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## **SECTION I: PURPOSE**

The purposes of this Plan are to promote and conserve the health and welfare of the inhabitants of the Town; to secure safety from fire; to facilitate the adequate provision of transportation, water, sewerage, and other public requirements, to conserve the value of land and buildings; to avoid undue concentration of population; to encourage the most appropriate use of land; and to further increase the general welfare of its inhabitants by preserving, promoting, and developing its many outstanding characteristics such as open space, ridgelines, hillsides, areas of forestry, wetlands, and other prominent natural features which contribute notable scenic views or vistas and the quality of life, all in accord with Chapters 672-677 Revised Statutes Annotated of the State of New Hampshire, and any amendments thereto. (Amended 2001)

## **SECTION II: ESTABLISHMENT OF DISTRICTS** (amended March 8, 2005, March 2008)

2.1 The Town of Jaffrey is hereby divided into districts of six (6) types, to be known as:

- 2.1.1 Mountain
- 2.1.2 Rural
- 2.1.3 Residence A (RA)
- 2.1.4 Residence B (RB)
- 2.1.5 Commercial and General Business (GB)
- 2.1.6 Industrial (IND)

The Town also has two overlay districts:

- Elderly Housing (Paragraph 3.6)
- Historic (Paragraph 15.2)

2.2 The boundaries of these districts are defined in the Guide to Zoning Districts, which is Section XV of this ordinance.

## **SECTION III: DISTRICT REGULATIONS AND PERMITTED USES**

3.1 The **Rural District** may be used for the following:

- 3.1.1 Farms and housing related to the farm, nurseries, greenhouses, and the sale of produce primarily raised on the premises, provided that no stand for the sale of such produce shall be within thirty (30) feet of the street line. (Amended 2004)
- 3.1.2 Detached single-family dwellings.

- 3.1.3 Duplex and multifamily units provided such units are located only in Open Space Development Plan; however, no more than four dwelling units are permitted in one building or structure. (Amended March 8, 2005)
  - 3.1.4 Open Space Development Plan and/or Village Plan Alternatives are permitted in accordance with the provisions of VII. (Amended March 2003)
  - 3.1.5 Public recreation facilities.
  - 3.1.6 Churches, parish houses, religious schools, religious reading rooms, schools, public libraries and museums.
  - 3.1.7 Nursery school or other agency for the day care of children.
  - 3.1.8 Manufactured housing/mobile home subdivisions, which must have received subdivision approval in accordance with the Jaffrey rules and regulations to control subdivision.
  - 3.1.9 Manufactured housing/mobile home parks are permitted in accordance with the provisions of the Jaffrey mobile home park ordinance.
  - 3.1.10 Conversion apartments in accordance with the provisions of Section IV.
  - 3.1.11 Bed and Breakfast establishments and rooming houses.
  - 3.1.12 Nursing homes, but only in those rural areas served by the Town's water system and in accordance with the provisions of Section IV.
  - 3.1.13 Signs, as regulated by Town Ordinances.
  - 3.1.14 Excavation of Earth, as governed by Town of Jaffrey's Regulation of Excavation of Earth.
  - 3.1.15 Fireworks Warehousing. To establish, by special exception and subject to Planning Board site plan review and documented compliance with all state and federal controlling regulations, that fireworks warehousing be permitted in the rural zone, provided, when the land ceases to be used for fireworks warehousing, the special exception terminates.
  - 3.1.16 Interior Lots. In keeping with the objective of preserving and enhancing the rural character of the town, as expressed by Jaffrey's Master Plan, interior lots, established in accordance with the provisions of Section V, are authorized in the Rural District.
- 3.2 The **Residence A** Districts may be used for the following:
- 3.2.1 Detached single-family residences.
  - 3.2.2 Churches, parish houses, religious schools, religious reading rooms, schools, public libraries and museums.
  - 3.2.3 Customary home occupations, as defined and governed by paragraphs 3.17 and 4.16.
  - 3.2.4 Nursery school or other agency for the day care of children.

- 3.2.5 Group homes in accordance with the provisions of Section IV.
- 3.2.6 Signs, as regulated by Town Ordinances.
- 3.2.7 Open Space Development Plan, subject to the provisions of Sections V and VII, and having a minimum tract area of five (5) acres. (Amended 2000, March 8, 2005)
- 3.3 The **Residence B** Districts may be used for the following:
  - 3.3.1 All uses authorized for the Residence A Districts.
  - 3.3.2 Two-family dwellings.
  - 3.3.3 Apartments and condominiums.
  - 3.3.4 Open Space Development Plan in accordance with the provisions of Sections V and VII. (Amended March 2005, March 2008)
  - 3.3.5 Funeral homes and mortuaries.
  - 3.3.6 Bed and Breakfast establishments and rooming houses.
  - 3.3.7 Manufactured housing/mobile home subdivisions that must have received subdivision approval in accordance with the Jaffrey rules and regulations to control subdivision.
  - 3.3.8 Manufactured housing/mobile home parks are permitted in accordance with the provisions of the Jaffrey mobile home park ordinance.
  - 3.3.9 Nursing homes in accordance with the provisions of Section IV.
- 3.4 The **Commercial and General Business** Districts: Land and buildings may be used for the following:
  - 3.4.1 Detached single-family dwellings.
  - 3.4.2 Two-family dwellings.
  - 3.4.3 In an enclosed building or structure: Retail stores, sales rooms, retail services, restaurants, taverns, cafes, and other places for serving foods and alcoholic beverages, business and professional offices, banks, private clubs, hotels, inns, rooming houses, bed and breakfast establishments, theaters, halls, clubs, and other places of assembly, shops for custom work or the making of articles to be sold on the premises, upholstery, newspaper production and job printing. Also permitted are sales and repairs of automobiles and similar vehicles, commercial or public parking, gasoline service stations and any uses similar to the foregoing. Places where alcoholic beverages are sold for consumption on the premises and places of amusement, as defined by paragraph 24 of Section X of these regulations, are permitted if authorized by the Board of Adjustment as Special Exception in each specific case. (Amended March 2000)
  - 3.4.4 Signs, as regulated by town ordinances.

