

# **Town of Eaton**

# **Zoning Ordinance**



**2021**

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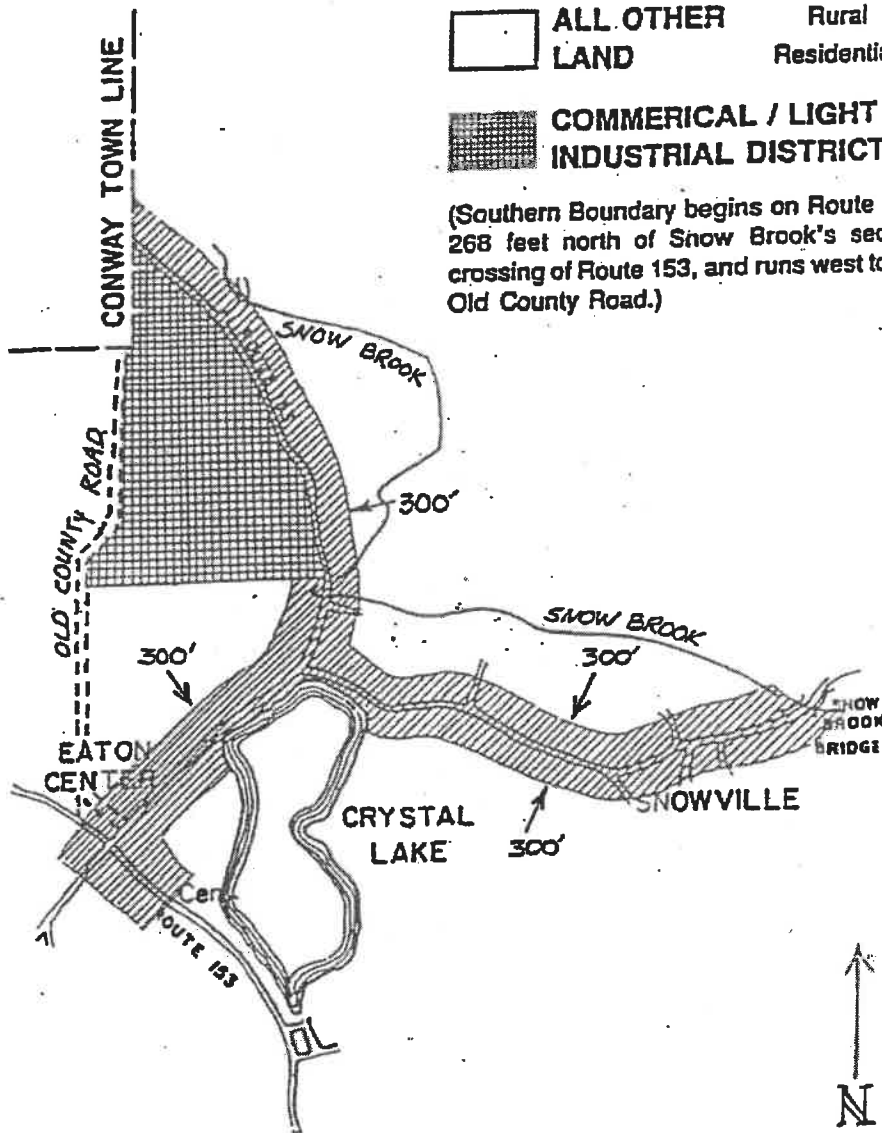
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# TOWN OF EATON ZONING MAP OF 1973

(As Amended in 1988)

- 
**VILLAGE DISTRICT**      300' either side of road
- 
**ALL OTHER LAND**      Rural Residential
- 
**COMMERICAL / LIGHT INDUSTRIAL DISTRICT**

(Southern Boundary begins on Route 153, 268 feet north of Snow Brook's second crossing of Route 153, and runs west to the Old County Road.)



# TOWN OF EATON ZONING ORDINANCE OF 1973

## ARTICLE I

- A. Preamble:** For the purpose of properly conserving and utilizing the lands and waters of Eaton, promoting the health, safety, morals, prosperity, convenience or general welfare, providing for efficient and economical administration of Town affairs, and preserving the rural character of Eaton, the following ordinance is hereby enacted by the voters of Eaton by authority of Chapters 672, 673, 674, 675, 676, 677, (formerly Chapters 31 and 36) of New Hampshire Revised Statutes Annotated 1983 as amended and by every other authority thereto enabling.
- B. Title:** This ordinance shall be known and may be cited as the Town of Eaton Zoning Ordinance of 1973, hereafter called "this Ordinance."

## ARTICLE II

- A. Districts:** For the purpose of this Ordinance the Town of Eaton is divided into the following three (3) zoning districts, hereafter called "district", with three (3) overlay zones, hereinafter called "zone": (As amended 3/14/89, 3/10/2020, 3/9/2021)
- Village (V) District
  - Rural Residential (RR) District
  - Wetland Conservation (WC) Overlay Zone
  - Commercial and Light Industrial (CI) District
  - Steep Slope Protection (SSP) Overlay Zone
  - Ridgeline Protection (RLP) Overlay Zone
- B. Zoning Maps:** The zoning districts and zones listed above shall be bounded as shown upon the map entitled "Town of Eaton Zoning Map of 1973 (as amended in 1988)", the "Town of Eaton Wetland Conservation Map of 1979", the "Steep Slope Protection Map of 2021" and the "Ridgeline Protection Overlay Map of 2021." The above four maps are considered and made part of this Ordinance. (Amended 3/14/89, 3/9/2021)
- C. Master Plan:** The Planning Board shall prepare, adopt and amend from time to time a Master Plan of the Town as defined in Revised Statutes Annotated Chapter 674:1, 2, 3 and 4 (formerly Chapter 36:13) which shall among other things, guide and accomplish the purposes of this Zoning Ordinance as set forth in the preamble above. The Planning Board shall prepare said Master Plan with all possible diligence and in any case shall have prepared and adopted said Master Plan no later than one (1) year from the date of the enactment of this Ordinance.

**D. Boundaries:** Unless otherwise indicated, boundaries of zoning districts and in the Master Plan are the center line of the legal right of way, the middle of the channel of waterways or bodies of water, or where such boundary is also a Town boundary then to the limits of such Town boundary. Where boundaries are so indicated as parallel in the centerline of the legal right of way, such boundaries shall be interpreted as parallel thereto and at the distance therefrom as shown on the zoning map and Master Plan. Any boundary within ten (10) feet of a property line shall be considered as the property line. The southern boundary for the Village District on the eastern side of Route 153 shall be the northern end of lot U-1, parcel 9 (the Little White Church). On the western side of Route 153, the boundary line for the Village District shall be on the southern end of lot U-1, lot 12. The southern boundary of the Commercial/Light Industrial District beings at the northern boundary line of lot R-3, lot 15 and runs west to the Old County Road. Where no dimension is given on the zoning map or Master Plan, distances shall be determined by use of the scale of the map or plan.

### **ARTICLE III INTERPRETATION AND APPLICATION**

**A. Interpretation:** In interpreting any provision of this Ordinance it shall be held as the minimum requirement. Whenever any requirement of this Ordinance is at a variance with the requirements of any statute or any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the highest standards, shall govern.

**B. Application:**

1. The provisions of this Ordinance shall apply to all uses, structures and lots within the Town of Eaton. Whenever any existing use of structure is not in conformity with the provisions of this ordinance at the time of its enactment, it may continue to exist subject to the provisions of Article VI hereto.
2. Commencement of any use not listed as permitted, as a special exception or constituting an approved variance shall be prohibited after the effective date of this ordinance.

**C. Lots in Two Zoning Districts:** Where a district boundary divides a lot of record at the time such boundary is adopted, a use allowed in the less restricted part of such lot shall be allowed provided that such use does not extend more than thirty feet into the more restricted part and does not exceed a total of 6000 square feet.

## **ARTICLE IV GENERAL PROVISIONS**

The following provisions shall apply to all zoning districts:

### **A. Land Usage:**

1. No land or water in Eaton may be used for any trade, industry, activity or use that may be obnoxious or offensive by reason of the production or emission of dust, odor, smoke, refuse matter, fumes, vibration or similar conditions, or that is detrimental or injurious to the comfort, peace, enjoyment, health or safety of the community or the immediate neighborhood or lending to its disturbance or annoyance.
2. No land or water area in Eaton may be used as a junk yard or storage place for unregistered vehicles unfit for use on the highway, second-hand unusable machinery, scrap materials or any other used second-hand articles the accumulation of which is detrimental or injurious to the neighborhood.
3. All sanitary systems shall be constructed and maintained in accordance with standards set and enforced by the New Hampshire Department of Health and the New Hampshire Water Supply and Pollution Control Commission, whichever is the more restrictive.

**B. Lot Sizes and Areas:** Each lot shall meet the requirements of the Zoning Ordinance for the district wherein the lot is located in order to protect the town against the danger to health, safety and prosperity occasioned by the lack of municipal water and sewer and to prevent the excessive expenditure of public funds for the supply of such services. (Amended 3/14/1989)

1. The required minimum lot sizes for optimum soils and slopes for single family residences of not more than four (4) bedrooms shall be 40,000 square feet. Areas where the slope is greater than 25% may not be used to fulfill the minimum lot size. (Amended 3/14/1989)
2. Wetlands and slopes greater than 25% may not be used in the calculations to determine minimum lot size. (Amended 3/12/2005)
3. All land to be used in the minimum lot size calculations shall be contiguous. (Amended 3/12/2005)
4. Lake Shore Areas: in lake shore areas, minimum lot sizes for each soil type shall be increased by 33 1/3 % of the minimum requirement as stated in B. 1 above. (Amended 3/14/1989)
5. In subdivisions where a community water supply and/or community wastewater systems is (are) to be provided, minimum lot sizes may be decreased by 33 1/3% of the minimum requirements as stated in B.1 above. (Amended 3/14/1989)



6. Lot sizes for Residential 5 to 10 bedrooms. Minimum lot sizes shall be proportionally larger than the minimum lot size given in B.1 above by the following formula.

Lot Size =  $N/4 \times$  Lot size indicated from the soil type. N is the number of bedrooms. (Amended 3/14/1989)

7. Lot sizes for commercial and/or residential (over ten (10) bedrooms):

$$\text{Lot size (in acres)} = \frac{Q \text{ (gpd)}}{2000 \text{ (gpd/acre)}} \times \frac{\text{Lot size indicated for soil type}}{35,000 \text{ square feet}}$$

Q = gallons of wastewater discharged per day.

Lot sizes for commercial and/or residential (over ten (10) bedrooms) shall not be less than the minimum stipulated in B1. (Amended 3/14/1989)

8. Every lot shall have a minimum frontage of two hundred (200) feet upon a State, or Town road or road built to Town specifications. (Amended 3/14/1989)

9. A lot abutting a lake or pond shall have a minimum shore frontage of two hundred (200) feet, measured in a straight line between points of intersection of the side lot lines with the shoreline at normal high water.

