

# Town of Lempster

## Zoning Ordinance



Prepared by the Lempster Planning Board  
With assistance from the Upper Valley Lake Sunapee Regional Planning Commission

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**ARTICLE I –PREAMBLE.**

In pursuance of authority conferred by the New Hampshire Revised Statutes Annotated, Chapter 674, as amended, and for the purpose of promoting the health, safety and general welfare, as well as efficiency and economy in the process of development of the incorporated Town of Lempster, New Hampshire by providing a safe environment, adequate areas between buildings and various rights of way, by the adequate provision of public utilities and other public requirements, and by other means, now, therefore, the following ordinance is hereby enacted by the voters of the Town of Lempster, New Hampshire, on December 6, 2008.

**ARTICLE II- DISTRICTS.**

For the purpose of this ordinance, the Town of Lempster is divided into the following districts (See Zoning District Map, Appendix A):

- A. Village District.
  - 1. Lempster Street Village
  - 2. East Lempster Village (Route 10/2nd NH Turnpike area)
- B. Rural Residential District.
- C. Conservation Overlay District.
- D. Floodplain Overlay District.

**ARTICLE III- VILLAGE DISTRICT.**

The purpose of establishing the Village District is to preserve the historic, colonial atmosphere of the existing villages and to foster an environment with a mix of residential, commercial, recreational and civic land uses.

- A. Permitted Uses.
  - 1. Single and two family dwellings with private garages and accessory structures.
  - 2. Churches and religious institutions, municipal buildings, parks and playgrounds and schools, public or private.
  - 3. Existing structures may be used to accommodate such customary uses by the owner or tenant as offices for doctors, lawyers, real estate and insurance or other recognized professions, home occupations, and restaurants except that the number of persons employed at any one location shall not number more than five persons in addition to the owner or tenant.
  - 4. Farm and garden activities are permitted when incidental to primary residential use, and home food and garden produce may be exposed for sale in this district, provided that such use is in no way injurious, obnoxious or offensive to the neighborhood.
  - 5. Accessory apartment.

B. Uses Permitted by Conditional Use Permit.

1. Multifamily Dwelling (3 units plus)
2. Existing structures may be used to accommodate such customary uses by the owner or tenant as offices for doctors, lawyers, real estate and insurance or other recognized professions, home occupations, and restaurants employing more than 5 persons.
3. Clinic and social services
4. Auto Service Stations
5. Business and Personal Services
6. Daycare
7. Office/Studio
8. Restaurant
9. Cottage Industry
10. Retail Sales (excludes automotive sales)
11. Essential Services
12. Lodging (includes Bed and Breakfast)
13. Wireless communication facilities inside existing buildings
14. Government Uses
15. Nursing Homes
16. Institution
17. Small wind energy systems
18. Telecommunication and radio towers

C. Land Standards.

1. Lot Area.  
Lot area in the Village District shall be based on the capabilities of the soils to accommodate sewage disposal, however, the frontage of each lot shall not be less than seventy five (75) feet. This provision is designed to encourage small lot sizes in villages.
2. Setback Requirements.  
No building or other structure may be erected closer than fifteen (15) feet to the nearest edge of the abutting right of way or property line, except that a building may be erected closer to the abutting right of way if in conformity with the buildings on either side of the property. No building may be erected closer than fifteen (15) feet to any side or rear property line.
3. Principal Buildings and Uses.  
With subdivision approval from the Planning Board, a second dwelling or other principal use or principal building may be constructed on a lot providing soil capabilities allow and all other zoning requirements are met.

D. Boundaries of Village District.

1. East Lempster Village.  
Starting at a point on Lempster Mountain Road 0.23 mile east of the Lempster Mountain Road/NH Route 10 intersection, northeast 0.42 mile, then 0.33 mile northwest across NH Route 10, then south 0.07 mile to swamp, follow swamp southeast for 0.04 mile, then south for 0.15 mile, then 0.13 mile west to end of the swamp, then continue south across

the 2<sup>nd</sup> NH Turnpike 0.07 mile, then 0.11 mile west along the 2<sup>nd</sup> NH Turnpike before heading south 0.44 mile, then east 0.23 mile to the boundary of the 100-year floodplain (as mapped by FEMA 2006), follow the floodplain northeast 0.42 mile, then 0.12 mile east back to Lempster Mountain Road.

2. Lempster Street Village.  
Lempster Street Village includes a rectangle-shaped area around the historic Lempster Street. Starting on Allen Road 0.26 mile west of the Allen Road/Lempster Street intersection and heading north 0.56 mile, then east 0.46 mile across Lempster Street, then 0.83 mile south, then 0.46 mile west across Lempster Street before enclosing the district by direct north 0.29 mile.

#### **ARTICLE IV- RURAL RESIDENTIAL DISTRICT.**

The purpose for establishing a Rural Residential District is to provide ample area for pursuit of rural housing and agriculture, including, but not limited to, dairy farming, poultry raising and forest products. Within this district it is expected that residential living will respect the natural environment, open spaces and the working landscape.