- 3.4.5 Apartment houses, condominiums, and apartments, or rooms in a building for which the principal use is business, if such apartments/rooms are located above the ground floor.
- 3.4.6 Group homes in accordance with the provisions of Section IV.
- 3.4.7 Nursing homes in accordance with the provisions of Section IV.
- 3.4.8 Public recreation facilities. (Amended March 2006)

### 3.5 The **Industrial Districts**

3.5.1 Land and/or buildings may be used for the following purposes:

- (a) Establishments engaged in the manufacturing, assembly, compounding, processing/packaging, treatment or distribution of products including primary product production from raw material. Establishments will employ reasonable technology to avoid undesirable and preventable elements of pollution (e.g.: noise, vibrations, electrical interference, smoke, soot, particulate matter, or any other discharges into the environment demonstrated to be harmful to persons, structures or the environment). Establishments will conform to all state and federal pollution control requirements and will maintain all necessary permits. (Amended March 2003)
- (b) Wholesale, warehouse and storage facilities.
- (c) Motor freight (truck) terminals including warehousing and truck repair facilities when conducted entirely within a building, and outside parking for tractor-trailers and employees.
- (d) Truck and heavy equipment sales, service and repair services.
- (e) Automotive, truck and utility trailer rental and equipment rental facilities.
- (f) Storage facilities for individual lease.
- (g) Distributing plants, beverage bottling/distribution.
- (h) Research and testing laboratories devoted to the research, testing, design, and experimentation of products and processing and fabrication operations that are incidental thereto.
- (I) Industrial parks containing activities consistent with the provisions of paragraph 3.5.1.
- (j) Carpenter; electrical; plumbing; welding and blacksmith; heating, ventilation, refrigeration and air conditioning; sheet-metal fabrication and furniture operations.
- (k) Laundry and clothes cleaning and dyeing establishments.
- (l) Printing and publishing establishments.
- (m) Building materials supply.

- (n) Bulk storage and distribution of petroleum products or by-products.
- (o) Recreation vehicle and marine sales, service, repair and storage facilities.
- (p) Utility operations including electric and gas distribution operations and sewer and water treatment distribution and collection facilities.
- (q) Signs as regulated by Town Ordinances.
- (r) Off-street parking and building loading areas for chemical products.
- (s) Other accessory uses that are customarily incidental to a permitted principal use and as approved by the Planning Board.
- (t) Excavation of earth, as governed by Town of Jaffrey Regulation of Excavation of Earth. (Amended March 12, 1991)

3.5.2 Land and buildings may be used for any purpose authorized in paragraph 3.4.3.

### **3.6 Elderly Housing**

3.6.1 Purpose: In recognition of its inherent obligation to its elder citizens, the Town of Jaffrey hereby establishes an overlay zoning district in which "elderly housing" shall be allowed as a special exception. The purpose of this section is to establish the special exception conditions that such a use must satisfy. Where the Town zoning regulations differ from the provisions contained in this section, this section shall take precedence.

3.6.2 Definition: For the purpose of this section, the term "elderly housing" shall mean any housing that is specifically funded, or the construction of which is specifically funded, or the construction of which is specifically assisted by the local, state or federal government or agencies or private individuals or organizations for the use of elderly persons.

3.6.3 Applicability: The overlay district created in this section shall only apply to the Residence B and General Business Districts and the Residence A Districts, excepting the Historic District.

- (a) Density: In recognition of the desirability of locating elderly housing in reasonable proximity to available support systems and in recognition of the social, cultural, and physical advantage of living in a balanced community environment, not more than ten units per acre for elderly housing shall be allowed.
- (b) Parking: As a requirement for elderly housing, there shall be one parking space for every dwelling unit.
- (c) Site Plan: The proposed use shall be subject to the provisions of the Site Plan Review Regulations of the Town of Jaffrey.

### **3.7 Mountain Zone District**

3.7.1 Purpose and Parameters

Mount Monadnock is recognized as the natural and cultural focus of our region. It is an integral part of what makes Jaffrey an attractive place to live, to do business, or simply to visit. The overarching purpose of the Mountain Zone is:

- To preserve to the extent practical land in its natural state;
- To limit development to patterns consistent with the Zone’s rural character;
- To protect the fragile natural resources of Mt. Monadnock and its surrounding area.

In furtherance of these values, the Mountain Zone district is intended:

- To protect and preserve the rural, scenic beauty of Mount Monadnock, its associated highlands, including Gap Mountain and Little Monadnock, and the lowland areas immediately adjacent to the highlands;
- To protect the fragility of the natural habitats and the ecosystems of the Mountain Zone;
- To foster and encourage a consistent pattern of protection of these areas by all towns surrounding Mount Monadnock;
- To protect the area in Jaffrey’s Mountain Zone against commercialization and/or exploitation;
- To preserve the natural beauty of the area in Jaffrey’s Mountain Zone for future generations;
- To minimize visual intrusions on the viewscape of the mountain, including views to and from the mountain and its ridges;

Thus, the area in the Mountain Zone shall be limited to rural residential and agricultural (incl. Temporary wood milling operations, temporary cord wood operations, and maple sugaring facilities) use only as specified in the Table of Allowable Usages (Sec 3.7.3). (Amended 2008)

- 3.7.2 The Mountain Zone District shall be described as hereinafter set forth under "Mountain District Boundary - Monadnock" and "Mountain District Boundary - Gap Mountain."
- 3.7.3 Mountain Zone - Table of Use Regulations (Amended March 2005, March 2008)

Permitted = P  
 Special Exception = XA  
 Not Permitted = NP

**Residential:**

Single-family detached .....	P
Duplex as stated in Section 3.1.3 .....	NP
Multifamily as stated in Section 3.1.3.....	NP
Manufactured Housing/Mobile Home Subdivisions.....	NP
Manufactured Housing/Mobile Home Parks .....	NP
Accessory Apartments .....	XA
Apartments (incl. Conversion).....	NP
Open Space Development Plan.....	XA
Flexible Developments .....	XA

Major Residential Developments..... XA

**Agriculture:**

Farms, nurseries, greenhouses (less than 600 sq ft)..... P

**Public/Semipublic:**

Public Recreation..... XA  
Churches, Parish Houses..... XA  
Religious Schools..... XA  
Religious Reading Rooms..... XA  
Schools..... XA  
Public Libraries..... XA  
Museums..... XA