10. Each dwelling, structure, or accessory building shall be set back at least one hundred twenty-five (125) feet from the shore as determined by projecting a line perpendicular to the average high water level of water bodies five acres or more including, but not restricted to:

Conway Lake	Long Pond
Crystal Lake	Purity Lake
Hatch Pond	Roberts Pond
Thurston Pond	(Amended 3/14/1989)

**C. Setbacks:** Each dwelling or other building shall be setback at least sixty (60) feet from the center of the highway on which it fronts, and at least thirty (30) feet from any property line. When compliance with this requirement is not reasonably possible, utility structures such as septic tanks and gas tanks may encroach within this setback but only to the minimum degree necessary for safe installation, maintenance and operation. (Amended 3/11/2003)

**D. Parking:** Adequate off-street parking space will be provided for each use, and will conform to the following standards:

1. Residences – Two off-street parking spaces per dwelling unit.  
(Amended 3/08/1994, 3/12/2019)

2. Commercial and Industrial Uses - One square foot of off-street parking space for every square foot of floor space.

**E. Maximum Building Height:** In all buildable districts, buildings and structures shall not exceed forty (40) feet in height from the highest natural ground level within a ten (10) foot perimeter of said building or structure. (Amended 3/14/1989)

**F. Manufactured Housing and Presite Built Housing:** Manufactured Housing and Presite Built Housing may be permitted in the Rural Residential District under the terms and conditions listed below in addition to any other terms and conditions the Board of Selectmen may require as per RSA 674:31 and RSA 674:31a. (Amended 3/14/1989)

1. No lot shall have more than one of either of the above types of housing on it. (Amended 3/14/1989)
2. Sewage disposal systems must comply with all requirements of the New Hampshire Water Supply and Pollution Control Commission and all local health and other requirements.

**G. Recreational Vehicles:** Recreational Vehicles may be permitted in the Village and Rural Residential Districts under the terms and conditions listed below:

1. Recreational Vehicles may be occupied on a lot for not more than forty-five (45) days within a calendar year. (Amended 3/14/2000)
2. Stored and unoccupied Recreational Vehicles must conform to current zoning setback lines for buildings. (Amended 3/14/2000)
3. Recreational Vehicles must be registered and fit for highway use. (Amended 3/14/2000)
4. No lot shall have more than one Recreational Vehicle per dwelling unit stored on it. Approved Camping and Recreational Vehicle Areas are excepted. (Amended 3/14/2000)

**H. Minimum Floor Area:** Each dwelling must contain 720 square feet of interior area on the main floor.

**I. Erection of Buildings on Streets:**

1. The Town of Eaton Zoning Ordinance incorporates RSA 674:41 (Erection of Buildings on Streets) and all its provisions as may be amended, as if fully set forth within. (Amended 3/8/2016)
2. Prior to the Town's acceptance of a Class VI road, or any portion thereof, the landowner is required, at his expense, to bring the road up to Town standards. (Amended 3/8/2016)

**J. Cluster Development:** Cluster development is permitted and encouraged for the preservation of open space and natural features, to promote more efficient use of land, and to promote flexibility in subdivision design. Cluster developments may not

be required to conform to minimum frontage, lot size, and internal setback requirements provided:

1. The total number of dwelling units or lots shall not exceed the number of dwelling units or lots permitted under normal minimum size requirements: and
2. The remainder of the tract shall be designated and maintained as permanent open space, by legal instrument(s) satisfactory to the Town Attorney.

**K. Driveway Permits:** It shall be unlawful to construct or alter in any way that substantially affects the size or grade of any driveway, entrance, or exit, or approach within the limits of the right of way of any Class V or Class VI road without first obtaining a driveway permit from the Board of Selectmen. All driveways shall be constructed in accordance with the State Department of Transportation Administrative Rules, 1993, as amended, for rural driveways. (Added 3/08/1994)

**L. Trailers:** Commercial trailers, including boxtrailers, and any other truck body not being used as accessory buildings, shall not be stored on any land in Eaton for more than 30 days with the exception of:

- a. Registered utility vehicles
- b. Registered equipment and agricultural trailers.
- c. Trailers used for construction which may be used for a 12 month period, non-renewable to run concurrent with the building permit. Construction trailers are not to be used for living purposes. (Amended 3/11/2003)

At all other times, trailers shall be kept either under cover or in an inconspicuous place out of sight of public ways.

**M. Lot:** A parcel of land under separate title from adjacent property. A lot is capable of being occupied by one residential building and one accessory dwelling unit and the accessory buildings or uses customarily incidental to it. A lot shall be of sufficient size and soil types to meet Town regulations for subdivision, use, density, area and required setbacks. A lot proposed for a detached accessory dwelling unit may require additional area sufficient to meet Town regulations and State septic requirements. (Amended 3/10/1992, 3/12/2019)

**N. Structure:** Structures requiring a Building Permit and adherence to Town setbacks include, but are not limited to: buildings, barns, gazebos, event tents, storage containers, patios, pools, solar panels (roof and pole mounts), retaining walls greater than 4 feet in height, fences over 6 feet tall or obstructing a driver's line of sight, and vehicular gates. A structure also includes all buildings made of fabric or material other than wood.

Septic systems, flagpoles, well houses, dog houses, play sets and other customary landscaping elements such as bird baths, stone steps and raised flower or vegetable beds are not considered structures but must be set back a minimum of 30 feet from all property boundaries and cannot be on land in Current Use.

(Amended 3/12/1991, 3/12/2019, 3/9/2021)

**O. Aircraft or helicopter landings and take offs** are not permitted in the Town of Eaton except under emergency situations. The Board of Selectmen may authorize aerial uses for unforeseen emergency situations to protect the health, safety and well being of the Town and its residents. Emergency situations include, but are not limited to, those involving the fighting of fires and the evacuation of persons in life and death situations.” (Added 3/14/2006, Amended 3/13/2007)

**P. The Town of Eaton Zoning Ordinance incorporates the current New Hampshire Shoreland Water Quality Protection Act (RSA 483-B)** and all its provisions, as if fully setforth within. (Amended 3/10/2015)

1. The Eaton Board of Selectmen shall be responsible for the enforcement of this ordinance and shall have the authority, for cause, to enter upon any land or parcel at any reasonable time to provide oversight, inspection and enforcement duties provided for in this ordinance
2. The provisions in this section do not invalidate, or take precedence over, any existing requirement or regulation of the Town of Eaton Zoning Ordinance, or any other Town of Eaton regulatory requirement. All provisions in this section shall rely on words, or terms, as defined in the New Hampshire Shoreland Water Quality Protection Act (RSA 483-B).
3. Where the provisions of the New Hampshire Shoreland Water Quality Protection Act (RSA 483-B) are violated, restoration of a woodland buffer with 4" diameter trees (not saplings) will be required. Plantings will be established within 9 months of written notification of the violation and will be replanted as necessary to insure survival and restoration of a woodland buffer. (Added 3/13/2007)

**Q. Accessory Building:** The Board of Selectmen may issue a permit for an accessory building in the absence of a main building whose intended use is ancillary to the development and/or maintenance of land uses allowable within the particular zoning district. Any expansion or alternation of use of said structure or land use to include a dwelling unit shall require an additional building permit and compliance with all zoning regulations governing permitted uses within the zoning district.  
(Added 3/12/2013)

**R. Accessory Dwelling Unit:** For the purpose of provided expanded housing opportunities and flexibility in household arrangements of a permitted, single-family dwelling, accessory dwelling units shall be permitted by the Board of Selectmen in all zoning districts with the following conditions:

1. No more than one accessory dwelling unit will be allowed per lot. An ADU is not allowed in the case where there are two-family or multi-family dwellings. The primary single-family dwelling shall not be a mobile home or condominium.  
(Amended 3/12/2019)
2. An accessory dwelling unit must be within or attached to a single-family dwelling unless the lot exceeds the minimum required lot size, in which case the ADU

may be located in a detached structure provided that the structure conforms to required setbacks and increased lot size requirements. (Amended 3/12/2019)

3. All accessory dwelling units must comply with all New Hampshire building, life safety, fire and energy codes. (Amended 3/12/2019)
4. An accessory dwelling unit shall be no greater than 1,000 square feet. (Amended 3/14/2017, 3/12/2019)
5. Prior to the expansion of use of any structure to include an accessory dwelling unit and its increased sewage load, the owner shall submit an Application for Approval to the State of NH Department of Environmental Services Subsurface Systems Bureau in accordance with NH RSA 485-A:38 and shall receive an Approval for Construction certificate. An application for approval shall include one of the following:
  - (a) Evidence that the existing sewage disposal system meets the minimum design requirements of the NH Subsurface Systems Bureau for the proposed sewage load
  - (b) A design for a new sewage disposal system which meets the minimum design requirements of the NH Subsurface System Bureau for the proposed sewage load.
6. There will be no occupancy of an accessory dwelling unit until the Board of Selectmen has issued a Certificate of Occupancy. (Added 3/12/2013)
7. An accessory dwelling unit shall be provided with adequate off-street parking. (Added 3/14/2017)
8. Either the ADU or principal dwelling unit shall be the principal residence and legal domicile of the owner of the property. The property owner shall provide documentation demonstrating to the satisfaction of the Town that one of the units is his/her principal place of residence. (Added 3/12/2019)
9. An interior door shall be provided between the principal dwelling unit and the ADU in the case when the ADU is attached or within the principal dwelling unit. (Added 3/12/2019)
10. The principal dwelling unit and the ADU shall not be separated in ownership. (Added 3/12/2019)
11. An ADU is for non-transient occupancy. (Added 3/12/2019)

**S. Current Use:** Land in Eaton under the Current Use Tax designation cannot have any structures, except for appurtenances providing access to the property, such as bridges or security such as a gate. Any portion of the acreage developed must be removed from the Current Use Taxation category and a Land Use Change Tax remitted to the Town. (Adopted 3/12/2019)

**T. Signs:**

- A. Signs are permitted on privately-owned land in Eaton with the following conditions:
  - 1. Only one sign greater than four (4) square feet shall be permitted on any lot. No more than a total of three (3) signs shall be permitted on any lot.
  - 2. In no case shall any sign exceed eight (8) square feet in area.
  - 3. In no case shall any off-premises sign(s) exceed four (4) square feet in area. Off-premise signs shall require written permission by the property owner.
  - 4. Placement of signs shall require a Building Permit except for those that measure less than four (4) square feet.
  - 5. No interior-lit signs shall be permitted. Lighting of signs shall not produce more than 2000 lumens of light per sign and shall be shielded in such a manner as to conceal the light source and the illuminated area from view beyond the perimeter of the area to be illuminated.
  - 6. All signs shall be set back a minimum of 6 feet from the edge of any travel lane and at least 30 feet from all other property boundaries.
- B. No town-owned land or water in Eaton may be used as a placement for any signs except for Town public notices, highway, safety and/or regulatory purposes. Board of Selectmen approval shall be necessary for placement of these signs.  
(Amended 3/12/2019, 3/9/2021)

**U. Duplex:** A residential building containing two housing units shall be permitted by the Board of Selectmen in all zoning districts with the following conditions:  
(Adopted 3/12/2019)

- 1. Submission of plot plan verifying compliance with required lot size as set forth in Article IV Section B.
- 2. Each unit shall be greater than 720 square feet total floor area.
- 3. No more than one duplex will be allowed per lot.
- 4. All duplex units must comply with all New Hampshire building, life safety, fire and energy codes.
- 5. A New Hampshire licensed septic designer shall certify the capacity of the existing septic system to meet the increased demand; or the septic system shall be upgraded/designed to meet the demand.
- 6. There will be no occupancy of any dwelling unit until the Board of Selectmen has issued a Certificate of Occupancy.
- 7. There shall be a minimum of two off-street parking spaces per unit.