##### **A. Permitted Uses.**

A building or other structure may be erected, altered or used, and a lot may be used or occupied only for the following purposes and in accordance with the following provisions:

1. Single and two family dwellings with private garages and accessory structures
2. Agricultural activities excluding pelt ranching and swine farms
3. Agricultural buildings
4. Roadside stands for the sale of agricultural products raised on the premises
5. Stables and riding academies
6. Plant nurseries and greenhouses
7. Accessory apartment
8. Manufactured housing
9. Home occupations

##### **B. Uses Permitted by Conditional Use Permit.**

1. Government Uses
2. Recreational facilities
3. Cottage Industry
4. Sawmill
5. Resource excavation
6. Bed and Breakfast
7. Campgrounds
8. Camouflaged wireless communication facilities
9. Kennels
10. Signs up to 32 square feet and alteration of required sign setbacks.
11. Small wind energy systems
12. Daycare
13. Telecommunication and radio towers
14. Retail sales accessory to permitted or conditionally permitted uses not to exceed 1,000 square feet (no automotive sales)

C. Land Standards.

1. Lot Area.

The lot area requirement for the Rural Residential District shall be not less than five (5) acres and every lot shall have a minimum frontage of three hundred (300) feet.

a) Owners of lots of record between 6-10 acres at the time of the initial adoption of this ordinance may be eligible for a one time reduced lot size subdivision in the Rural Residential District. No more than two (2) lots may be created and neither lot may be less than 2.75 acres. The subdivision application shall be filed with the Planning Board within five (5) years of the initial adoption of this ordinance and must meet all other zoning standards, subdivision regulations, and subdivision review by the Planning Board.

2. Setback Requirements.

No building or other structure shall be erected closer than fifty (50) feet to the nearest edge of the abutting right of way nor closer than fifty (50) feet to any side or rear property line.

3. Principal Buildings and Uses.

With subdivision approval from the Planning Board, a second dwelling or other principal use or principal building may be constructed on a lot provided that the lot area and lot frontage are twice the minimum required for the district and all other zoning requirements are met. Otherwise, only one principal building or use will be permitted per lot.

D. Boundaries of Rural Residential District.

The Rural Residential District shall comprise all lands in the Town not specifically allotted to the Village Districts.

E. Lot Size Averaging.

Lot size averaging provisions may be used on existing lots of record that are 10 acres in size and greater within the Rural Residential District. The Planning Board may approve reduced lot sizes, frontage requirements, and/or setbacks in accordance with the following provisions (See Lot Size Averaging Illustration, Appendix B):

1. Objectives.

Lot Size Averaging permits flexibility in subdivision design to promote the most appropriate use of land and the protection of productive agricultural or forest land, scenic views, historic sites, shorelines, wetlands, important habitat areas, or other resources of importance to the community, in accordance with the objectives of the Master Plan.

2. Density.

The total number of lots approved will be determined based on the number which would be otherwise approved under a conventional subdivision plan. This must be demonstrated by the subdivider with the submission of a plan showing lots meeting the usual minimum standards for the District and accounting for development limitations such as steep slopes, wetlands, septic suitability, available water supply, access, and compliance with the Lempster Subdivision Regulations. The area to be used for road right-of-way or other utility rights-of-way or other areas not incorporated in individual lots shall be excluded from the acreage figure used in the density calculation.

Subdivisions proposed on existing lots that are fifty (50) acres or greater are eligible for a ten percent (10%) density bonus when permitted by the Board. A minimum of forty

percent (40%) of the total lot area must be permanently protected by conservation easement (Permanently Protected Area) in order to obtain the density bonus. The density bonus is to be in the form of additional lots.

3. Dimensions.

The minimum lot size, frontage and setbacks shall be determined by the Planning Board based on the character of the land and neighborhood, the adequacy of the soils to support on-site wastewater disposal and wells, safety of access and traffic circulation, and other issues relating to the future use and enjoyment of the property. In no case will lots smaller than one acre be permitted. The setbacks from abutting properties not part of the application shall not be reduced. Front setbacks may be reduced only when on an internal subdivision road approved by the Planning Board as part of the subdivision application. When frontage requirements are reduced, the Planning Board may require shared driveways.

4. Permanently Protected Area.

The minimum amount of Permanent Protected Area shall be equal to the total area that individual lots are reduced below the minimum lot size for the District. The Lot Size Averaging plan will concentrate development away from the most important resource areas and from those areas of the property which are most environmentally sensitive. The permanently protected portion of the lot shall be of sufficient size and configuration to accomplish the objectives of the Lot Size Averaging provisions. Further subdivision, or use for other than noncommercial outdoor recreation, conservation, agriculture or forestry shall be prohibited. The Planning Board may allow wells and water lines if in accordance with the objectives of the lot size averaging provisions.

5. Management of Permanently Protected Area.

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

## **ARTICLE V- CONSERVATION OVERLAY DISTRICT.**

The purpose of the Conservation Overlay District is to preserve and protect the town's surface waters and wetlands by permitting only those uses which can be harmoniously, appropriately and safely located adjacent to surface waters and steep slopes with due regard to erosion and water quality and other values.

A. Uses Permitted.

Permitted uses are those which do not involve the erection or construction of any buildings or other structures, do not alter the natural surface configuration by cut and/or fill or by excavation or dredging or other means. Such uses include:

1. residential uses (no structures), such as lawns, gardens or play areas;
2. agriculture using Best Management Practices to protect surface water from damage from soil erosion or otherwise;
3. forestry, tree farming and nurseries using Best Management Practices to protect surface water from damage from soil erosion or otherwise;
4. parks and outdoor recreation consistent with the purpose and provisions of the zone;
5. foot, bicycle or bridle paths; and
6. conservation of water, plants and/or wildlife.