**Commercial:**

Nursery School..... NP  
Day Care..... NP  
Group Homes..... NP  
Nursing Homes..... NP  
Funeral Homes and Mortuaries..... NP  
Home Occupations..... XA  
Retail Store/ Retail Services..... NP  
Sales Rooms..... NP  
Restaurants, Taverns, Cafes..... NP  
Business/Professional Offices..... NP  
Banks..... NP  
Hotels, Inns..... NP  
Bed and Breakfast (4 BR max)..... XA  
Rooming Houses..... NP  
Theaters, Halls, Private Clubs..... NP  
Clubs and Other Places of Assembly..... NP  
Shops for Custom Work..... NP  
Newspaper Production, Job Printing..... NP  
Commercial or Public Parking..... NP  
Gasoline Service Stations..... NP  
Commercial kennel/Veterinary hospital..... NP

**Industrial:**

Earth Excavation..... NP  
Manufacturing, assembly, compounding, processing/packaging, treatment or  
distribution of products..... NP  
Wholesale, warehouse and storage..... NP  
Motor freight terminals..... NP  
Warehousing and truck repair..... NP  
Truck and heavy equipment sales, service, and repair..... NP  
Automotive, truck, utility trailer, and equipment rental..... NP  
Storage facilities for lease..... NP  
Distributing plants..... NP

Beverage bottling/distribution .....	NP
Research and testing laboratories.....	NP
Industrial Parks .....	NP
Carpenter, electrical, plumbing, welding, blacksmith, heating, ventilation, refrigeration, air conditioning, sheet metal fabrication.....	NP
Laundry and clothes cleaning and dyeing.....	NP
Printing and publishing.....	NP
Building materials supply .....	NP
Bulk storage and distribution of petroleum products.....	NP
Recreation vehicle and marine sales, service, repair, and storage .....	NP
Utility operations .....	NP

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3.7.4 Mountain District Boundary - Monadnock: The district shall start at the mountain side of the Dublin/Jaffrey town line on Dublin Road proceeding southerly to Route 124 (Mountain Road) - a distance of approximately 3.15 miles. All land within 500 feet from the edge of the Dublin Road right-of-way, away from the mountain, is included. From the corner of Route 124 (Mountain Road) and Dublin Road proceeding westerly on Route 124 (Mountain Road), all lands on the mountainside to the Troy/Jaffrey boundary, a distance of approximately 4.4 miles. All lands 500 feet from the edge of the right-of-way on the southerly side of Route 124 (Mountain Road), away from the mountain, are included. A section of Shaker Road, approximately .82 miles, all lands on the mountainside and 500 feet from the edge of the right-of-way on the westerly side of Shaker Road away from the mountain.

Mountain District Boundary - Gap Mountain: The mountain side starting at the corner of Old County Road and Old Mill Road proceeding on Old Mill Road to the Troy town boundary, a distance approximately .36 miles. All land away from Gap Mountain 500 feet from the edge of the right-of-way to the north of Old Mill Road is included. From the corner of Old Mill Road and Old County Road proceeding in a southerly direction on Old County Road to Gap Mountain Road - a distance of approximately .76 miles. On Gap Mountain Road to the corner of Cobleigh Hill Road - a distance of .7 miles. Cobleigh Hill Road to the Troy boundary line, a distance of .5 miles. All lands 500 feet from the edge of the right-of-way to the east of Old County Road and Gap Mountain Road to all land 500 feet south of Cobleigh Hill Road.

3.7.5 Notwithstanding any other provision of this ordinance, the following provisions shall apply to any Open Space Development Plan and/or Village Plan Alternative located in the Mountain Zone: (Added March 2008)

- (A) Only single-family detached units shall be permitted;
- (B) Minimum setbacks between dwelling structures shall be 60 feet;
- (C) Incentives—OSDP or VPA in the Mountain Zone will include no base density bonus. If at least 50% of the total parcel minus wetlands is conserved as permanent open space, the developer may receive a 5 % bonus. A developer may receive a 5% bonus for setting aside open space contiguous with existing permanently preserved open space or conservation easement.

**SECTION IV: GENERAL PROVISIONS THAT MAY APPLY TO MORE THAN ONE ZONING DISTRICT (Amended March 17, 2007)**

- 4.1 Any person or organization who rents, leases, or otherwise permits the use of land, buildings or structures or any portion thereof is responsible for obtaining the required permits and for complying with all appropriate ordinances before permitting occupancy or use of such land or buildings. (Amended 2001)
- 4.2 Site plan approval by the Jaffrey Planning Board is required for the following uses of land and/or buildings and structures or for any related construction: (Amended 2001)
- (a) Multifamily structures
  - (b) Commercial and industrial uses/structures
  - (c) Institutional uses/structures
  - (d) Recreation facilities including public/semipublic, private or commercial
  - (e) Any other nonresidential uses/structures
  - (f) Any multifamily structures, specifically including living units in Open Space Development Plan, and conversions of single-family dwellings (Amended March 8, 2005)
  - (g) Multifamily housing, specifically including apartments, condominiums, and living units in Open Space Development Plan if these involve multifamily structures and specifically including conversions of single-family dwellings. (Amended 2000, March 8, 2005)
  - (h) Land Application of Sludge and Septage: The Planning Board is further authorized to develop further regulations, including monitoring requirements.
- 4.2.1 Minor Site Plan: An adjustment to an approved site plan or a building lawfully constructed before December 31, 1980, that does not alter the approved usage but involves external construction of at least 100 square feet but less than 500 square feet.
- 4.2.2 The Town of Jaffrey authorizes the Planning Board, pursuant to the provisions of RSA 674:43, to review and approve or disapprove site plans for the development or change or expansion of use of tracts for nonresidential uses or for multifamily dwelling units, which are defined as any structures containing more than two dwelling units, whether or not such development includes a subdivision or resubdivision of the site; and to further authorize the Planning Board to delegate their site review powers and duties in regard to minor site plans to a committee of qualified technical administrators chosen by the Planning Board from the departments of public works, engineering, community development, planning, or other similar departments in the town; and to authorize the Town Clerk to record a Certificate of Notice at the Cheshire County Registry of Deeds showing that the Planning Board has been so authorized and giving the date of such authorization. (Amended 1991)
- 4.3 The following uses are permitted in specific zoning districts (as noted) if authorized by the Board of Adjustment as Special Exceptions in each specific case:

- 4.3.1 Public or semipublic institutions of any historical, philanthropic, or charitable character, hospitals, sanatoriums, and other medical institutions, including rest homes (in all residential and commercial districts).
  - 4.3.2 Buildings and necessary structures in connection with municipal or public utilities, and buildings used exclusively for governmental purposes (in all districts).
  - 4.3.3 Private clubs, lodges, other nonprofit social, cultural, civic, or recreational use, but not including any use the chief activity of which would be one customarily conducted as a business (in residential and commercial districts).
  - 4.3.4 Commercial kennel, animal or veterinary hospital (in industrial and rural districts). However, in the rural district, such uses must be located on the same premises as the owner/operator's residence.
  - 4.3.5 Picnic groves, ski and hiking trails and shelters, ski tows, golf courses, outdoor skating rinks, boating facilities, liveries, children's camps (in rural districts).
  - 4.3.6 Inns, hotels, and motels, including restaurants operated in connection therewith (in the rural, Residence "B," and commercial districts).
  - 4.3.7 Telephone exchanges, public utility buildings (in all districts).
  - 4.3.8 Conversion of a single-family dwelling existing at the time of the adoption of this ordinance for occupancy by not more than three families, provided that the exterior design of the structure is not changed from the character of a single-family dwelling. In addition, the required lot area (acreage) for any residential conversion shall be calculated as follows:
    - Multiply the required lot area per dwelling unit for the district in which the conversion is located (*See Section 5.1*) by the total number of dwelling units in the conversion. Then multiply the previous product by ( 66.7%) to determine the minimum lot area. (Conversions are permitted in rural, Residence "A" and "B," and commercial districts. *See Section X No. 1.*)
- 4.4 Accessory apartments are permitted in all residential districts by Special Exception of the Board of Adjustment, providing the following conditions are met (Amended 1992):
- 4.4.1 Only one accessory apartment is permitted per single-family dwelling unit.
  - 4.4.2 The primary residence is occupied by the owner, except for *bona fide* temporary absences.
  - 4.4.3 The accessory apartment shall have a minimum floor area of 400 square feet, but in no case shall the floor area comprise more than 30% of the floor area of the primary residence.
  - 4.4.4 Adequate provision shall be made for the disposal of sewage, waste and drainage.
  - 4.4.5 Adequate provision shall be made for off-street parking.

- 4.4.6 All setback requirements for the respective zoning district shall be observed.
- 4.4.7 The minimum lot size for creating an accessory apartment shall be calculated by multiplying the required lot area as designated in Section 5.1 by two, then multiplying that figure by .667.
- 4.5 In buildings and structures, the following minimum floor area must be provided for all dwelling units:
- Six hundred (600) square feet of interior floor area for the first dwelling unit, six hundred (600) square feet of interior floor area for the second dwelling unit, and four hundred (400) square feet of interior floor area for each additional dwelling unit.
- 4.6 Building height: In all districts, buildings and structures shall not exceed either three stories or forty-five (45) feet measured from the highest natural ground level.
- 4.7 Accessory buildings and accessory uses: One or more detached accessory buildings may be located on the same lot as the principal building, provided that no more than twenty-five percent (25%) of the lot area, excluding the area occupied by the principal building, shall be so occupied and that all setback and site plan requirements are met.
- 4.8 The establishment or use of private or commercial facilities for the storage and/or disposal of hazardous wastes (as defined by the Atomic Energy Act of 1954, as amended) is prohibited.
- 4.9 Owners, developers, and users of land and buildings should be aware of the following Town of Jaffrey regulations that also govern the use of land and buildings:
- (a) Historic District Regulations
  - (b) Manufactured Housing/Mobile Home Park Regulations
  - (c) Wetlands Conservation District Regulations
  - (d) Rules and Regulations for Controlling Subdivisions
  - (e) Rules and Regulations Governing the Excavation of Earth
  - (f) Airport Regulations
  - (g) RSA 674:44, which governs buildings on other than public streets (*e.g.*, Class VI)
  - (h) Town of Jaffrey Ordinances governing signs and governing fire remains and other ruins (March 9, 1965, as amended)
  - (i) RSA 674:41 Erection of Buildings on Streets; Appeals (*e.g.*, Class VI) (Amended 2003)
    - 1. The local governing body after review and comment by the planning board has voted to authorize the issuance of building permits for the erection of buildings on said class VI highway or a portion thereof; and

2. The municipality neither assumes responsibility for maintenance of said class VI highway nor liability for any damages resulting from the use thereof; and
3. Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds.

(j) Erection of Buildings on Private Roads (e.g., Class VI) (Amended 2003)

1. A private road may be established only through subdivision approval by the Jaffrey Planning Board.
2. Private roads constructed in the Town of Jaffrey shall as a minimum conform to the requirements of Section III, Appendix A, to the Jaffrey Rules and Regulations to control subdivision.
3. Frontage requirements, lot size, and setbacks for subdivisions and buildings on private roads and building requirements for existing lots involving properties having access to private roads shall be as contained in Section V of the Jaffrey Zoning Ordinance.
4. In reviewing an application for building on a private road, the Planning Board shall evaluate provisions for maintenance of the private road so as to insure that the road is to be maintained in a condition suitable for passage of emergency vehicles: fire, police and ambulance.

4.10 The provisions of the Life Safety Code, as amended, are adopted by reference. Such adoption includes all code provisions and amendments except those pertaining to penalties.