8. The structure and lot shall not be converted to a condominium or any other form of legal ownership; both dwelling units shall remain in common ownership.
9. All duplex units shall be for non-transient occupancy.
10. An Accessory Dwelling Unit is not permitted in conjunction with a duplex.
11. Each unit shall have its own access directly to the outside.

## **ARTICLE V ZONING DISTRICT REGULATIONS**

### **A. Rural Residential District – RR (Amended 3/9/2021)**

The following regulations will apply to the RR District: It shall be mainly a district of farms, residences and woodlands.

#### **1. Permitted Uses:**

- a. Farms.
- b. Roadside stands for the sale of farm products.
- c. Woodlots.
- d. Stables and riding academies.
- e. Plant nurseries and greenhouses.
- f. A dwelling of no more than two (2) dwelling units.  
(Amended 3/14/1989, 3/12/2019)
- g. Churches and public buildings.
- h. Home occupations.
- i. Commercial enterprises existing on the date of the enactment of this ordinance.
- j. Gravel pits operated in the Jackson Forest by the Town of Eaton exclusively for its own use. (Added 3/8/1983)
- k. Multi-family dwelling units permitted in accordance with Site Plan Review Regulations of the Town of Eaton.
- l. Use accessory to the permitted use.

- 2. Special Exceptions:** The following uses may be permitted if, the Board of Adjustment after a public hearing and due notice to the abutters find the same will not be detrimental or injurious to the neighborhood and that in each case, they have an adequate water supply and sewer system and meet all applicable requirements of the State of New Hampshire.

- a. Veterinary hospitals. (As amended 3/14/2006)
- b. Restaurants.
- c. Tenting or Recreational Vehicle areas, providing that they are located on a lot of at least four (4) acres, plus two thousand (2000) square feet of land area for each sleeping/dwelling unit.
- d. Retail sales of antiques, art pieces, crafts and handiwork when an accessory use to the residence.
- e. Hotels, motels, inns, cabins or other transient lodgings provided that they are located on a lot of four (4) acres plus two thousand (2000) square feet of land area for each sleeping room not having more than 4 beds.
- f. Hospitals, rest homes and convalescent homes provided they are located on a lot of four (4) acres, plus two thousand (2000) square feet of land for each sleeping room not having more than 4 beds.
- g. Uses, buildings and structures that would be accessory to a use permitted in the above sections 1(a) to 1(k) and claimed by the landowner as the primary use of the structure, whether or not the structures and/or activities associated with the primary use exist and/or are being conducted. (Added 3/09/2010)

**B. Village District – V (Amended 3/9/2021)**

The following regulations shall apply to the Village District: The District shall consist mainly of residences, community buildings and neighborhood businesses. Great care shall be taken to ensure that any proposed uses do nothing to disturb the general character and scenic qualities. The height and location of any new structure shall ensure the protection of all scenic views and historic structures and areas.

**1. Permitted Uses:**

- a. Any use permitted in the Rural Residential District.
- b. A dwelling of no more than two (2) dwelling units. (Amended 3/14/1989)
- c. Neighborhood stores for sale of goods at retail, service establishments providing neighborhood services, but excluding automobile sales, services and storage.
- d. Public buildings, theaters and other places of public assembly.
- e. Antique shops, restaurants, offices and banks.
- f. Production of goods sold at retail on the premises such as bakeries, handcrafts, and the like.

**2. Special Exceptions:** The following uses may be permitted if the Board of Adjustment after a public hearing and due notice to abutters find the same will not be detrimental or injurious to the neighborhood and that in each case it has



an adequate water supply and sewer system and meets all applicable requirements of the State of New Hampshire:

- a. Hospitals, rest homes and convalescent homes provided they are located on a lot of four (4) acres, plus two thousand (2000) square feet of land for each sleeping room not having more than 4 beds.
- b. Hotels, motels, inns, cabins or other transient lodgings provided that they are located on a lot of four (4) acres plus two thousand (2000) square feet of land area for each sleeping room not having more than 4 beds.

**C. Wetland Conservation Overlay Zone - WC**

(Added 3/11/1980, Amended 3/10/2015, 3/9/2021)

**1. District Boundaries:**

- a. The Eaton Wetland Conservation Overlay Zone is hereby determined to include those areas whose boundaries can be delineated in accordance with the standards for identification of wetlands adopted by the New Hampshire Department of Environmental Services or the United States Army Corps of Engineers or their successors.

Reference to the general presence of the Eaton Wetland Conservation Overlay Zone as herein defined may be found using free on-line reference tools such as the USFWS Wetlands Mapper, the NH Wetlands Mapper, and the GRANIT Data Mapper. However these tools should be considered only as guides with actual district boundaries to be as delineated by a NH Certified Wetland Scientist.

- b. Wetland Boundary Delineation. When the Eaton Wetland Conservation Overlay Zone, its boundary, or any portion thereof, must be located for purposes of permitting under State of NH or Town of Eaton regulations, or for the assessment of impacts allowed by Special Exception, a NH Certified Wetland Scientist duly certified by the NH Board of Natural Scientists shall conduct a wetland boundary delineation and, as appropriate, produce a certified plan and report of existing conditions and proposed impacts.

The Board of Adjustment shall be bound by the NH Wetland Scientist's evaluation and the conditions of any State or Federal permit in any of their determinations under this Zoning Section C.

**2. Permitted Uses:**

Permitted uses are those that will not require the erection or construction of any structure or building; will not alter the natural surface configuration by the addition of fill or dredging; and that otherwise are permitted by the Zoning Ordinance. Such use may include the following or similar uses provided that such proposed uses meet all State and Federal permitting requirements:

- a. Forestry - Tree Farming;
- b. Agriculture - Cultivation, grazing and harvesting of crops according to recognized soil conservation practices;
- c. Water well supplies, including covers or similar hardware for wells;
- d. Drainage ways, including but not limited to, natural drainage ways;
- e. Wildlife refuge;
- f. Parks and recreation uses consistent with the purpose and intent of this Ordinance;
- g. Conservation areas and nature trails.

### **3. Special Exceptions:**

Special exceptions may be granted by the Board of Adjustment for the following uses within the Wetland Conservation Overlay Zone:

- a. Streets, roads and other access ways and utility rights of way easements including power, communication and pipe lines if essential to the productive use of land so zoned and is so located and constructed as to minimize any detrimental impact of such uses upon the wetlands and also provided that such proposed uses meet all State and Federal permitting requirements.
- b. The undertaking of a use not otherwise permitted in the Wetland Conservation Zone or otherwise altering the surface configuration of the land, if it can be shown that such proposed use will not conflict with the purposes and intentions of this Zone, and if such proposed use is otherwise permitted by the Zoning Ordinance. Proper evidence to this effect shall be accompanied by the findings of a review by a NH Certified Wetland Scientist, together with permits granted by all appropriate State and Federal agencies.
- c. Replacement for any existing failed septic system provided that said replacement system has been granted Construction Approval from the NH Department of Environmental Services Subsurface Systems Bureau.

### **4. Special Provisions:**

- a. Septic system setbacks shall conform to the Design Rules of the New Hampshire Department of Environmental Services Subsurface Systems Bureau. (Amended 3/11/2003)
- b. No septic tank shall be placed closer than seventy-five (75) feet from any wetland, streams and/or water bodies, and steel tanks shall not be used. (Amended 3/11/2003)

- c. Newly constructed or enlarged leach fields shall be no closer than one hundred twenty-five (125) feet to any wetland, streams and/or water bodies. (Amended 3/11/2003)
- d. Inclusion of wetland areas within residential lots in order to meet minimum lot areas or yard requirements is not permitted.
- e. Any wetlands altered in violation of this ordinance shall be restored at the expense of the violator(s) as provided by RSA 483-A:5.

## 5. Definitions:

**Wetlands** are defined as areas that have a predominance of hydric soils and that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions. Wetlands generally include but are not limited to marshes, fens, bogs and swamps; they may be present in flood plains and include littoral zones that support emergent and submergent plant communities bordering shallow areas of rivers, streams, ponds and lakes; they may be wooded with trees as the dominant plants and may include spring seeps, vernal pools and beaver ponds. To be subject to jurisdiction under this section all instances must 1) contain hydric soils, 2) support hydrophytic vegetation, and 3) exhibit a wetland hydrology.

**New Hampshire Certified Wetland Scientist** means a person who, by reason of his or her special knowledge of hydric soils, hydrophytic vegetation, and wetland hydrology acquired by course work and experience, as specified by RSA 310-A:84, II-a and II-b, is qualified to delineate wetland boundaries and to prepare wetland maps; to classify wetlands; to prepare wetland function and value assessments; to design wetland mitigation; to implement wetland mitigation; to monitor wetlands functions and values; and to prepare associated reports, all in accordance with standards for identification of wetlands adopted by the New Hampshire Department of Environmental Services or the United States Army Corps of Engineers or their successors, and who has been duly certified by the New Hampshire Board of Natural Scientists.

**New Hampshire Board of Natural Scientists** is a licensing board operating under the auspices of the State of New Hampshire Joint Board for Licensing and Certification. The NH Board of Natural Scientists licenses, regulates and adjudicates on behalf of Certified Soil Scientists and Certified Wetland Scientists.

**Hydric Soil** means soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.

**Hydrophytic Vegetation** means a plant growing in water or a soil substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content.

**Littoral Zone**, for purposes of this section, means the shallow portion of a body of fresh water extending from the shoreline outward to the limit of occupancy of rooted aquatic plants where light can penetrate enough to establish plant life.

**GRANIT** is an acronym for Geographically Referenced Analysis and Information Transfer describing data sets produced by the University of New Hampshire Complex Systems Research Center for use in geographic information systems and other applications requiring geographically referenced data.

**USFWS** is the abbreviation for United States Fish and Wildlife Service.

#### **D. Commercial and Light Industrial District – CI (Amended 3/9/2021)**

The Commercial and Light Industrial District is established as a district in which the principal uses are those commercial uses to which the public requires direct and frequent access, as well as wholesale and light industrial uses that will not be noxious, offensive, or detrimental to the environment, the Town, or the abutters of the district. This District is intended to encourage the concentration of commercial and light industrial development to the mutual advantage of consumers and employers, to enhance economic and employment opportunities within the Town, and to protect the rural and historic character of the other zoning districts.

##### **1. Permitted Uses**

- Retail businesses
- Restaurants
- Offices
- Banks
- Personal and professional services
- General service and small item repair shops
- Wholesale and warehousing facilities
- Clinics and medical centers with no facilities for overnight clients
- Mortuary and funeral establishments
- Commercial schools
- Printing facilities
- Governmental uses (Post Office, public safety and similar uses)
- Parking lots
- Manufacturing, fabrication or packaging of parts or products from previously permitted materials
- All uses permitted in Village and Rural Residential Districts.

## **2. Special Exceptions**

Amusements, Indoor  
Amusements, Outdoor  
Restaurants, Drive-In  
Automobile service station  
Automobile sales with outdoor storage  
Automobile service and repair  
Heavy equipment sales and repair  
General building, special trades, and heavy construction contracting  
Lumber yards and/or dry kilns  
Private clubs, halls  
Radio and TV Towers  
Research and testing laboratories  
Theater, movie, playhouse  
Accessory uses pertaining to permitted uses

## **3. Special Provisions**

- a. The owner(s), or their notarized agent, if any proposed commercial or industrial use shall comply with all provisions of Subdivision and Site Plan Review regulations. Any change in a permanent or grandfathered commercial or industrial use shall also require Site Plan Review by the Planning Board.
- b. In the interest of good design and traffic safety, and to prevent strip development, the Planning Board may require easements for common access/ egress private roads or driveways intersecting with Route 153, and easement for access/egress to other lots in the district, whether or not such lots are in the same ownership, and whether or not they are proposed for development at the same time. Street frontage requirements for back lots in the District may be met by extension of internal access/ egress easements.