B. Conditional Use Permits.

Conditional Use Permits may be granted by the Planning Board for undertaking the following uses in the Conservation Overlay District provided the use complies with the purpose of the Conservation Overlay District; an erosion and sedimentation control plan is submitted demonstrating the proposed use will not impair water quality during or after construction; and the Board provides for and considers written review of the proposal by the Conservation Commission.

1. Wells and water lines.
2. Water impoundments, if the Planning Board finds that the impoundment will not unreasonably interfere with the functioning of natural systems or that the environmental benefits of the impoundment outweigh the adverse impacts.
3. Non-commercial, non-residential water dependent uses, such as docks, boathouses and access points. Such uses shall be located and constructed so as to cause the least practicable damage to the surface water.
4. Road crossings of water courses, access ways and rights of way for overhead transmission lines if located and constructed so as to cause the least reasonably practicable damage to the surface water and only if there is no feasible alternative location.
5. Mining and Excavation (on steep slopes only). Surface and tunnel mining, including excavation of sand and gravel and rock quarrying, shall be permitted provided such proposed operations receive an environmental impact study report that is deemed favorable by the Planning Board. Such operations must also apply for and be issued an Excavation Permit from the town. In the case of disturbance, removal or relocation of large quantities of earth or rock as in mining, sand/gravel/rock quarrying or the like, a plan for run-off, erosion, water pollution and sedimentation control and soil reclamation and stabilization must be submitted to and approved by the Planning Board as specified in the Excavation Regulations of the Town of Lempster. Other requirements, inspection and compliance as established in RSA 155-E are specified in the Excavation Regulations of the Town of Lempster.

C. Boundaries of Conservation Overlay District.

The Conservation District shall be an overlay zone including all streambanks and shores of all natural ponds, lakes, and perennial streams to a distance of one hundred (100) feet back from maximum high water level; and all wetlands and an area one hundred (100) feet from their perimeter; and all slopes twenty-five (25) percent or greater. Note that additional state regulations may apply e.g. state wetland permits and the State Shoreland Protection Act.

**ARTICLE VI- FLOODPLAIN OVERLAY DISTRICT.**

A. Purpose.

Certain areas of the Town of Lempster, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form



of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Lempster, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.

This Ordinance establishes a permit system and review procedure for development activities in the designated flood hazard areas of the Town of Lempster, New Hampshire.

B. Establishment.

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

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the Town of Lempster, NH" dated May 2006 or as amended, together with the associated (Flood Hazard Boundary Maps or Flood Insurance Rate Maps) dated May 23, 2006 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

C. Permits.

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

D. Construction Requirements.

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

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

E. Water and Sewer Systems.

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

F. Certification.

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

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

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

G. Other Permits.

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

H. Watercourses.

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Selectboard, in addition to the copies required by the RSA 482-A: 3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Selectboard, including notice of all scheduled hearings before the Wetlands Bureau.
2. The applicant shall submit to the Selectboard certification provided by a registered professional engineer assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The Selectboard shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

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

I. Special Flood Hazard Areas.

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

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

- e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
  - (i) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
  - (ii) the area is not a basement; and
  - (iii) shall be designed to automatically equalize hydrostatic flood forces on exterior walls

by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

J. Variances and Appeals.

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

Such notification shall be maintained with a record of all variance actions.
4. The community shall:
  - a. maintain a record of all variance actions, including their justification for their issuance; and
  - b. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

**ARTICLE VII- GENERAL PROVISIONS.**

- A. No owner or occupant of land in any district shall permit fire ruins or other ruins to be left, but within one year shall remove them or refill same to clear ground level or shall repair, rebuild or replace the building or structure.
- B. No land use shall be permitted in a manner which would:
  1. disturb the reasonable enjoyment of the current and anticipated uses of near-by properties or be adverse to public health or safety by reason of odor, fumes, dust, smoke, vibration, noise, light, glare, traffic, or any other cause;
  2. create a fire hazard;

3. create conditions which are disorderly or unsightly and thus detrimental to other properties or to the public;
4. result in the pollution of ground or surface waters;
5. permit toxic or hazardous substances to enter ground or surface waters or result in the pollution of the air including localized air pollution exceeding the state air quality standards;
6. result in soil erosion during or after construction or result in sedimentation of surface waters;
7. result in unreasonably increased traffic volume, speed, intensity or risk to public safety.

The Board of Selectmen shall have original authority to determine whether any use is in violation of any of the foregoing provisions and to order the removal or abatement of such use so found in violation.

Noise, odors and dust emitted by agricultural uses that were existent as of the date of enactment of this Ordinance are exempt from this provision.