4.11 Building permits, when required:

4.11.1 Residential one- and two-family construction:

A permit shall be obtained before beginning construction, alteration, or repairs other than ordinary repairs using application forms furnished by the Building Inspector. Ordinary repairs are nonstructural repairs. (Amended 1990)

4.11.2 Industrial, commercial and multifamily construction:

A permit shall be obtained to construct, enlarge, alter, or demolish a structure; or to change the occupancy of a building or structure requiring greater strength, exit, or sanitary provisions; or to change to another use; or to install or alter any equipment for which provision is made or the installation of which is regulated by this code without first filing an application with the Code Official in writing and obtaining the required permit therefore; except that repairs (as defined in the ICC National Building Code - current edition) that do not involve any violation of this code shall be exempted from this provision. (Amended 1990, 2003)

4.12 All industrial, commercial and residential construction shall conform in all respects to the requirements of the current edition of the ICC National Building Code in effect at the time the required permit for construction is issued pursuant to paragraph 4.11 (2) above. (Amended 2002, 2003)

- 4.13 No building or addition to a previously existing building shall be occupied or used for any purpose and no building shall be changed to another use (including conversion from seasonal to year-round use) until a Certificate of Occupancy shall be issued by the Board of Selectmen. Such certificate shall be issued by the Board of Selectmen only after they have inspected the property and found it complies with all provisions of the Jaffrey Zoning Ordinance, with buildings and driveway permit regulations, including those pertaining to sewerage disposal systems and wells.

Reasonable occupancy permit fees shall be established by the Board of Selectmen. (Amended March 13, 1990)

- 4.14 Nursing Homes are permitted as special exception uses where specified and in accordance with the following requirements:
- 4.14.1 The minimum lot size in residential districts shall be 40,000 square feet with a minimum lot width of 200 feet.
  - 4.14.2 The architectural character (design) of the structure is in keeping with the general residential character of the neighborhood where the nursing home is to be located.
  - 4.14.3 Off-street parking space for visitors shall be provided on the ratio of one space for every three beds plus additional spaces for administrative personnel, doctors, and other regular employees. One space shall be provided for each employee based on the largest shift.
  - 4.14.4 The illumination of parking areas, driveways and buildings and the display of signs shall be placed in a manner that minimizes any disturbance to the general residential character of the neighborhood.
  - 4.14.5 The owner/developer of a proposed nursing home shall furnish a detailed site plan for the facility showing the location of all buildings, parking areas and driveways, signs, elevations of all buildings, *etc.*, to the Building Inspector as part of the application requirement. The site plan shall be prepared by a registered professional architect or engineer.
- 4.15 Group homes, group residences, and group care facilities are permitted as special exception uses where specified and in accordance with the following special conditions regarding group residence and group care facilities.
- 4.15.1 Maximum number of residents:  

Group residence facility: The number of residents shall be limited to no more than ten persons including clients, staff, and family of staff. Clients shall be limited to no more than eight persons.
  - 4.15.2 Occupancy:
    - (a) Persons over 19 years of age and released from or under the jurisdiction of a governmental bureau of corrections or similar institution shall not be eligible for residence in a group home.
    - (b) Mentally retarded individuals shall be certified by State and/or local mental retardation authorities as capable of residing in a group home.

4.15.3 Minimum lot and area requirements:

The minimum lot and area requirements, height and yard setback requirements shall be as prescribed in the zoning district where the property is located.

4.15.4 License or certification:

A license or certificate shall be obtained from the State of New Hampshire or applicable agencies prior to the issuance of an occupancy permit. In the event that an appropriate licensing or certifying agency does not exist, the applicant shall demonstrate to the Board of Selectmen that the proposed use satisfies a demonstrated need and will be conducted in a responsible manner without detriment to surrounding properties.

4.15.5 Location spacing:

A group residence facility shall be located not less than one-half mile (a half-mile radius) from any other group residence or group care facility, institutional facility, or drug and/or alcohol outpatient clinic.

4.15.6 Annual recertification:

The sponsoring agency or sponsor shall file annually, with the Board of Selectmen or the Building Inspector, information indicating that the facility continues to satisfy the conditions of the original approval.

The sponsoring agencies shall be notified by mail of the annual filing date thirty (30) days prior to such date. Ten (10) days after the filing, an advertisement will be placed in the local newspapers for one day listing those agencies that have applied for recertification and requesting comments from residents and community organizations within thirty (30) days from the date of the advertisement. Individuals or organizations wishing to file a complaint should do so in writing to the governing body.

Change of sponsorship or of any conditions of original approval shall constitute a new use and the full procedure for obtaining a new use shall be exercised.

4.16 Home Occupations

**DEFINITION:** A home occupation/home-based business is an accessory use to a residence involving the manufacture, provision or sale of goods and/or services. The use shall be clearly incidental and secondary to the primary use of the residence and does not change the character thereof or adversely affect the uses permitted in the zoning district in which it is located. In the case of home-based businesses, the primary business activity may be conducted off premises at the customer's location. On-site retail sales are not considered a home occupation or home-based business, nor are agricultural activities. Anyone wishing to engage in a home occupation shall apply to the Building Inspector, who has approval authority for the Town.

4.16.1 Home occupations shall be permitted in all zoning districts that permit residences, except the Mountain District, where Special Exception approval from the Board of Adjustment is required, subject to the following conditions:

(a) Carried on by residents of the premises and no more than one nonresident employee.

- (b) Operated entirely within a principal and/or accessory structure and occupy no more than 25% of the floor space of the residence.
- (c) Result in no external evidence of the enterprise except for one nonilluminated sign no larger than four square feet.
- (d) Adequate off-street parking shall be provided for any employee and customers or clients visiting the premises.
- (e) The volume of traffic generated by the Home Occupation shall not create any hazard, traffic nuisance, or disturbance of the neighborhood.
- (f) A Home Occupation does not require Site Plan Review by the Planning Board. Should any of the above performance standards be exceeded, however, the use may be subject to the conditions applicable to home-based businesses or may require a variance from the Jaffrey Zoning Ordinance.

4.16.2 Home-based businesses shall be permitted by Special Exception of the Board of Adjustment in all zoning districts that permit residences.