## **E. Steep Slope Protection Overlay Zone - SSP**

(Added 3/10/2020, Amended 3/9/2021)

### **I. Purpose**

The purpose of the Eaton Steep Slope Protection Ordinance is to guide the use of land with slopes greater than 15%.

The soils on Eaton's steep slopes are exceptionally vulnerable to erosion and associated problems. Thus, the objectives of this Ordinance are:

1. To minimize damage to land, streams and lakes from the consequences of improper construction, erosion, stormwater runoff or improperly sited septic systems;
2. To preserve the natural topography, watershed drainage patterns, vegetative cover, wildlife habitats and unique natural habitats;

3. To provide reasonable access to properties for fire protection, public safety and emergency needs.

## II. Delineation

This Ordinance shall apply to all areas with a slope greater than 15 percent. The final determination of a Steep Slope Protection Area shall be made by the Board of Selectmen or its agent, who may require a site-specific survey at the Applicant's expense to make the determination.



## III. Definitions

**Abutter:** Any person whose property, located in New Hampshire, adjoins or is directly across the street or stream, or any property sharing common boundaries with contiguous parcels, or any property within 200 feet from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term

“abutter” shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration. For purposes of notification and receiving testimony, “abutter” shall also mean all affected Towns and the Regional Planning Commission(s) in the case of a development having regional impact, as determined by the Planning Board. In the case of an abutting property being under condominium or other collective form of ownership, the term “abutter” means president or registered agent of the collective or association, as defined in RSA 356-B:3 xxiii.

**Best Management Practices for Steep Slopes:** An accepted structural, non-structural, or vegetative measure the application of which reduces erosion, sediment, or peak storm discharge, or improves the quality of storm water runoff. These measures or practices are found in the NH Stormwater Manual, Volumes 1 & 2 (NHDES December 2008).

**Critical Area:** An area within 100 feet of a stream, bog, water body or very poorly drained soils; areas exceeding 2,000 square feet in highly erodible soils.

**Development:** For the purposes of this Ordinance, any construction or road building other than for agricultural and silvicultural practices. Any alteration of terrain or grading activities.

**Erosion:** For the purposes of this Ordinance, the wearing away of the ground surface as a result of the movement of wind, water, ice, and/or land disturbance activities that may accelerate the otherwise natural movement of soil.

**Impervious Surface:** Any modified surfaces including, but not limited to, the area of a building footprint, paved, gravel or crushed stone driveways, parking areas, and walkways unless designed to effectively absorb or infiltrate water.

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

**Site Disturbance:** Any activity that removes the vegetative cover and/or creates erosion from the land surface.

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

**Steep Slope:** Any area with a slope greater than 15% as measured over 100 horizontal feet.

**Soils:** As defined and classified by “Key to Soil Types,” High Intensity Soil Maps for NH SSSNNE Special Publication No. 1, as amended.

**Vegetative Cover:** Grasses, shrubs, trees, and other vegetation that hold and stabilize soils.

#### **IV. Application Requirements**

An application must be submitted to the Planning Board for any tract of land being developed on a Steep Slope where one or more of the following are proposed:

- A. Construction of any structure;
- B. Construction or reconstruction of a street, road or driveway;
- C. Disturbance of critical areas.

A Steep Slope Application form with appropriate fee and the following are required to be submitted:

- A. Site Plan showing the area subject to site disturbance, and all adjacent areas within 200 feet of the area subject to site disturbance, in two-foot contours, including all surface waters and wetlands, and proposed and existing physical features, structures, utilities, storm water control systems, septic and well structures, and access ways.
- B. An engineering plan must be prepared by a professional engineer and/or Certified Professional in Erosion and Sediment Control (CPESC) that shows specific methods that will be used to control soil erosion and sedimentation, soil loss, and excessive storm water runoff, both during and after construction.
- C. A hydrology, drainage, and flooding analysis must be included that shows the effect of the proposed development on water bodies and/or wetlands, both on the site and within 200 feet of the subject parcel.
- D. A grading plan for the construction site and all access routes must be prepared by a licensed engineer.

#### Additional Requirements

All uses permitted in the underlying District may be permitted in the Steep Slope Protection Overlay Zone, but must meet the following conditions for approval:

- A. All requests for waivers and actions thereon shall be made in writing by the applicant with supporting technical documentation to demonstrate minimal environmental impact.
- B. The applicant shall bear all financial responsibility for plans and layouts deemed necessary by the Planning board according to the Steep Slope Ordinance.



- C. The applicant shall bear final responsibility for the installation, construction, inspection and disposition of all storm water management and control measures required by the provisions of this regulation.

## **V. Performance Standards**

All uses permitted in the underlying District may be permitted in the Steep Slope Protection Overlay Zone, but must meet the following conditions for approval:

- A. The grading cut and fill should not exceed a 2:1 ratio. Cuts and fills shall be minimized.
- B. Existing natural and topographic features, including the vegetative cover, will be preserved to the greatest extent possible. In the event that extensive amounts of vegetation are removed, the site shall be replanted with indigenous vegetation and shall replicate the original vegetation as much as possible.
- C. No section of any driveway may exceed a 10 percent slope for residential or 8 percent slope for nonresidential site plans.
- D. No structure shall be built on an extremely steep slope (greater than 25 percent prior to site disturbance).

During construction: The plan must meet the Best Management Practices for Stormwater Management and Erosion and Sediment Control as cited in the NH Department of Environmental Services "Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire" and subsequent revisions.

## **VI. Approval of Steep Slope Application**

- A. Steep Slope application approval shall be granted by the Planning Board upon a finding that the proposed use is consistent with the Ordinance and following receipt of a review and recommendation of the Conservation Commission and any other professional expertise deemed necessary by the Board.
- B. The applicant must demonstrate that no practicable alternatives exist to the proposal under consideration, and that all measures have been taken to minimize the impact that construction activities will have upon the zone.
- C. A building permit may be granted by the Board of Selectmen upon approval by the Planning Board that the proposed use is consistent with the intent of the Ordinance.
- D. The Steep Slope approval from the Planning Board shall be valid for a period of two years from the date of issue and shall expire if not

implemented by that time, unless a longer period is specified and approved by the Planning Board.

- E. The Planning Board may waive the requirements for all, or part, of the steep slope approval if it determines that the requirements are unnecessary because of size, character, or natural conditions of a site.
- F. If disapproved, a written list of plan deficiencies and the procedure for filing a revised plan will be given to the applicant.

## **VII. Costs and Performance Security**

All costs pertaining to the consideration of an application, including consultants fees, on-site inspections, environmental impact studies, notification of interested persons, and any other costs associated with Planning Board review under this section, shall be borne by the applicant and paid prior to the Planning Board taking final action.

Performance Security shall mean (1) an irrevocable letter of credit with an automatic call provision issued by a State of New Hampshire bank or national bank with banking offices located within the State of New Hampshire (LOC) or (2) cash in United States currency held in escrow by the Town (cash bond).

A Steep Slope Performance Security may be required in an amount sufficient to ensure there is no cost to the Town for stabilization measures to prevent water or soil damage, including inspection or consultation fees, in the event of abandonment or deferment of the project. Work shall be completed within two (2) years of approval of the plan and the Performance Security shall not be discharged before one (1) year following completion of the plan.

Review of the application by an independent State of New Hampshire licensed professional engineer, at the Applicant's expense, may be required to develop a cost estimate for the Performance Security to assist the Planning Board in setting the amount of the Performance Security and to ensure that the application adequately addresses all issues related to the Town's interests as defined herein.

The Planning Board, with advice from Town Counsel, shall work with the engineer to reach approval of the engineer's cost estimate before the Applicant obtains the Performance Security. The Performance Security shall not be released until the Town is satisfied that the project plan has been accomplished and is satisfied that all conditions of the approval and any other pertinent Zoning Ordinance, Subdivision Regulation, Site Plan Regulation or building requirements have been met.

## **VIII. Town Liability**

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, environment, or critical habitat, the Town of Eaton 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 Eaton Planning Board.

## **IX. Enforcement**

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

## **X. Statutory Authorization**

- A. RSA Title LXIV, Chapters 674:16, Grant of Power
- B. 674:21, Innovative Land Use Controls
- C. 674:21(j), Environmental Characteristics Zoning
- D. 673:16, II; 676:4, I(g); and 674:44, V collectively authorize Planning Boards to collect fees from applicants to cover the costs of hiring outside experts to review subdivision applications and site plans.

## **F. Ridgeline Protection Overlay Zone - RLP (Added 3/9/2021)**

### **I. Purpose**

The purpose of the Eaton Ridgeline Protection (RLP) Ordinance is to protect scenic resources associated with lands characterized by high elevation and visual sensitivity in a manner that adheres to carefully designed, low-impact development.

To avoid over-regulation of property within the RLP Zone, only land with high visual impact as determined by this Ordinance and as reflected in the Ridgeline Protection Zone Map provided herein will be subject to the provisions of this Ordinance. These restrictions may affect building location and height, landscaping, access and utility location.

Eaton's undeveloped ridgelines are one of the Town's principal scenic qualities. Protecting ridgelines from unregulated and unsightly development is essential to Eaton's aesthetics and economic welfare. Thus, the objectives of this Ordinance are:

1. To provide a regulatory guideline to protect the pastoral and visual character of the Town by maintaining the appearance of a natural unbroken forest cover along ridges.
2. To guide the siting of structures on or near ridgelines so that the sky remains the backdrop when viewed from Route 153 or Brownfield Road.

## II. Delineation

This Ordinance shall apply to all ridges that can be viewed from the Brownfield Road or Route 153. The areas are shown on the Eaton Ridgeline Protection Overlay Map. Future logging or clearing along Route 153 or Brownfield Road may allow increased visual access to ridgelines from these two roads. Thus, screening by buildings or vegetation adjacent to these roads shall not be considered when determining compliance with this Ordinance.

The final determination of a Ridgeline Protection area shall be made by the Planning Board or its agent, who may require a site-specific survey at the Applicant's expense.

Specifically the Ridgeline Protection Overlay Zone consists of the long ridgeline above 1200 feet visible to the south of Brownfield Road made up of Stewart Hill, Kent Hill and Manson Hill; Birch Hill to the north of Brownfield Road above 900 feet; Atkinson Mountain north of Brownfield Road and east of Route 153 above 800 feet; the small hill to the east of Crystal Lake above 600 feet; the hills to the east of Crystal Lake and Hatch Pond and running south to Towle Hill above 700 feet; the eastern shoulder of Lyman Mountain to the west of Route 153 above 700 feet; and the Rockhouse Mountain ridge to the west of Route 153 above 800 feet.



*This map is adapted from a map produced from the USGS National Map.*

### III. Definitions

**Abutter:** Any person whose property, located in New Hampshire, adjoins or is directly across the street or stream, or any property sharing common boundaries with contiguous parcels, or any property within 200 feet from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term “abutter” shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration. For purposes of notification and receiving testimony, “abutter” shall also mean all affected Towns and the Regional Planning Commission(s) in the case of a development having regional impact, as determined by the Planning Board. In the case of an abutting property being under condominium or other collective form of ownership, the term “abutter” means president or registered agent of the collective or association, as defined in RSA 356-B:3 xxiii.