- C. The sanitary systems in and from all dwellings and other buildings shall be constructed and maintained in accordance with the standards set and approved by the N.H. Department of Environmental Services and enforced by the Board of Selectmen. Occupancy of a building with running water connected shall not commence until an approved sanitary system is completed and operable. Disposal of waste from portable sanitary systems, such as those used in travel trailers, must be in accordance to all state and local laws.
- D. Permanent signs (erected thirty (30) days or more) shall be permitted no larger than six (6) square feet in any zoning district except as allowed by Conditional Use Permit in Article IV. Permits for permanent signs are issued by the Board of Selectmen. No sign shall be placed in such a position as to endanger traffic on a street by obscuring a clear view or by confusion with official street signs or signals. Every sign permitted hereunder shall be constructed of durable materials and shall be maintained in good condition and repair at all times. No neon, tubular gas, or privately owned flashing electric signs shall be allowed in any district. Permanent signs shall not be placed in the street right-of-way.
- E. Removal of Sand and Gravel.  
The removal of clay, sod, loam, sand or gravel is permitted either for private use or for sale, provided that all excavating, handling, processing and storage facilities shall be removed and the area shall be re-graded or otherwise covered to ensure that the premises are left in a safe and sightly condition and protected against erosion. Such removal and re-grading or covering shall be done within ninety (90) consecutive days after depletion of the deposit or completion of the work for which the deposit was opened and/or developed as a source of supply, or (b) two-hundred fifty (250) consecutive days after the last use of the deposit of a general source of supply. The removal of material shall comply with the requirements of RSA 155-E and the Town of Lempster excavation regulations.
- F. Travel Trailers/Recreation Vehicles/Mobile and Manufactured Homes.
  1. The use of land for the accommodation of trailers and/or mobile homes, whether on permanent foundations or not, is prohibited except as provided below in this Article. Any

property owner or lessee may accommodate trailer(s) of non-paying guest(s) for a period not exceeding ninety (90) days in one year. This Article applies only to trailers/Recreation vehicles and/or mobile homes utilized for residential purposes and is not intended to cover one trailer or one mobile home owned by a resident and stored or parked during periods of non-use on the premises of the owner. Multiple travel trailer/recreation vehicle storage is permitted by Conditional Use Permit in the Rural Residential District. This provision does not apply to campgrounds.

2. The Board of Selectmen may approve the temporary use of a trailer/recreation vehicles or mobile home to be maintained as living quarters by a person employed in adjoining construction work or timber harvest or for whom a residence is being built, or as an office, storeroom or shop in connection with the construction work, provided that such use is shown to be a temporary expedient and also that the use will conform to the sanitary protection requirements listed under Section C of this Article. Such approval requires a permit from the Board of Selectmen, which must be renewed on at least an annual basis.
  3. A manufactured home may be maintained as a residence in the Rural Residential District after obtaining a building permit from the Board of Selectmen. Said permit shall be granted only when the Board has been satisfied that the use will conform to the requirements of this Article, Section C, and that the provisions for lot size for each dwelling unit in Article IV have been met. All permanent manufactured homes must be on permanent foundations.
  4. Manufactured housing parks are prohibited.
- G. Junk yards and dumps must conform to New Hampshire State Laws as follows:
1. The use of land or buildings for motor vehicle, machinery or scrap metal junk yards is prohibited except that a motor vehicle junk yard may be allowed if licensed and in accordance with the standards set and enforced by RSA 236:91-129 and amendments thereto. Machinery and scrap metal junk yards may be allowed by prior permit from the Board of Selectmen if they meet the same requirements as are in force for a motor vehicle junk yard.
  2. The use of land for disposal of solid waste and refuse as defined in RSA 149-M and amendments thereto and including the provision for approval therefore as required in RSA 149-M.
  3. The selection of a public dumping place maintained or designated by the Board of Selectmen in accordance with RSA 149-M and amendments thereto shall not be affected by this Ordinance.
- H. Height Limits- No building or structure shall exceed thirty-five (35) feet in height as measured from the average ground level around the structure to the highest point on the roof, excluding chimneys, cupolas and antennas. Telecommunication and radio towers may not exceed one hundred feet (100') in height. Small wind energy systems may not exceed one hundred fifty feet (150') in tower height.

- I. Back Lot Development is permitted to preserve the unique rural character of the Town of Lempster. However, for private access in such cases to be granted, the following conditions must be met (See Back Lot Development Illustration, Appendix C):
  - 1. Only one back lot shall be created off of an existing lot of record that exists at the time of the adoption of this ordinance.
  - 2. The back lot shall have frontage on a Class V or better road. If the front lot has less than 350 feet frontage, an access easement may be allowed across said front lot provided that the easement connects to a Class V road or better. In the event the front lot has frontage of 350 feet or greater, the minimum 50-foot access must be part of the back lot. The plan identifying such a lot shall clearly indicate on it the private character of said access and shall be so recorded on the plan and on the deeds to both lots.
  - 3. In the case of an easement being granted over a lot with less than 350 feet frontage, only one curb cut will be allowed for both lots, whenever feasible. The access strip shall meet all the gradient and curvature requirements as specified in the Lempster Subdivision Regulations. All curb cuts are to be approved by the Planning Board or its agent.
  - 4. The back lot must have a width at the building line of at least 200 feet.
  - 5. The lot shall meet all other requirements of the zoning ordinance for its district, and the Lempster Subdivision Regulations. In addition, the area of the access shall not be included in determining the required lot size.
  - 6. No further subdivision of land shall be allowed without upgrading of the access way to town road standards specified in Lempster's Subdivision Regulations.
- J. If a lot lies in more than one district, each part of the lot shall be governed by the regulations of the district in which such part is located.
- K. Only the uses listed as Permitted, or permitted by Conditional Use Permit, or those uses that are legal nonconforming uses as specified in Article VIII shall be allowed.
- L. Any subdivision of land for development shall meet the requirements of Lempster Subdivision Regulations effective February 11, 1976, and recorded February 11, 1976, Vol. 567, Pg. 267, Sullivan County Registry of Deeds, and as amended by the Lempster Planning Board.