- (a) It shall be carried on by residents of the premises and not more than three nonresident employees on the premises.
- (b) The use does not occupy more than 3,000 square feet of gross floor area, and/or more than 5,000 square feet of exterior lot area.
- (c) It shall not have an adverse effect on the environment or the surrounding properties as a result of: noise, odors, smoke, dust, heat, soil, water or air pollution, or electrical interference that causes visual or audible interference in any radio or television receivers or fluctuations in line voltage off the premises.
- (d) The use shall not result in excessive increases in traffic or create any traffic hazard, nuisance, or disturbance of the neighborhood.
- (e) Parking areas shall be located at the side or rear of the primary building and shall be screened from the views of abutters and roadways by plantings, fencing, or topography.
- (f) 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. Any hazardous materials generated by the business will be disposed of off site.
- (g) The residence or accessory buildings shall not provide window displays or other characteristic features normally associated with commercial use, except for one nonilluminated sign not to exceed six square feet.
- (h) 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.

- (I) Exterior lighting shall not illuminate neighboring properties or public ways.
- (j) A home-based business is not subject to site plan review by the Planning Board. Should any of the above performance standards be exceeded, the use would be in violation of the Jaffrey Zoning Ordinance.

#### 4.17 Recreational Vehicle Regulations

- 4.17.1 Other than in recreational vehicle parks or campgrounds, recreational vehicles may not be placed on sites other than those associated with a permanent residence for more than 21 continuous days or a maximum of 90 days in a calendar year (extension may be granted by the selectmen).
- 4.17.2 Units will have their own self-contained sanitary sewage systems and formal provisions are necessary for disposal (as provided by RSA 147 *et seq.*).
- 4.17.3 Units shall have adequate off-street parking.
- 4.17.4 Units shall be fully licensed and ready for highway use.

#### 4.18 Voluntary Merger

A landowner, owning more than one contiguous lot and desiring to merge those lots for regulation and taxation purposes, may request from the Planning Board a notice of merger, signed by the Planning Board, which must be recorded in the Registry of Deeds. A copy of the merger document shall be forwarded to the assessing office of the town. No public hearing is required. Except where such merger would create a violation of current ordinances or regulations, all such requests shall be approved.

- 4.19 Storage of septage/sludge and land application of septage/sludge are not permitted in the Town of Jaffrey, except for packaged Class A materials.
- 4.20 No manufactured housing/mobile homes are permitted in the Town of Jaffrey except in approved manufactured housing/mobile home parks or subdivisions. (Amended 2001)
- 4.21 Agriculture is permitted in the Town of Jaffrey in accordance with the Department of Agriculture's Best Management Practices. (Amended 2001)
- 4.22 A private road may be established only through subdivision approval by the Jaffrey Planning Board. (Added March 2003)
- 4.23 Private roads constructed in the Town of Jaffrey shall as a minimum conform to the requirements of Section III, Appendix A, to the Jaffrey Rules and Regulations to control subdivision. (Amended 2003)
- 4.24 Frontage requirements, lot size, and setbacks for subdivisions and buildings on private roads and building requirements for existing lots involving properties having access to private roads shall be as contained in Section V of the Jaffrey Zoning Ordinance. (Amended 2003, 2008)
- 4.25 In reviewing an application for building on a private road, the Planning Board shall evaluate provisions for maintenance of the private road so as to insure that the road is to be maintained in a

condition suitable for passage of emergency vehicles: fire, police and ambulance. (Amended 2003)

4.26 Undevelopable land and land subject to development controls. (Amended 2007, 2008)

A. Undevelopable land:

1. Land that slope is 25% or more
2. Land which is under water
3. Land within the Wetlands Conservation Overlay District

B. Land which may be developable but which is subject to specific restrictions or requirements:

1. Land within the Shoreland Overlay District.
2. The subdivider/developer must submit for planning board approval an erosion control plan for land having a slope 15% or more.
3. Land within the Floodplain Development overlay district.

4.27 The term condominium refers to a form of ownership, and condominiums as a form of ownership are authorized for all zoning districts of the Town and are also subject to all provisions of subject districts. (Amended 2007)

**SECTION V: AREAS AND SETBACKS FOR BUILDINGS - ALL DISTRICTS** (Amended March 2002, 2005, 2008)

5.1 Explanatory note: The lot sizes and dimensions in the Mountain, Rural, Residence A, and Residence B districts are intended for one and only one principal structure per lot unless specifically otherwise provided for elsewhere in this ordinance.

District	Lot Size (Sq. Ft.)	Frontage (linear feet)	Front Setback (linear feet)	Side Setback (linear feet)	Rear Setback (linear feet)	Off-street Parking
Mountain	130,680 / 3 ac	200	60	40	40	2/unit
Rural WOTW	130,680 / 3 ac	200	60	40	40	2/unit
Rural WTW	65,340 / 1.5 ac	150	60	30	30	2/unit
Residence A	43,560 / 1 ac	125	30	30	30	2/unit
Residence A (w/town sewer or community septic system within an OSDP or VPA*)	20,000 / .46 ac	125	30	30	30	2/unit
Residence B	43,560 / 1 ac	125	30	30	30	2/unit
Residence B (w/town sewer or community septic system within an OSDP or VPA*)	20,000 / .46 ac	125	30	30	30	2/unit

District	Lot Size (Sq. Ft.)	Frontage (linear feet)	Front Setback (linear feet)	Side Setback (linear feet)	Rear Setback (linear feet)	Off-street Parking
Main Street (program area as defined by the map prepared by SWRPC 2/99)	N/A	N/A	Align where possible, w/existing buildings, to preserve the streetscape edge.	15 feet from adjacent buildings	15 feet from adjacent buildings	See Section 5.10
General Business	43,560	125	30	30	30	1 (8x18) per 400 sf gross floor area  (amended 1992)
Industrial	2½ acres	200	100	30	50	1/employee

The Planning Board, during Site Plan Review, has the option of reducing front and rear setbacks, but not to be less than 30 feet, in order to accommodate flexibility in the siting of parking areas and other facilities; and to provide for reasonable vegetation within the setback areas.

*\*OSDP: Open Space Development Plan*

*\*VPA: Village Plan Alternative*

5.1.1 During the Site Plan Review process, the Planning Board may waive up to 25% of the parking requirements, if deemed appropriate.