**Best Management Practices:** Accepted structural, non-structural, or vegetative measures the application of which reduces erosion, sedimentation or peak storm discharge, or improves the quality of storm water runoff. These measures or practices are found in the NH Stormwater Manual, Volumes 1 & 2 (NHDES December 2008).

**Critical Area:** An area within 100 feet of a stream, bog, water body or very poorly drained soils; areas exceeding 2,000 square feet in highly erodible soils.

**Development:** Any construction or road building other than for agricultural and silvicultural practices; any alteration of terrain or grading activities.

**Directly Visible:** Visibility along a direct line of sight without intervening vegetation.

**Ridgeline:** A line formed along the highest points of a mountain ridge; an area of higher ground separating two watersheds.

**Site Disturbance:** Any activity that removes the vegetative cover and/or creates erosion from the land surface.

**Soils:** As defined and classified by “Key to Soil Types,” High Intensity Soil Maps for NH SSSNNE Special Publication No. 1, as amended.

**Vegetative Cover:** Grasses, shrubs, trees, and other vegetation that hold and stabilize soils.

### IV. Applications Requirements

The Eaton RLP Ordinance applies to upland slopes and ridges that are visible from Route 153 and Brownfield Road.

It is recognized that not all areas within the RLP Overlay Zone have high visual sensitivity. Areas where natural topographical features shield the proposed development from view are excluded from the provisions of this ordinance.

An application must be submitted to the Planning Board for any tract of land being developed in the RLP Overlay Zone where one or more of the following are proposed:

1. Construction of any structure;
2. Construction or reconstruction of a street, road or driveway;
3. Disturbance of a critical area.

It is the responsibility of the applicant to demonstrate that a proposed development may be excluded from the requirements of the RLP Ordinance.

### Specific Provisions

The following specific provisions shall govern all development within the RLP Overlay Zone:

1. On any ridgeline or ledge where the sky is the backdrop when viewed from Route 153 or Brownfield Road, structures will be located and limited in height so as not to allow any portion of the building to have the sky as a backdrop as seen from said roadways.
2. No structures, parking areas or cleared areas shall be directly visible from Route 153 or Brownfield Road in the town of Eaton, but must be screened or capable of being screened. Screening by buildings or vegetation adjacent to these roadways shall not be considered when determining compliance with this provision.
3. Exterior lighting producing more than 2000 lumens of light per fixture shall be shielded in such a manner as to conceal the light source and the illuminated area from view beyond the perimeter of the area to be illuminated.
4. The applicant must demonstrate that no practicable alternatives exist to the proposal under consideration, and that all measures have been taken to minimize the impact of construction activities.

### Ridgeline Application

The Ridgeline Application with appropriate fee, listing of all abutters and the following are required to be submitted:

1. Site Plan showing the area subject to site disturbance, and all adjacent areas within 200 feet of the area subject to site disturbance, in two-foot contours, including all surface waters and wetlands, and proposed and existing physical features, structures, utilities, storm water control systems, septic and well structures, and access ways;

2. Plan showing footprint and elevation of all proposed structures that clearly depicts what may be visible from Brownfield Road and Route 153.
3. A landscaping plan showing existing vegetation and proposed landscaping and clearing.

#### Additional Requirements

1. Requests for waivers and actions thereon shall be made in writing by the applicant with supporting technical documentation to demonstrate minimal environmental impact.
2. The applicant shall bear all financial responsibility for plans and layouts deemed necessary by the Planning Board according to the Ridgeline Protection Ordinance.
3. The applicant shall bear final responsibility for the installation, construction, inspection and disposition of all storm water management and control measures required by the provisions of this regulation.

#### **V. Performance Standards**

All uses permitted in the underlying District may be permitted in the Ridgeline Protection Overlay Zone, but must meet the following conditions for approval:

1. The grading cut and fill should not exceed a 2:1 ratio. Cuts and fills shall be minimized.
2. Existing natural and topographic features, including the vegetative cover, will be preserved to the greatest extent possible. In the event that extensive amounts of vegetation are removed, the site shall be replanted with indigenous vegetation and shall replicate the original vegetation as much as possible.
3. No section of any driveway may exceed a 10 percent slope for residential or 8 percent slope for nonresidential site plans.
4. During construction, the plan must meet the Best Management Practices for Stormwater Management and Erosion and Sediment Control as cited in the NH Department of Environmental Services "Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire" December 2008 and subsequent revisions.

#### **VI. Approval of Ridgeline Application**

1. Ridgeline application approval shall be granted by the Planning Board upon a finding that the proposed use is consistent with the Ordinance and following receipt of a review and recommendation of the Conservation Commission and any other professional expertise deemed necessary by the Board.

2. A building permit may be granted by the Board of Selectmen upon approval by the Planning Board that the proposed use is consistent with the intent of the Ordinance.
3. The approval from the Planning Board shall be valid for a period of two years from the date of issue and shall expire if not implemented by that time, unless a longer period is specified and approved by the Planning Board.
4. The Planning Board may waive the requirements for all, or part, of the approval if it determines that the requirements are unnecessary because of size, character, or natural conditions of a site.
5. If not approved, a written list of plan deficiencies and the procedure for filing a revised plan will be given to the applicant.

## **VII. Costs and Performance Security**

All costs pertaining to the consideration of an application, including consulting fees, on-site inspections, environmental impact studies, notification of interested persons, and any other costs associated with Planning Board review under this section, shall be borne by the applicant and paid prior to the Planning Board taking final action.

Performance Security shall mean (1) an irrevocable letter of credit with an automatic call provision issued by a State of New Hampshire bank or national bank with banking offices located within the State of New Hampshire (LOC) or (2) cash in United States currency held in escrow by the Town (cash bond).

A Ridgeline Performance Security may be required in an amount sufficient to ensure there is no cost to the Town for replacement of removed vegetation and for stabilization measures to prevent water or soil damage, including inspection or consultation fees, in the event of abandonment or deferment of the project.

Work shall be completed within two (2) years of approval of the plan and the Performance Security shall not be discharged before one (1) year following completion of the plan.

Review of the application by an independent State of New Hampshire licensed professional engineer, at the Applicant's expense, may be required to develop a cost estimate for the Performance Security. The engineer will assist the Planning Board in setting the amount of the Performance Security and to ensure that the application adequately addresses all issues related to the Town's interests as defined herein.

The Performance Security shall not be released until the Town is satisfied that the project plan has been accomplished and is satisfied that all conditions of the approval and any other pertinent regulation and permit requirements have been met.



### **VIII. Town Liability**

In any case where changes in topography alter the course of water flow so as to cause damage to the neighboring properties or those down-stream, environment, or critical area, the Town of Eaton 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 Eaton Planning Board.

### **IX. Enforcement**

Any person in violation of this Article or portion thereof, shall be penalized in accordance with NH RSA 676:15-17

### **X. Statutory Authorization**

A. RSA Title LXIV, Chapters 674:16, Grant of Power

B. 674:21, Innovative Land Use Controls

C. 674:21(j), Environmental Characteristics Zoning

D. 673:16, II; 676:4, I(g); and 674:44,V collectively authorize planning boards to collect fees from applicants to cover the costs of hiring outside experts to review subdivision applications and site plans.

## **ARTICLE VI NON-CONFORMING LOTS, USES AND STRUCTURES**

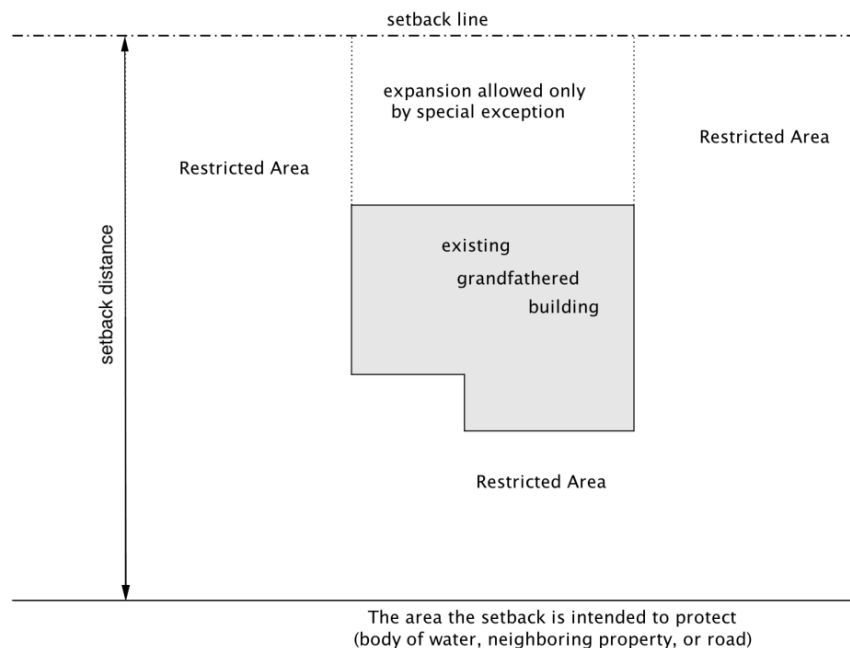
1. If a lawful building, structure or use exists when this Ordinance, dated March 6, 1973, is enacted, which would not be allowed under the provisions of this Ordinance, the same may nevertheless be continued so long as it remains otherwise lawful. (Amended 3/14/1989)
  - a. Except that any non-conforming use of land, building or structure may not be: 1) changed to another non-conforming use; or 2) renewed after discontinuance or abandonment for two (2) years or more. (Amended 3/14/1989, 3/09/2004)
2. Any structure damaged by fire, deterioration or other casualty to the extent of seventy-five (75) percent or more of the floor area in square feet and is not reconstructed within one (1) year shall constitute discontinuance and abandonment under Article VI 1.a. above and shall not be reconstructed or used except in conformity with this Ordinance. The Board of Selectmen may permit the reconstruction or use of such building or structure substantially as it was prior to destruction upon finding that the same will not be detrimental or injurious to the neighborhood. If, for any reason, this permit is not granted such damaged structure shall be removed to clear ground level and put into safe condition within two (2) years following the date of damage. Any time after the expiration of said two (2) years the Board of Selectmen may cause such removal to be done at the expense of the owner. (Amended 3/14/1989, 3/09/2004)

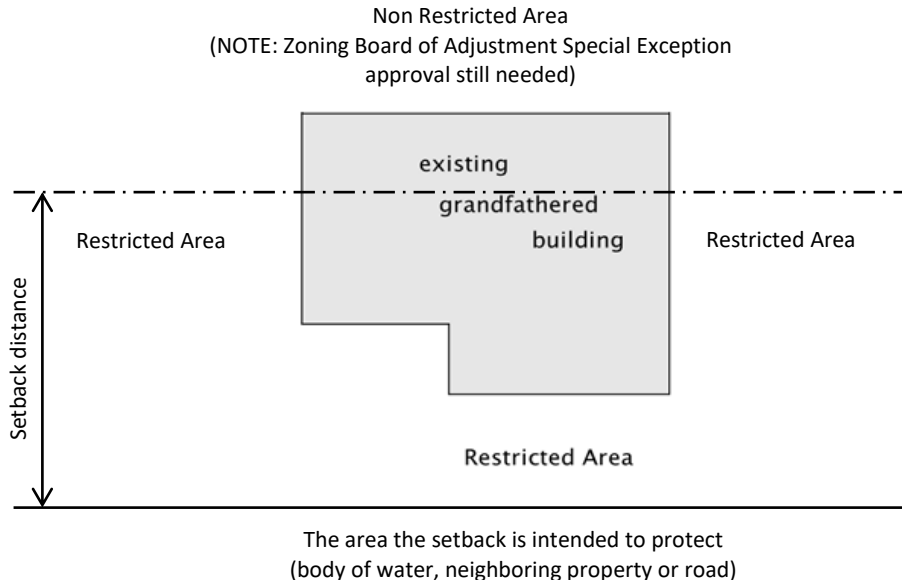
### 3. Nonconforming structures.