**ARTICLE VIII- NONCONFORMING LOTS, USES, BUILDINGS.**

- A. Nonconforming Lots.  
Lots in existence at the time of passage of this Ordinance with less frontage and/or area than otherwise required by this Ordinance may be built upon provided that the building or structure is in compliance with all other provisions of this Ordinance including setback requirements.
- B. Nonconforming Uses.
  - 1. Any lawful nonconforming use may be expanded or changed by Conditional Use Permit provided that all other zoning requirements are met and the Planning Board finds the expansion or change:

- a. is not substantial;
  - b. will not render the premises or property less adequate;
  - c. will not be less compatible with existing or future uses of neighboring properties;
  - d. will not have a more adverse affect on the character of the area; and
  - e. will not result in an increase in intensity considering such matters as traffic generated, number of employees, number of shifts, noise, odor, glare, vibration, dust or smoke.
2. If a nonconforming use is superseded by a permitted use or a use permitted by Conditional Use Permit, it shall thereafter conform to the regulations of the district and the nonconforming use shall not be resumed.
  3. When any existing nonconforming use of land or buildings has been discontinued for two consecutive years, the land and buildings shall thereafter be used only in conformity with this Ordinance.

C. Nonconforming Buildings and Structures.

Nonconforming buildings or structures may not be altered or expanded in any way which is not in full compliance with this Ordinance except as provided herein:

If an existing building or structure is in nonconformance by reason of encroachment into a required setback or conservation zone, alterations or additions within the required setback or conservation zone may be allowed by Conditional Use Permit provided the Planning Board finds that the alteration or addition:

1. can not reasonably be located in a manner which would be in compliance with the regulations;
2. will not result in an increased nonconformity by reason of increased encroachment into the required setback or conservation zone;
3. will not create or further unsafe conditions; and
4. will not impair the existing or future use or enjoyment of neighboring property.

D. Additional Requirements in Conservation District.

Additional requirements for obtaining Conditional Use Permits for changes, alterations, or expansions of nonconforming uses or buildings within the Conservation District are as follows:

1. the proposal complies with the purposes and provisions of the Conservation District to the fullest extent practicable;
2. an erosion and sedimentation control plan is submitted demonstrating that the change, alteration or expansion will not impair water quality during or after construction;
3. sewage loading to the Conservation District will not be increased; and
4. the Planning Board shall provide for and consider written review by the Conservation Commission.

**ARTICLE IX- CONDITIONAL USE PERMITS.**

Certain uses of land and structures are permitted only by Conditional Use Permit (RSA 674:21) and require approval by the Planning Board following public hearing and noticed per the requirements of RSA 676:4, I(d). In order for the Board to approve an application for a



Conditional Use Permit, the Conditional Use Permit must be expressly permitted by this ordinance, and the Board must find that all of the general and specific standards, conditions, and requirements for approval of the Conditional Use Permit are met. If more than one Conditional Use Permit is required for a proposal, the proposal must be reviewed and found to meet the following conditions for each and every Conditional Use Permit associated with the proposal. Any proposed development which depends on a Conditional Use Permit to be granted for a particular element of the proposal, then becomes subject to Conditional Use Permit review of every aspect of the proposal.

In addition to all applicable specific standards, conditions, and requirements set forth elsewhere in this ordinance, the following general standards, conditions, and requirements must be met by all Conditional Use Permits:

1. The use will be in harmony with the purposes and intent of this ordinance.
2. The use will be in harmony with the general purposes, goals, objectives, and standards of the Master Plan.
3. The site is an appropriate location for the use giving due consideration to such factors as topography, soils, surface and groundwater, vehicular access including internal access and the public road system serving the site, significant wildlife habitat and trails, and significant natural, scenic, or historic features or sites. Conservation Commission input will be considered and may be requested.
4. The use will be compatible with neighboring developed and open space land uses, present and prospective.
5. The use will not adversely affect the character (including developed and open spaces) of the area or the character (including developed and open spaces) or value of neighboring properties.
6. The use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.
7. The use will not be hazardous or disturbing to existing or future neighboring developed or open space uses.
8. The use will not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any person or property, or to the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors. Operations in connection with the use shall not be more objectionable to nearby properties by reason of noise, fumes, odor, vibration, or otherwise than would be the operation of any permitted uses in the district which are not subject to Conditional Use Permit procedures.
9. The use will have vehicular approaches to the property which shall be so designed as not to create interference with traffic on surrounding public streets or roads.
10. The use will not result in the destruction or loss of, or damage to significant wildlife habitat and trails or significant natural, scenic, or historic features.
11. The use will be adequately served by and will not impose an undue burden on any public improvements, facilities, utilities, and services including roads, police and fire protection, schools, telephone and electric, solid waste disposal, and recreation facilities. Where any such improvements, facilities, utilities, or services are not available or adequate to service the proposed use in the proposed location, the applicant shall, as part of the application and as a condition to approval for the proposed Conditional Use Permit, be responsible for establishing the ability, willingness and binding commitment of the responsible public and private agencies and utilities to provide such improvements, facilities, utilities, and services in sufficient time to adequately service the proposed use

and in a manner consistent with the Master Plan, this ordinance, and other relevant plans, programs, maps and ordinances adopted by the town to guide its growth and development. The approval of the Conditional Use Permit shall be conditional upon such improvements, facilities, utilities, and services being provided.