5.2 No lot on which a building is located in any district shall be reduced or changed in size or shape so that the building or lot fails to comply with the lot area, frontage, setback, yard or height provisions of this ordinance that are applicable to the construction or placement of the building on the lot unless a variance is obtained from the Zoning Board of Adjustment. This provision shall not apply, however, when a portion of the lot is taken for public purposes. (Amended March 2009)

5.3 Minimum lot sizes for apartment houses, whether units are single, cooperative, or condominium ownerships:

One acre for the first living unit in a building, plus one-half acre for the second living unit in a building, plus an additional five thousand (5,000) square feet for each additional living unit in a building. There shall be a maximum of eight (8) living units in a building, except in the rural districts where the maximum number of units shall be limited to four (4) per building.

5.4 The lot size for two-family dwellings shall be twice that for single-family dwellings in the same district.

5.5 Lot sizes for Open Space Development Plan are discussed in Section VII. (Amended March 2000, 2005, 2008)

5.6 In cases where sale and/or resale are not involved, in-ground fuel tanks are exempted from the setback requirements of this section upon certification by the Jaffrey Fire Chief that such placement is not hazardous.

5.7 Unenclosed porches and decks may encroach upon setback areas by Special Exception of the Board of Adjustment, subject to the following conditions:

5.7.1 The dwelling was a lawfully existing use at the time of the adoption of this ordinance.

5.7.2 The building line of the addition does not extend more than ten (10) feet into the setback area.

Improvements necessitated by the Americans with Disabilities Act are expressly exempted from setback requirements; permit fees for ramps or other handicap accesses may be waived, as determined by the Selectmen. (Amended 1993)

5.8 A buffer area shall be required in all districts when any new commercial or industrial use is established adjacent to an existing residential use. The buffer shall comprise 50% of the required setback for the zoning district, as measured inward from the property line, and shall be of a type deemed appropriate for the location by the Planning Board during Site Plan Review.

5.9 Interior Lots — An interior lot presents a special case whereby a single-family residential construction is permitted under a special set of circumstances on a parcel of land that does not have the frontage normally required in the Rural District. An interior lot must, however, have a minimum access of fifty (50) feet in width to an approved street by ownership of land. (Amended 2003)

5.9.1 The interior lot must contain a minimum of twelve (12) acres, and the front lot must contain at least the standard acreage required in the Rural District, exclusive of any deeded ROW.

5.9.2 All setbacks specified in paragraph 5.1 must be met for residential construction. For purposes of this section, the front setback of an interior lot shall mean the distance from the line separating the interior lot (exclusive of owned or ROW access to an approved street) from the front lot. A structure built on an interior lot may not be closer than three hundred (300) feet from an approved street.

5.9.3 Because of the special nature of an interior lot, which entails a driveway paralleling the boundary of the front lot, only one interior lot per driveway is permitted, and an interior lot may be used only for one single-family residence and/or agriculture or silvaculture purposes.

5.9.4 Once established, an interior lot may not be further subdivided.

5.10 Within the “Main Street” Program Area: Commercial establishments must demonstrate adequate and appropriate parking capability for employees and customers. In this context, a reasonable portion (not dedicated) of municipal parking may be considered. Residential units must have dedicated parking, with one space required for a one-bedroom unit and two spaces for all others. Where possible, the parking area should be at the rear of the lot. (Amended 2002)

## SECTION VI: GUIDELINES FOR THE BOARD OF ADJUSTMENT

### 6.0 General - The distinction between a Special Exception and a Variance.

A special exception can be defined as a stated exception to the ordinance if certain terms and conditions are met, while a variance is a provision for nonenforcement of the ordinance as it may apply under special circumstances to a particular piece of land, which special circumstances have not been specifically provided for in the wording of the ordinance.

### 6.1 Unless otherwise specifically provided, the Board of Adjustment shall, before granting a Special Exception, find that, in their judgment, all of the following conditions are met:

- 6.1.1 The specific site is an appropriate location for such a use, structure, or condition;
- 6.1.2 The use, structure, or activity will not be detrimental to the neighborhood nor significantly alter the characteristics of the district;
- 6.1.3 Adequate and appropriate facilities will be provided for the proper operation of the proposed use; and
- 6.1.4 Such exception, if granted, will not adversely affect any other district or portion thereof.

### 6.2 The power to grant variances stems from RSA 674:33. All of the following conditions (6.2.1 thru 6.2.5) must be found by the Board of Adjustment before they can grant a variance. (Amended March 8, 2005)

- 6.2.1 The variance will not be contrary to the public interest.
- 6.2.2 Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship. Alternative provisions pertaining specifically to USE variances or to AREA variances are stated below:
  - 6.2.2.a Requirements for applicant seeking a USE variance:
    - (1) The zoning restriction as applied interferes with a landowner's reasonable use of the property, considering the unique setting of the property in its environment.
    - (2) No fair and substantial relationship exists between the general purposes of the Jaffrey Zoning Ordinance and the specific restriction on the property.
  - 6.2.2.b Requirements for applicant seeking an AREA variance:
    - (1) An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.
    - (2) The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

6.2.3 The variance is consistent with the spirit of the ordinance.

6.2.4 Substantial justice is done.

6.2.5 The value of surrounding properties will not be diminished.

**SECTION VII: INNOVATIVE LAND USE PLAN** (Amended March 2002, March 2003, March 2008)

General: Pursuant to 674:21 II, the Planning Board will administer Innovative Land Use controls including Open Space Development and Village Plan Alternative.

**Definition**

An Open Space Development Plan (OSDP) or Village Plan Alternative (VPA) as defined in RSA 674.21 VI. is a form of residential subdivision whereby a developer may be permitted an increase in development density above traditional zoning densities and added flexibility in lot size, frontage, and setbacks provided that (1) common open land is permanently preserved, (2) viewsheds, watersheds, and other natural resources are protected, including shoreline protection overlay and wetlands conservation districts, (3) the development meets Planning Board criteria for approval (*see PB criteria under provisions*), and (4) goals of the Master Plan are met.

**Purpose**

An OSDP or VPA has several advantages to the Town of Jaffrey and reflects the goals of the Master Plan. An OSDP or VPA (1) provides a means of preserving open space for conservation, agriculture, recreation, etc., (2) preserves and enhances the rural character of neighborhoods, and the town as a whole, by protecting natural features and viewsheds, (3) protects natural resources including wildlife corridors, (4) reduces the number of roadside curb-cuts and reduces the spread of “cookie cutter” development along public roadways, and (5) promotes the more sensitive sighting of buildings and better overall site planning.