The dimensions (length, width and height) of a nonconforming structure shall not be increased unless granted a special exception. The Zoning Board of Adjustment may grant a special exception only if the following conditions are met:

(Amended 03/09/2004)

- (a) The nonconforming structure is not in the Wetlands or Floodplain District or falls within the Shoreland Water Quality Protection Act. (Amended 3/09/2004, 3/12/2019)
- (b) There is no significant change or expansion of use (see Article XIV Definitions) or the applicant has submitted either a new septic system design or a report of septic system inspection by a State of NH Licensed Septic System Evaluator showing that the system is adequate to meet the change or expansion of use. (Amended 3/14/2017, 3/12/2019)
- (c) The footprint of the structure will decrease, stay the same, or expand only in one direction, that being the direction furthest away from the area the setback is intended to protect or buffer, as shown in the diagram below. In all other directions the expansion shall not encroach any further than the existing structure except for minor appurtenances such as steps, bay windows, canopies and awnings. (Added 3/8/1994, Amended 3/12/2019)





- (d) Public health, safety and/or welfare is not adversely affected.  
(Amended 3/13/2007)
  - (e) Traffic, parking, noise and night time lighting are not unreasonably increased.  
(Amended 3/13/2007)
  - (f) The expansion shall not have any adverse effect on any neighboring properties including, but not limited to, property values, and blocking sunlight and/or views.
  - (g) The owner can demonstrate that the location of the structure in conformance with this Zoning Ordinance is not reasonably possible.
4. The owner of a non-conforming lot of record recorded before the date of this Ordinance, March 6, 1973, or any combination of such lots of record as modified by lawful merger or approved Planning Board plat, is permitted to build thereon without regard to requirements for lot size and frontage, provided the setback requirements are met and the use conforms with those authorized for the district in which the lot is located, and meets State of New Hampshire septic system design standards for the proposed use. (Amended 3/8/2016)
5. **New Construction within Setback on a Non-Conforming Lot.** The Zoning Board of Adjustment may grant a special exception to permit construction of a new structure within the setback requirement as long as the following conditions are met: (Amended 3/12/2019)
- (a) The nonconforming structure is not in the Wetlands or Floodplain District or falls within the Shoreland Water Quality Protection Act. (Amended 3/12/2019)
  - (b) If the nonconforming structure is a dwelling, the applicant has submitted a septic system design in accordance with NH RSA 485-A:38. (Amended 3/14/2017, 3/12/2019)

- (c) The non-conforming structure is situated in a way that respects the intent of the setback requirements as much as reasonably possible. (Added 3/08/1994, Amended 3/12/2019)
- (d) Public health, safety and/or welfare is not adversely affected. (Amended 3/13/2007)
- (e) Traffic, parking, noise and night time lighting are not unreasonably increased. (Amended 3/13/2007)
- (f) The encroachment shall not have any adverse effect on any neighboring properties including but not limited to, property values, and blocking sunlight and/or views.
- (g) The owner can demonstrate that the location of the structure in conformance with this Zoning Ordinance is not reasonably possible.

## **ARTICLE VII HOME OCCUPATIONS AND HOME BUSINESSES**

- A. Intent:** A home occupation, as defined below, is a permitted use. A home business may be allowed as a Special Exception by the Board of Adjustment in order to provide diversity in the employment available to Town residents; to support the variety of uses characteristic of small towns, and allow for reasonable growth. At the same time, the ordinance intends to ensure that the quiet, uncrowded, and scenic features of the Town are preserved, and that neighborhood character is maintained.
- B. Home Occupation:** Any use conducted entirely within a dwelling or an accessory building only by a member or members of the family domiciled therein which is clearly incidental and secondary to the use of the dwelling as a residence and does not change the character thereof or reduce the value of any surrounding property.

No home occupation shall be permitted that:

1. Changes the outside appearance of any buildings.
2. Results in outside storage or display.
3. Generates traffic, parking, noise, odors, smoke, dust, lights, sewerage or water use in excess of what is normal in the neighborhood.
4. Creates a hazard to person or property, results in electrical interference, or becomes a nuisance.
5. Any activity that exceeds these standards is subject to the Special Exception requirement applicable to Home Businesses.

**C. Home Business:** An activity that exceeds the standards for Home Occupation requires a Special Exception in accordance with this section.

1. A Home Business shall be carried on by residents of the premises. A Home Business may have employees who do not live on the premises.
2. It shall be clearly secondary to the use of the premises for dwelling purposes and will not alter the character of the neighborhood or reduce the value of any surrounding property.
3. It shall result in no external evidence of the enterprise except for a permitted sign and shall not have an adverse effect on the environment or the surrounding properties as a result of noise, odors, smoke, dust, lights, soil, water or air pollution, excessive increases in traffic or in parking requirements, or as a result of other nuisances.
4. It shall have no outdoor display of goods, and no outdoor storage of materials or equipment unless screened from roads and surrounding properties by natural or structural means to such an extent and in such a manner as may be specifically required and approved by the Board of Adjustment.
5. The residence or accessory buildings shall not provide window displays or other characteristics or features normally associated with commercial use.
6. There shall be no change in the exterior appearance of the residence or other structures on the property as a result of the use, unless specifically approved or required by the Board of Adjustment.

## **ARTICLE VIII WIRELESS TELECOMMUNICATIONS FACILITIES**

(Adopted 3/13/2001)

**A. Purpose and Intent.** The purpose of this Ordinance is to preserve the authority of the Town of Eaton to regulate and provide opportunity for the siting of wireless telecommunications facilities consistent with the Federal Telecommunications Act of 1996 and New Hampshire RSA 12-J while keeping, first and foremost, the scenic quality of the Town consistent with its Master Plan. The rural and environmental qualities are to be preserved also. The intent and goal of this ordinance is to permit wireless telecommunications facilities in the Town of Eaton and to:

- A. Reduce adverse impacts on scenic vistas.
- B. Reduce adverse impacts on environmentally sensitive areas, historically significant locations, health and safety by injurious accidents to persons and property, and prosperity through protection of property values.
- C. Promote co-location and minimal impact siting to the highest extent possible.

- D. Permit construction of new towers only where all other reasonable opportunities have been exhausted.
- E. Require use of existing structures whenever possible.
- F. Encourage personal wireless telecommunications services to provide a blanket of coverage for the Town of Eaton, not just nearby corridors, incorporating the goals listed above.

**B. Applicability.** The terms of this Ordinance and the Site Plan Review Regulations shall apply to all personal wireless telecommunications facilities proposed to be located on property owned by the Town of Eaton, on privately owned property and on property that is owned by any other governmental entity that acts in its proprietary capacity to lease such property to a carrier.

- A. All applications are subject to approval by the Planning Board in accordance with the terms of this Ordinance, the Site Plan Review Regulations and New Hampshire RSA 12-J:3 IV (a), (b), (c), (d). The applicant shall be responsible for payment of costs and regional notification requirements as laid out in New Hampshire RSA 12-J:4 and 12-J:7.
- B. All requests for a variance must go before the Zoning Board of Adjustment.

**C. District Regulations.**

- A. Location: Wireless telecommunications facilities shall be permitted in all Zoning Districts, except as restricted by this Ordinance. Applicants seeking approval for a wireless telecommunications facility shall first evaluate existing structures for the siting of the facility. Only after finding that there are no suitable existing structures, shall a provider propose a new ground mounted facility.
- B. Existing Structures Policy: Wireless telecommunications facilities shall be located on existing structures including, but not limited to buildings, water towers, existing telecommunications facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.
- C. Existing Structures Burden of Proof: The applicant shall have the burden of proving that there are no existing structures that are suitable to locate its wireless telecommunications facility. To meet that burden, the applicant shall take all the following actions to the extent applicable:
  - 1. The applicant shall submit to the Planning Board a list of all contacts made with owners of potential structures regarding the availability of potential space for a wireless telecommunications facility. If the Planning Board informs the applicant that additional existing structures may be satisfactory, the applicant shall contact the property owner(s) of those structures.
  - 2. The applicant shall provide copies of all letters of inquiry made to owners of

existing structures and letters of inquiry made to owners of existing structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the U.S. Post Office shall be provided for each owner of existing structures who was contacted.

3. If the applicant claims that a structure is not capable of physically supporting a wireless telecommunications facility, this claim must be certified by an independent licensed professional structural engineer hired by the Town of Eaton and paid for by the applicant.

D. Ground Mounted Facilities Policy: If the applicant demonstrates that it is not feasible to locate on an existing structure, ground mounted telecommunications facilities shall be designed so as to be camouflaged to the greatest extent possible, including, but not limited to use of compatible building materials and colors, screening, landscaping, and placement within trees.

E. Locations for Ground Mounted Facilities - Ground mounted wireless telecommunications facilities shall be prohibited from:

1. Zoned Village Districts
2. Historical Districts
3. Within 100 feet of town or state roads
4. Within 250 feet of a scenic road or siting in a manner which is readily visible from a scenic road.

**D. Use Regulations.** Wireless telecommunications facilities shall require a building permit in all cases and may be permitted as follows:

A. Existing Tower Structures: Subject to the issuance of a building permit that includes review by the Planning Board, which review shall be limited to determining that the height of the mount is not increased, a security barrier exists, the area of the security barrier is not increased and the siting is consistent with the standards set forth at Section 8.6. Carriers may locate a wireless telecommunications facility on any guyed tower, lattice tower, mast or monopole in existence prior to the adoption of the Ordinance, or on any wireless telecommunications facility previously approved under the provisions of this Ordinance so long as the co-location complies with the approved site plan. This provision applies only so long as height of the mount is not increased, a security barrier already exists, and the area of the security barrier is not increased. Otherwise, full site plan review is required.

B. Reconstruction of Existing Tower Structures: An existing guyed tower, lattice tower, mast or monopole in existence prior to the adoption of this Ordinance may be reconstructed with a maximum twenty (20) foot increase in height so as to maximize co-location so long as the standards of this Ordinance are met and so long as this twenty (20) foot increase in height does not cause a facility

previously existing to exceed the average tree canopy by more than 25 feet in height. The mount shall be replaced with a similar mount that does not significantly increase the visual impact on the community. Site plan review is required.

C. Existing Structures: Subject to the provisions of this Ordinance and site Plan review and except as otherwise prohibited under Section 8.5 C, a carrier may locate a wireless telecommunications facility on an existing structure, building, utility tower or pole or water tower.

D. Ground Mounted Facility: A wireless telecommunications facility involving construction of a ground mount shall require site plan review and be subject to the provisions of this Ordinance.