12. The Planning Board shall have reviewed and approved the use if such review and approval is required by this ordinance.
13. The use will be adequately served by a parking area sized to accommodate the parking needs and circulation requirements of tenant, customers, employees, and delivery and other services. An adequate area shall be provided, or an adequate plan shall be made for snow storage and/or removal.
14. Review of small wind energy systems will be done according to RSA 674:63.

Before approving a Conditional Use Permit, the Board may impose such safeguards and requirements in addition to the specific requirements of this ordinance as it deems necessary or desirable to satisfy the general standards, conditions and requirements set forth above. Such safeguards and requirements may include but are not limited to the following:

1. Lot areas and road, side, or rear setbacks greater than the minimum requirements of this ordinance.
2. Screening of parking areas or other parts of the premises from adjoining premises or from roads by wall, fences, retention of tree cover, and other vegetation, plantings, or other devices.
3. Modification of the exterior features, appearance, or siding of structures.
4. Limitation of size, number of occupants, number of employees, method and time of operation or extent of facilities including limitation on building footprint, lot coverage, and gross floor area.
5. Regulation of the number, design, and location of drives or other traffic features.
6. Off street parking or loading spaces beyond the minimum requirements of this ordinance.
7. Limitation of the number, location, and size of signs and modification of the appearance of signs.
8. Control of exterior lighting.
9. Easements or building envelopes to limit or prohibit further development.
10. Innovative approaches to reducing and managing stormwater.

#### Fees.

The Planning Board may impose fees to cover its administrative expenses and costs of special investigative studies, review of documents, and other matters which may be required by particular applications and appeals. Such fees may be imposed by the Planning Board to cover fees and disbursements of consultants to the Planning Board, including but not limited to, engineers, surveyors, lawyers, and planners. Such fees shall be paid or provided for in advance to the satisfaction of the Planning Board.

### **ARTICLE X- ZONING BOARD OF ADJUSTMENT (ZBA).**

Within thirty (30) days after the adoption of this Ordinance the Board of Selectmen shall make appointments to a Zoning Board of Adjustment of five (5) members conforming in duties to the provisions of RSA 674:33 and amendments thereto. Each member must be a resident of the Town of Lempster. The term of an appointed member shall be three (3) years. The initial terms of members first appointed to the ZBA shall be staggered so that no more than two (2) members are elected annually except when

required to fill vacancies. (RSA 673:5, II).

When the term of each member expires, each new member shall be elected at the next regular municipal election for the term provided under RSA 673:5, II. The elected ZBA may appoint five (5) alternate members for a term of three (3) years each, which shall be staggered in the same manner as elected members pursuant to RSA 673:5, II.

This ZBA shall act with full powers granted to said Board by RSA 674:33 and 674:33-a and any other powers and responsibilities assigned to it by statute, ordinance or vote of Town Meeting. Such powers include the following:

A. Administrative Appeal.

The ZBA shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made in the administration or enforcement of this Ordinance. The ZBA may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from, and to that end shall have all the powers of the official from whom the appeal is taken.

B. Developments of Regional Impact.

Upon receipt of an application for a variance, the ZBA shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact.

Upon determination that a proposed development has a potential regional impact, the ZBA shall afford the Upper Valley Lake Sunapee Regional Planning Commission and the affected municipalities the status of abutters for the limited purpose of providing notice and giving testimony.

Within 144 hours of reaching a decision regarding a development of regional impact, the ZBA shall by certified mail, furnish the Regional Planning Commission and the affected municipalities with copies of the minutes of the meeting at which the decision was made. At that time, the ZBA shall also submit a set of plans to the Regional Planning Commission, the cost of which shall be born by the applicant. At least 14 days prior to public hearing, the ZBA shall notify, by certified mail, all affected municipalities and the Regional Planning Commission of the time, date, and place of the hearing and their right to testify concerning the development.

C. Variance.

The ZBA shall have the power to authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest, if, owing to extraordinary conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done.

The ZBA may, on an appeal, grant a variance from the provisions of this ordinance, but only if all the following facts are found by the ZBA and such findings are specified in its decision:

1. That the proposed use will not diminish surrounding property values.
2. That granting the variance will not be contrary to the public interest.
3. That the use will not be contrary to the spirit and intent of the ordinance.
4. That by granting the variance substantial justice will be done.

5. That denial of the variance would result in unnecessary hardship to the owner.

D. Fees.

The ZBA may impose fees to cover its administrative expenses and costs of special investigative studies, review of documents, and other matters which may be required by particular applications and appeals. Such fees may be imposed by the ZBA to cover fees and disbursements of consultants to the ZBA, including but not limited to, engineers, surveyors, lawyers, and planners. Such fees shall be paid or provided for in advance to the satisfaction of the ZBA.

**ARTICLE XI- ENFORCEMENT.**

A. The Board of Selectmen has the duty, power, and authority to enforce and administer the provisions of this Ordinance under the authority of RSA 676.

B. After passage of this Ordinance, it shall be unlawful to erect, relocate, or change the use of any dwelling, building or structure or alter any dwelling, building or structure without first obtaining appropriate permit(s) from the Board of Selectmen or authorized agent.

C. The Board of Selectmen or designee shall issue any and all permits requested when the building or structure or land use for which the permit is sought will be in accordance with the provisions of this Ordinance, or in accordance with any variance granted by the Zoning Board of Adjustment or Conditional Use Permit granted by the Planning Board.

