, architectural or historic features.

E) Standards for review and approval:

- 1) In reviewing the proposed project, the Planning Board shall take into consideration the basic objectives of the Zoning and Building Ordinance of the Town of Sharon. Special note shall be taken of the zone in which the proposed activity covered by the site plan is to take place, and the review of the site plan shall be in accord with the objective indicated by, and for that zone.
- 2) The project may be approved when, in the opinion of the Planning Board, the proposal fulfills the intent and

criteria set forth herein.

- 3) **The Planning Board may attach such conditions to the approval as it deems reasonable and necessary to assure that the proposed use will be consistent with the purpose and intent of these regulations.**
- 4) **No deviation from the plans so approved shall be permitted without the prior approval of the Planning Board. Any such deviation without approval shall serve automatically to revoke the Project Plan Approval and shall constitute a violation of these regulations.**

F) Waivers:

The Board may waive any portion of these regulations if the Board finds, by majority vote, that:

- 1) **Strict conformity would post an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or**
- 2) **Specific circumstances relative to the site plan, or conditions of the land in such location, indicate that the waiver will properly carry out the spirit and intent of the regulations.**

G) Amendments:

These regulations may be amended from time to time by majority vote of the Planning Board following a duly noticed public hearing as specified in NH RSA 675:6.

Article XXIV: Repealed Articles

1. **Cluster Development: Repealed March 1988**
2. **General District: Repealed March 2001**
3. **Timber Harvesting: Repealed March 11, 2014**

END