**E. Dimensional Requirements.** Wireless telecommunications facilities shall comply with the following requirements:

A. Maximum Height: In no case shall a wireless telecommunications facility exceed 10 feet over the average tree canopy height. The Planning Board will consider a 15' extension above the 10' height provided that the applicant can demonstrate the technical necessity of such extension and provided that the performance and design standards of Section 8.6 are met. The applicant will pay for the town to hire an independent qualified radio frequency engineer to substantiate the applicants claim of technical necessity. Technical considerations include, but are not limited to, the availability of alternative sites, collocation and improved reception and coverage within the Town. The Planning Board shall not grant the extension for any siting within scenic vistas designated by the Planning Board.

B. Height, Existing Structures and Utility Poles: Carriers that locate new wireless telecommunications facilities on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts and monopoles may be permitted with no increase in height.

C. Height, Other Existing Structures: The height of a wireless telecommunications facility shall not increase the height of a structure unless the facility is completely camouflaged; for example, a facility completely within a flagpole, steeple, or chimney. The increase in height of the structure shall be in scale and proportion to the structure as originally configured. A carrier may locate a wireless telecommunications facility on a building that is legally non-conforming with respect to height, provided that the provisions of this Ordinance are met.

D. Setbacks: All wireless telecommunications facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located.

E. Fall Zone for Ground Mounts: In order to ensure public safety, the minimum distance from the base of any ground-mount of wireless telecommunications



facilities to any property line, public road, habitable dwelling, business or institution, or public recreational area shall be, at minimum, the distance equal to the height as defined in this Ordinance.

**F. Performance and Design Standards.** These shall apply to all applications.

A. Visual impacts shall be measured by applying the following standards:

1. Visual impacts are measured on the basis of change in community scale, as exhibited in relative height, mass or proportion of the wireless telecommunications facility within their proposed surroundings.
2. Visual impacts are measured by the contrast created by new visible elements set against a contrasting background.
3. Visual impacts are measured by evaluating how different colors and textures contrast against the existing background.
4. Visual impacts are measured by evaluating how the use of materials that are foreign to the existing built environment within their proposed surroundings create visual blight.

B. Enhancements are measured on the basis of:

1. Conservation of opportunities to maintain community scale, e.g., buffering areas and low-lying buildings should not be compromised so as to start a trend away from the existing community scale.
2. Amount and type of landscaping and/or natural vegetation.
3. Continuation of existing colors, textures, and materials.

C. Visibility focuses on:

1. Eliminating or mitigating visual impact.
2. Protecting, continuing and enhancing the existing environment.

D. Camouflage for Facilities on Existing Buildings or Structures: Roof Mounts

1. When a wireless telecommunications service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways.
2. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.

E. Camouflage for Facilities on Existing Buildings or Structures - Side Mounts

1. Wireless telecommunications facilities which are side mounted shall blend with the existing building's architecture and, if individual antenna panels are

over five (5) square feet, the panels shall be painted or shielded with material consistent with the design features and materials of the building.

F. Camouflage for Ground Mounted Facilities:

1. The carrier shall maintain a vegetative buffer at least as tall as the fence, 360 degrees surrounding the facility including the security fence, a minimum twenty-five (25) feet deep starting at the fence. The barrier shall be in keeping with the surrounding vegetation and shall effectively screen the facility 365 days of the year.
2. The vegetative buffer area shall be protected by a landscape easement or be within the area of the carrier's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying, present a hazard to persons or property, or as approved during site plan review.

G. Color. To the extent that any component of a wireless telecommunications facility extends above the height of the vegetation immediately surrounding it, it shall be of a color which blends with the background or surroundings, including guy wires.

H. Equipment Shelters

1. Equipment shelters shall be located in underground vaults; or
2. Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the wireless telecommunications facility; or
3. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
4. If mounted on a roof top, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.
5. All utilities, to the site from existing utilities shall be underground.

I. Lighting, Signage and Security

1. Lighting:
  - a. The mounts of the wireless telecommunications facility shall be lighted only if required by the Federal Aviation Administration (FAA).
  - b. Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. Foot-candles measurements at the property line shall be 0.0 initial foot candles.

2. Signage: Signs shall be limited to those needed to identify the property and the owner and warn of any danger.
  3. Security Barrier: A security barrier is required for all wireless telecommunications facilities.
- J. Historic Buildings and Districts: Any application to which this section applies shall be referred to the Heritage Commission for an advisory recommendation regarding the architectural compatibility of the proposal.
1. Any wireless telecommunications facility located on or within an historic structure shall not alter the character or defining features, distinctive construction methods or original historic materials of the building.
  2. Any alteration made to an historic structure to accommodate a wireless telecommunications facility shall be fully reversible.
  3. Wireless telecommunications facilities authorized by this subsection shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas.
- K. Scenic Landscapes and Vistas
1. Wireless telecommunications facilities shall not be located within open areas so that they are materially visible from public roads, recreational areas, or abutting properties. All ground-mounted wireless telecommunications facilities shall be surrounded by a buffer of dense tree growth as per section 8.6 F.
  2. Wireless telecommunications facilities shall not be materially visible above the ridge line from public roads, recreational areas, designated scenic vistas or abutting property.
- L. Driveways
1. Existing entrances and driveways to serve a wireless service facility shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic and environmental impact.
  2. New driveways to serve a wireless telecommunications facility shall not exceed twelve (12) feet in width. A 1½" crushed gravel surface is required.
- M. Antenna Types
1. Any antenna array placed upon an existing or proposed ground mount, utility pole or transmission line mount shall have a diameter of no more than four (4) feet, exclusive of the diameter of the mount unless the Planning Board finds a larger antenna array does not materially impair the visual impact of the siting.
  2. Ground and Roof Mounts: All ground mounts shall be of a mast type mount. Lattice towers, guyed towers, and roof mounted monopoles are expressly

prohibited, unless constructed as part of a reconstruction project permitted under Section 8.4 B.

- N. Hazardous Waste: No hazardous waste shall be discharged on the site of any wireless telecommunications facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred and ten percent (110%) of the volume of the hazardous materials stored or used on the site.
- O. Noise: Wireless telecommunications facilities shall not generate noise in excess of that permitted under the Site Plan Review Regulations.
- P. Radio Frequency Radiation (RFR) Standards: All equipment proposed for a wireless telecommunications facility shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation (FCC Guidelines), under Report and Order, FCC 96-326, published on August 1, 1996, and all subsequent amendments.

#### **G. Monitoring and Maintenance**

- A. The owner of the facility shall maintain the wireless telecommunications facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.
- B. As part of the issuance of the site plan approval or building permit, the property owner shall agree that the Town of Eaton may enter the subject property to obtain RFR measurements and noise measurements at the expense of the carrier. The Town of Eaton shall provide reasonable written notice to the carrier and landowner and provide them the opportunity to accompany the Town Representatives when the measurements are conducted.
- C. Security for Removal: Recognizing the hazardous situation presented by abandoned and un-monitored wireless telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with section 8.8. The amount of the security shall be based upon the removal cost plus fifteen percent (15%), provided by the applicant and certified by an independent professional civil engineer licensed in New Hampshire every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen percent (15%) then the owner of the facility shall provide additional security in the amount of the increase. It shall be a condition of any approval granted under this ordinance that the name and address of the facility owner shall be accurately reported to the Town at all times during the life of the facility. All transfers of

ownership shall be reported in writing to the Town before such transfers occur.

#### **H. Abandonment or Discontinuation of Use**

- A. Notification At such time that a carrier plans to abandon or discontinue operation of a wireless telecommunications facility, such carrier will notify the town by certified U.S. Mail of the proposed date of abandonment or discontinuation of operations.
- B. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operation. In the event that a carrier fails to give such notice, the wireless telecommunications facility shall be considered abandoned upon such discontinuation of operations.
- C. Removal: Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the wireless telecommunications facility within ninety (90) days from the date of abandonment or discontinuation of use. This shall include, but not be limited to:
  - 1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
  - 2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  - 3. Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- D. Failure to Remove: If the owner of the facility does not remove the facility upon the Board of Selectmen's order, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the town may execute the security to pay for this action. The carrier shall be fined \$275 per day starting on the 91st day after declaration until the facility is removed.

#### **I. Administration and Enforcement**

It shall be the duty of the Board of Selectmen or its designated Building Inspector to initiate immediate steps for enforcement of this Ordinance, upon well-founded information of any violation thereof, by issuing due notice to cease and desist such violation and taking such necessary and other action as may be permitted by statute for both criminal and civil enforcement of the same including, but not limited to, seeking a civil fine of \$100.00 per day for each day the violation continues after the owner has been notified of that violation; however, failure by the Selectmen to not initiate enforcement under this Ordinance will not constitute a waiver of the Town's right to take such action.

## **J. Definitions:**

For the purpose of this Ordinance, the following terms shall have the meaning given herein:

**ANTENNA** - The surface from which wireless radio signals are sent and/or received by a wireless telecommunications facility.

**ANTENNA ARRAY** - A collection of antennas attached to a mount to send and receive radio signals.

**APPLICANT** - Holder of a license from the Federal Communications Commission proving eligibility to deploy systems in the Town of Eaton in accordance with the Federal Telecommunications Act of 1996 as amended. Alternatively, the applicant may provide a copy of a contract with the holder of such a license and a copy of that license.

**AVERAGE TREE CANOPY HEIGHT** - an average height found by inventorying the height at above ground level (AOL) of all trees over (20) feet in height in the fall zone.

**CAMOUFLAGED** - A wireless telecommunications facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

**CARRIER** - A company that provides wireless telecommunications services, also sometimes referred to as a provider.

**CO-LOCATION** - The use of a single mount on the ground by more than one carrier (vertical co-location) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.

**EQUIPMENT SHELTER** - An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for wireless telecommunications service facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

**FACILITY** - Wireless telecommunications facility

**FALL ZONE** - The area on the ground from the base of a ground mounted personal wireless service facility that forms a circle with the diameter equal to the height of fall zone is the area within which there is potential hazard from falling debris (such as ice) or collapsing material.

**GUYED TOWER** - A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

HEIGHT - The height above ground level (AGL) from the natural grade of a site to the highest point of a structure, measured from the lowest leg or point of the mount.

LATTICE TOWER - A type of mount with multiple legs and structural cross-bracing between the legs that is self-supporting and free-standing.

MAST - A thin pole that resembles a street light standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

MONOPOLE- A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material that is designed for the placement of antennas and arrays along the shaft.

MOUNT - The structure or surface upon which antennas are mounted, including the following four types of mounts:

- Roof-mounted: Mounted on the roof of a building
- Side-mounted: Mounted on the side of a building
- Ground-mounted: Mounted on the ground
- Structure-mounted: Mounted on a structure other than a building

WIRELESS TELECOMMUNICATIONS FACILITY - A facility for the provision of personal wireless telecommunications services, including a mount, antenna, equipment shelter, and other related equipment.

PERSONAL WIRELESS TELECOMMUNICATIONS SERVICES - Three types of services regulated by this ordinance - Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.

RADIO FREQUENCY (RF) ENGINEER - An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

RADIO FREQUENCY RADIATION (RFR) - The emissions from wireless telecommunications facilities.

SCENIC VISTAS - Those areas designated by the Planning Board and on file at the Selectmen's Office at the time any application under this ordinance is submitted.

SECURITY BARRIER - A wall or fence that restricts an area from unauthorized entry or trespass.