D. Upon any well-founded information that this Ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of the Ordinance by seeking an injunction in the Superior Court or any other appropriate action.

**ARTICLE XII- AMENDMENTS.**

This Ordinance may be amended by a majority vote of any legal Town Meeting in accordance with the procedures provided by RSA 675 and amendments thereto.

**ARTICLE XIII- PENALTY.**

Every person, firm or corporation violating any of the provisions of this Ordinance shall be subject to the penalties as provided by law in RSA Chapter 676 and amendments thereto, and the Town shall be entitled to enforce this Ordinance by any of the remedies described in RSA 676 and amendments thereto.

**ARTICLE XIV- SAVING CLAUSE.**

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

**ARTICLE XV- EFFECTIVE DATE.**

This Ordinance shall take effect upon its adoption.

**ARTICLE XVI- GREATER RESTRICTION SECTION.**

If any provision of this ordinance differs or appears in conflict with any other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

**ARTICLE XVII- DEFINITIONS.**

The following definitions shall not be affected by the provisions of any other ordinance of the Town of Lempster.

**Abutter:** any person whose property adjoins or is directly across the street or stream or within 200 feet of the land under consideration by the planning board or any other local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term abutter shall also include any person who is able to demonstrate that their land will be directly affected by the proposal under consideration. The names of all abutters shall be obtained from the Town Tax List as it exists, not more than five days before the date of filing the application.

**Accessory apartment:** an independent living facility with provisions for complete housekeeping, incidental and attached to the primary residence.

**Accessory building:** a building subordinate to the main building on the lot and used for purposes customarily incidental to those of the main building. Accessory buildings do not include campers, trailers or manufactured housing.

**Agriculture:** See "Farm"

**Area of special flood hazard:** the land in the floodplain within the Town of Lempster subject to a one-percent or greater possibility of flooding in any given year. The area is designated as Zone A on the FHBM

**Average ground level:** the average natural ground elevation immediately (within 20 feet) surrounding the structure.

**Back Lot:** a lot that has limited or no road frontage and is sited with a lot in between said back lot and a Class V or better road.

**Base Flood:** the flood having a one-percent possibility of being equaled or exceeded in any given year.

**Basement:** any area of a building having its floor subgrade on all sides.

**Building line:** a line, formed by the face of a building, which is parallel to street or right-of-way and is used to establish the required setbacks for a building or structure.

**Building:** any structure for the shelter, support or enclosure of persons, animals or property of any kind. See "structure".

**Business and personal services:** establishments engaged in rendering services to businesses establishments and individuals on a fee or contract basis, such as advertising and mailing, and laundry, beauty shop, domestic services.

**Camouflage tower structure:** A tower or antenna that is designed to look like a structure which may commonly be found in the area surrounding a proposed facility such as, but not limited to, artificial trees, clock towers, bell towers, steeples, light poles and similar mounting structures that camouflage or conceal the presence of antennas or towers.

**Campground:** a plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.

**Cottage industry:** an establishment primarily engaged in the on-site production of goods by techniques that have a limited impact on adjoining development by virtue of either low development densities or their impacts in terms of noise, dust, traffic, vibration, light, glare, odor, fumes and smoke. Examples include: ceramic studios, custom jewelry, furniture and cabinet manufactures.

**Daycare:** establishment providing for the care, supervision and protection of children.

**Development:** any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operation or storage of equipment or materials.

**Dwelling:** a privately or publicly owned building containing a dwelling unit or dwelling units.

**Dwelling Unit:** one or more rooms arranged for the use by one or more individuals living as a single housekeeping unit, with cooking, living, sanitary, and sleeping facilities.

**Essential services:** services and utilities needed for the health, safety, and general welfare of the community, such as underground, surface or overhead electrical, gas, telephone, steam, water, sewerage, and other utilities and the equipment and appurtenances necessary for such systems to furnish an adequate level of service of the area in which it is located.

**Farm:** any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted. See RSA 21:34-a for a complete definition of the term "Farm."

**FEMA:** the Federal Emergency Management Agency.

**FHBM (Flood Hazard Boundary Map):** an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special flood hazards have been designated as Zone A.

**FIRM (Flood Insurance Rate Map):** an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community

**FIS (Flood Insurance Study):** an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

**Flood" or "Flooding:** a general and temporary condition of partial or complete inundation of normally dry land areas from:

- the overflow of inland or tidal waters, or
- the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood, also 100-year flood:** - see "base flood"

**Floodplain" or "Flood-prone area:** any land area susceptible to being inundated by water from any source (see definition of "Flooding").

**Flood proofing:** any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

**Floodway:** see "Regulatory Floodway".

**Frontage:** the length of the lot bordering on the public or private right-of-way. For clarification, frontage as used here refers to road frontage; lake or shore frontage is not considered frontage under this definition. The orientation of the house has no bearing on the determination of frontage.

**Functionally dependent use:** a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

**Highest adjacent grade:** the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structure:** any structure that is:

Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

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

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

- by an approved state program as determined by the Secretary of the Interior, or
- directly by the Secretary of the Interior in states without approved programs.

**Home occupation:** a use incidental and secondary to a property's primary residential use. A home occupation use shall not change the residential character of the property or the

neighborhood and shall meet all legal requirements.

**Institution:** a nonprofit, religious, or public use, such as a church, library, school, hospital or government owned building.