SEPARATION - The distance between one carrier's array of antennas and another carrier's array.

## **ARTICLE IX ADMINISTRATION AND ENFORCEMENT**

- A. Duty:** The Board of Selectmen is hereby granted the power, authority and duty to administer and to enforce this Ordinance, except that the Code Enforcement Officer is empowered to enforce the Life Safety Code in consultation with the Board of Selectmen.
- B. Permits:** After the effective date of this Ordinance, it shall be unlawful to change the nature or extent of the use of any structure or lot, erect or use any structure, sign or building, or alter any building, or relocate any building in any district without first obtaining a permit from the Board of Selectmen. All building or use permits shall have one year expiration dates and shall be subject to renewal, annually, for up to three additional years. (Amended 3/13/1990, 3/12/1991, 3/08/1994, 3/12/2019)
- C. Repair and Maintenance:** No permit shall be required for repair or maintenance where the purpose for which the building is to be used is not changed and where the existing exterior walls are not to be altered and where the cost of construction does not exceed \$2,500. Where there is no cost for labor, the cost of materials shall be doubled. A permit is not required for maintenance such as painting, roofing and window and door replacement. (Amended 3/12/1991, 3/08/1994, 3/12/2019)
- D. Enforcement:** The Board of Selectmen shall recover in the name of the Town of Eaton reasonable attorney's fees and all other costs where it prevails in the enforcement of any provision of this ordinance or the collection of any sums of money due to the Town of Eaton under any provision of this Ordinance.
- E. Life Safety Code:** The Life Safety Code, NFPA Doc. No. 101, 1976 Edition, as amended, is made a part of this ordinance.
1. **Code Enforcement Officer:** The post of Code Enforcement Officer is hereby established. The Code Enforcement Officer shall be appointed by the Board of Selectmen and shall be employed for a term and remuneration that the Selectmen shall determine.
  2. **Duties:** Upon adoption of this section, the Code Enforcement Officer shall have all statutory duties and powers of a fire inspector, including but not limited to: the power to conduct inspections, and to recommend issuance of occupancy permits for all new dwelling units, and for all workplaces and places of assembly.

## **ARTICLE X ZONING BOARD OF ADJUSTMENT**

- A. Creation:** The Board of Adjustment created by Article VI of the Land Use Ordinance of the Town of Eaton, adopted March 10, 1970, shall be a continuing body and



become the Zoning Board of Adjustment (ZBA) of this Ordinance. It shall have the composition, terms, duties and authority set forth in New Hampshire Revised Statutes, Annotated, Chapters 673, 674, 676, 677 as amended (formerly Chapter 31). The Board shall hold public hearings on all cases properly before it and shall give reasonable public notice thereof and reasonable notice by mail to all owners of property within 200 feet of the exterior boundaries or property involved. The Board may, before acting on a matter, refer to the Planning Board for review and recommendation. The granting of permits by the Board of Adjustment may be subject to appropriate conditions and safeguards.(Amended 03/11/1986, 03/4/1989)

## **ARTICLE XI AMENDMENT**

This Ordinance may be amended in accordance with New Hampshire Revised Statutes Annotated, Chapters 674, 675, (formerly Chapter 31), which provides that amendments to the Ordinance shall be enacted in the same manner and under the same procedures as the Ordinance itself. (Amended 3/13/1979)

## **ARTICLE XII PENALTIES**

Every legal person, whether individual, corporate or other shall be fined up to two hundred and seventy five dollars (\$275.00) for the use of the Town of Eaton for each day any violation of the provisions of this Ordinance exists. A thirty (30) day grace period will be allowed, after official notification by the Board of Selectmen before fine is imposed. (Amended 3/13/1979; 3/11/2003)

## **ARTICLE XIII SEVERABILITY**

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

## **ARTICLE XIV DEFINITIONS**

In this Ordinance the following terms shall have the following meanings:

**Alteration:** Any structural change or rearrangement in the walls, roof, ceiling, floor, beams, columns, exterior architectural features and exit facilities. Alteration includes the

movement of any building, except mobile homes and trailers, from one location to another.

**Accessory Building:** A detached, subordinate building located on the same lot as the main building, and the use of which is incidental and subordinate to that of the main building or use of the land. (Amended 3/12/2013)

**Accessory Dwelling Unit:** A subordinate dwelling unit that provides independent living facilities on a non-transient basis, including provisions for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling unit it accompanies. (Adopted 3/12/2013, Amended 3/12/2019)

**Accessory Use:** A land use located on the same lot which is incidental and subordinate to the main building or use of the land.

**Building:** Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals or chattel.

**Community Wastewater System:** A non-municipal wastewater collection, treatment, and disposal system that serves an average of at least twenty-five (25) individuals daily year round or that has at least fifteen (15) service connections.

**Community Water Supply:** A no-municipal water supply system that serves an average of at least twenty-five (25) individuals daily year round or that has at least fifteen (15) service connections.

**Duplex:** A residential building containing two (2) dwelling units. (Adopted 3/12/2019)

**Driveway:** Any designated vehicular access from a single house lot to a public right of way or private road. The Planning Board may allow a single driveway to service two (2) house lots, but in no instance shall a driveway be substituted for a private road. (Adopted 3/14/1989)

**Dwelling:** A building designed or used for one or more families. (Amended 3/10/1992)

**Dwelling Unit:** A residential building or portion thereof designed or used for one family. (Amended 3/10/1992)

**Expansion of Use:** Any change in use that is significantly different from the nature and purpose of the existing use and is not merely a different manner of exercising the same use or any change that has a substantially different effect on the neighborhood. This would include any change to a structure that increases sleeping capacity or is a change from seasonal to full time use. (Adopted 3/12/2019)

**Family:** One or more persons occupying a dwelling unit and living as a single non-profit housekeeping unit.

**Farm:** Any parcel of land containing at least ten (10) acres which is used for the raising of agricultural products, livestock, poultry and dairy products, and including necessary farm structures and storage of equipment.

**Industry:** A building or land area in which industrial operations of manufacturing, processing, assembly, packaging, finishing, treating or compounding take place.

**Lake Shore Area:** Any area within 500 feet of the average high water level of a lake or pond: an area to be determined by projecting a line perpendicular to the average high water level of lake or pond.

**Lot:** A parcel of land under separate title from adjacent property. (Amended 3/10/1992, 3/12/2019)

**Lot of Record:** A distinct tract of land recorded in a legal deed, court decree, or subdivision plan filed in the Carroll County Registry of Deeds. (Adopted 3/14/1989)

**Main Building:** A residential building which supports the main use of the land as permitted within the Zoning District. (Adopted 3/12/2013)

**Manufactured Housing:** Any structure transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site is three hundred twenty (320) square feet or more, and which is built on a permanent foundation 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 shall not include Presite Built Housing. (Adopted 3/14/1989)

**Multifamily Dwelling Unit:** Any structure containing more than two (2) dwelling units.

**Non-conforming Use:** A use which was legal prior to the adoption of this ordinance which does not now conform to the use regulations for the District in which it is located.

**Non-conforming Structure:** A structure which was legal prior to the adoption of this ordinance which does not now conform to the dimensional regulations for the District in which it is located.

**Non-conforming Lot:** A lot which was legal prior to the adoption of this ordinance which does not now conform to the lot regulations for the District in which it is located.

**Non-Transient Occupancy:** Occupancy of a dwelling unit for any period of time greater than thirty (30) days. (Adopted 3/12/2019)

**Official Trail:** Means a state or municipal trail legally established per RSA 216-F, RSA 230:74 & 75 or RSA 231-A. (Adopted 3/8/2016)

**Parking Space:** An off-street space available for the parking of one motor vehicle and having an area of not less than 200 square feet exclusive of the necessary internal and access driveways and passageways.

**Presite 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 United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, in the building site. Presite Built Housing shall not include Manufactured Housing. (Adopted 3/14/1989)

**Private Road:** A strip of land over which one or more individuals has the right to pass in a highway vehicle, and which is not a Class I through VI highway, and is not an Official Trail, and is not a driveway, and is not maintained by the Town. New private roads requesting subdivision approval must meet established Town standards.  
(Adopted 3/8/2016)

**Recreational Vehicle:** A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pickup camper, travel trailer, tent trailer or motor home.

**Recreational Vehicle or Tenting Area:** A tract of land where one or more recreational vehicles or tents are placed or a tract of land which is used or intended for the purposes of supplying to the public spaces for two or more recreational vehicles or tents.  
(Amended 03/14/2000)

**Residential Building:** A single structure of not more than two dwelling units.  
(Adopted 3/10/1992)

**Sign:** Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

**Slope:** The steepness of land surface. Slope is expressed in percent by dividing the change in elevation in a given distance by that given distance and multiplying by 100.

**Soil Type:** As defined by the Society of Soil Scientists of Northern New England in its publication "HISS Maps for New Hampshire." (Amended 3/14/1989)

**Street:** A public way. The word "street" shall include the entire right of way. For purposes of this ordinance, it shall be synonymous with the words "road" and "highway."  
(Amended 3/14/1989)

**Structure:** Any combination of materials constructed, erected, installed or located above, below or upon the ground, whether permanent or temporary in nature (See Article IV Section N). (Amended 3/12/1991, 3/09/2004, 3/12/2005, 3/12/2019)

**Subdivision:** As defined by the Town of Eaton Subdivision Regulations.

**Undevelopable Land:** Land designated as Wetlands, or land with slopes greater than twenty five percent (25%) (Adopted 3/14/1989)

**Wetlands:** Lands containing soils classified by the National Cooperative Soil Survey as poorly drained or very poorly drained, including, but not restricted to, marshes, shallow ponds, swamps, bogs, seasonally flooded flats, poorly drained meadows, and, in general, areas that are inundated or saturated with groundwater at a frequency or duration to support a prevalence or wetland adapted for life in saturated soil conditions.

**Woodlot:** A tract of land available for growth and harvesting of trees and tree products, including either unmanaged tracts or those managed as tree farms.

**Yard:** A required open space parallel to the lot lines which is open to the sky and unoccupied and unobstructed by any building or buildings.

**Yard, Front:** An open space between the building and front lot line, extending the full width of the lot, or in case of a corner lot, extending along all streets.

**Yard, Rear:** A yard extending the full width of the lot and situated between the main building and the rear lot line.

**Yard, Side:** An open space between the building and a side lot line, extending from the front yard to the rear yard. Any yard not a rear yard or a front yard shall be deemed a side yard.

**Yards, Depth or Width of:** The depth of front and rear yard and the width of side yards, shall be measured perpendicularly to the respective lot lines.

## **ARTICLE XV EFFECTIVE DATE**

This Ordinance shall take effect upon its passage (March 6, 1973).

The Land Use Ordinance of the Town of Eaton, adopted March 10, 1970 shall be repealed upon the effective date of this Ordinance except as may be provided herein.

As amended March 14, 1978; March 13, 1979; March 11, 1980; March 8, 1983; March 10, 1987; March 8, 1988; March 14, 1989; March 13, 1990; March 12, 1991; March 10, 1992; March 8, 1994; March 10, 1996; March 9, 1999; March 14, 2000; March 13, 2001; March 11, 2003; March 9, 2004; March 12, 2005; March 14, 2006; March 13, 2007; March 9, 2010; March 12, 2013; March 10, 2015; March 2, 2016; March 14, 2017; March 12, 2019; March 10, 2020; March 9, 2021