**Kennel:** A commercial establishment where five (5) or more dogs, wolf hybrids or domesticated animals are housed, groomed, bred, boarded, trained, or sold, for a fee or compensation.

**Lot of record:** land designated as a separate and distinct parcel in a legally recorded deed or plan filed in the records of Sullivan County, New Hampshire.

**Lot size averaging:** Development design process, implemented through subdivision, which concentrates buildings on a part of the site to allow the remaining land to be used for conservation, recreation, open space, and the preservation of environmentally sensitive features.

**Lowest floor:** the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**Manufactured home:** any structure that is built entirely in a factory under a federal building code administered by the United States Department of Housing and Urban Development, is transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing does not include pre-site built housing as defined in RSA 674:31-a.

For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

**Manufactured housing park:** any parcel of land under single or common ownership or control (or contiguous parcels) which contains, or is designed, laid out or adapted to accommodate 2 or more manufactured houses as defined in RSA 674:31 and 32.

**Mean sea level:** the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community's Flood Insurance Rate Maps are referenced.

**Mobile home:** factory built homes produced prior to 1976, when the national building code went into effect. (See definition of "Manufactured home")

**New construction:** for the purposes of determining insurance rates, structures for which "the start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management



regulation adopted by a community and includes any subsequent improvements to such structures.

**Nonconforming use:** the use of any building, structure or land which does not conform to the use regulations of the district in which it is located.

**Planning Board:** a Board of five (5) members elected and whose function, among other duties, is the study of and preparation of the Zoning Ordinance and any amendments thereto.

**Pelt ranch:** a place where livestock is raised for the purpose of harvesting their fur or pelt.

**Pre-site built housing:** any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development's minimum property standards and local building codes, for installation, or assembly and installation, on the building site. For the purposes of this definition, pre-site built housing does not include manufactured housing as defined in RSA 674:31.

**Recreational Vehicle** is a vehicle:

built on a single chassis;

400 square feet or less when measured at the largest horizontal projection;

designed to be self-propelled or permanently towable by a light duty truck; and

designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

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

**Retail sales:** an establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**Right of way:** includes all town, state and federal highways, rights of way dedicated to public use and the land on either side of same as covered by statutes to determine the widths of the rights of way. As applied to frontage and setback requirements, a right of way shall also include that of a street approved by the Planning Board as part of a subdivision.

**Sign (permanent):** a structure, building wall or other outdoor surface or any device used for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public, or to display, identify and publicize the name or product or service to any person and which is erected for thirty (30) or more days.

**Small wind energy systems:** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of 60 kilowatts or less and will be used primarily for onsite consumption. For the purpose of this ordinance, the term does not apply to roof-mounted or building integrated roof mounting systems.

**Social services:** establishments providing assistance and aid to those persons requiring counseling for psychological problems, employment, learning disabilities and physical disabilities.

**Special flood hazard area:** - see "Area of Special Flood Hazard"

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

**Steep slope:** Slopes that are 25 percent or greater with an elevation change of at least 25 feet over a horizontal distance of at least 100 feet. The slope of the natural terrain shall be determinative of whether or not land is within the Conservation Overlay District. As a general guide, areas of slope 25 percent and greater are portrayed on the Steep Slopes Map prepared by the Upper Valley Lake Sunapee Regional Planning Commission.

**Structure:** anything constructed or erected, the use of which requires location on or in the ground, or attachment to something having location on the ground. It includes a gas or liquid storage tank that is principally above ground, as well as a manufactured home, signs permanently affixed to the ground, tennis courts, swimming pools, bridges, dams, and utility facilities, but does not include ponds or pools exclusively used for landscaping, rural fire protection, agriculture, or forestry, lawn furniture, fences six (6) feet or less in height, stone walls, animal shelters under 15 square feet, children's swing sets, dumpsters, flagpoles, sandboxes, playhouses and other playground equipment, and television and data dishes six (6) feet or less in diameter for residential uses and business support uses. For floodplain management purposes only, "structure" means a walled and roofed building, including gas or liquid storage tank principally above ground, as well as a manufactured home.

**Substantial damage:** damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**Substantial improvement:** any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure. The market value of the structure should equal:

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

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

**Swine farm:** a confined area or structure, pen, or corral, used to fatten, breed or raise pigs prior to shipment.

**Tower:** any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular, personal communication service (PCS) and similar service towers, alternative tower structures, and the like.

**Travel Trailer:** a vehicular, portable structure build on a chassis, designed or used as a temporary dwelling for travel, recreation, and vacation uses.

**Variance:** A relaxation of the terms of the Zoning Ordinance where such Variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship.

**Violation:** the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under Section VI or Section IX(2)(b) of this ordinance is presumed to be in violation until such time as that documentation is provided.

**Water surface elevation:** the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains.

**Wetlands:** an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions." (RSA 482-A:2, X)

**Wireless communication facility:** a tower, pole, antenna, guy wire, or related fixtures or equipment intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic spectrum-based transmission/reception and the construction or improvement of a road, trail, building or structure incidental to a communications facility. Wireless Communication Facilities include Wireless Telecommunication Facilities excluding television and data dishes under six feet (6') in diameter for residential and business support use.

## APPENDICES

**APPENDIX A: Town of Lempster Zoning Map**

## **APPENDIX B: Lot Size Averaging Illustration**

## **APPENDIX C: Back-Lot Development Illustration**