There are several advantages to an OSDP or VPA from the standpoint of the developer. Subject to the provisions noted below, an OSDP or VPA may provide a development density incentive for a developer. To a developer, an OSDP or VPA also (1) permits economies in road construction, road maintenance, public utilities and public service, (2) provides flexibility in creating housing in pleasant, natural surroundings, presumably increasing property marketability, (3) creates ability to place open space into conservation easement, and (4) permits flexibility of building requirements such as lot sizes, frontages and setbacks.

**Definitions**

As used in this section, the following definitions apply:

- (A) “Open Space Land” means any and all farm land, forest land, or unproductive land intended for preservation in perpetuity.
- (B) “Farm Land” shall be a tract or tracts of undeveloped land devoted to, or capable of the production of agricultural or horticultural crops. Land containing roads constructed solely in support of agricultural or horticultural activities shall be included in farm land.

- (C) “Forest Land” shall be a tract of undeveloped land actively devoted to, or capable of, growing trees. Land containing roads constructed solely in support of forest purposes shall be included in forest land. Forest land that has been subjected to clear cutting shall still qualify as forest land.
- (D) “Unproductive land” shall be one of the following: (1) a tract of unimproved land that has no structures, does not produce agricultural or forest crops, and is being left in its natural state without interference with the natural ecological process; or (2) a tract of unimproved wetland that is incapable of producing agricultural or forest crops; and by reason of wetness is being left in its natural state.
- (E) “Usable land” shall be the total area of the lot less (1) all land with slopes greater than 25%, (2) all wetlands as defined in paragraph k section XIII of the Wetlands Conservation District Ordinance.

#### Provisions

An OSDP or VPA will adhere to all of the following provisions.

- (A) A visual buffer will be established or maintained between the development and the public way as determined by the Planning Board.
- (B) All land in the wetlands as defined in paragraph k in section XIII of the Wetlands Conservation District ordinance and at least 40% of all remaining acreage in the OSDP proposal shall be land to be conserved in perpetuity
- (C) Open space may be held and be preserved by a home-owner’s association; the developer; the town or other regional entity; or a conservation trust or similar organization. Open space will be common in nature and made accessible to all residents of the subdivision and to the public if agreed upon by the developer and the Planning Board. Provisions must be submitted by the applicant for the maintenance (if any) and preservation of open space.
- (D) Formation of a homeowner’s association or similar entity will be required when land, roadways and /or community septic system improvements are held in common amongst property owners. Association documents will stipulate that a lien may be placed on the property of an owner who does not pay his/her dues. Association documents will be recorded as part of the deed.
- (E) Single family duplex and multifamily units not exceeding 4 units per structure are permitted in all zones except the Mountain Zone where only single family detached structures are permitted.
- (F) Existing zoning and subdivision regulations relating to emergency access, fire prevention, and public health and safety concerns including any setback requirement for wells, septic systems, or wetland requirement imposed by the Department of Environmental Services shall apply to the developed portion of an OSDP. In addition, all requirements of the Jaffrey Wetlands Conservation District and the Shoreland Overlay District shall apply to the developed portion of an OSDP.

- (G) As found in sections IV and V of the Jaffrey Zoning Ordinance, lot size regulations and dimensional requirements having to do with frontage and setbacks measured from all new property lot lines, and lot size regulations, as well as density regulations shall not apply. Notwithstanding, setbacks between dwelling structures will be no less than 30 feet or the height of the taller structure, whichever is greater. In the Mountain Zone setbacks between dwelling structures will be no less than 60 feet.
- (H) All utilities will be underground in accordance with accepted engineering practices.
- (I) All roadways will be constructed in accordance with Appendix A of the Subdivision Regulations.
- (J) Impervious surfaces will be kept to a minimum.
- (K) An OSDP or VPA will be final as approved by the Planning Board and no incremental development will be permitted. An applicant, however, may present a phased OSDP or VPA.
- (L) The addition of accessory structures not presented in the original plan may be permitted upon favorable Site Plan Review.
- (M) Planning Board criteria for acceptance of an OSDP or VPA will be the following:
- The proposed OSDP or VPA will be deemed more desirable than a traditional subdivision.
  - The OSDP or VPA will harmoniously integrate into the surrounding neighborhood.
  - The development shall be environmentally sensitive in nature.
  - The development shall preserve existing and potential water sources.
  - The OSDP or VPA will preserve to the maximum extent possible the scenic open space, particularly that visible from the public way.
- (N) Conditional Use Permit
- The purpose and use of a Conditional Use Permit is to allow certain uses that are not normally permitted under these zoning provisions. A Conditional Use shall be approved if the application is found to be in compliance with the approval criteria in paragraph (E)(8) below in the findings of fact by the Planning Board. Further conditions may be placed on the Conditional Use Permit by the Planning Board to ensure that the Conditional Use permit will prevent negative economic, fiscal, public safety, environmental, aesthetic and /or social impact on the town.
- (O) The development adheres to all state rules and regulations.

- (P) The minimum lot size for an OSDP shall be 10 acres.
- (Q) Major subdivisions (4 or more lots) on parcels totaling 20 or more acres shall be developed as an OSDP except when conventional development is deemed more feasible as determined by the Planning Board. The exception to an OSDP shall be accomplished through a Conditional Use permit issued by the Planning Board as described in paragraph E under Procedures.
- (R) Minor subdivisions of parcels totaling 20 or more acres may be developed as a conventional subdivision provided that all parcels became legal lots of record at least 2 years prior to the date of subdivision application to the Planning Board.
- (S) Parcels between 10 and 20 acres may be developed as a conventional subdivision provided that all parcels became legal lots of record at least 2 years prior to the date of subdivision application to the Planning Board.

#### Procedures

The Planning Board requires that an applicant considering an OSDP or VPA come before the board for a Preliminary Conceptual Consultation or a Design Review Phase (both provided for in Section IV of the Subdivision Regulations) and representatives of the Planning Board shall view the subject parcel. At this time the Planning Board may provide site-specific advice or recommendations to the development of the parcel as an OSDP or VPA.

The following procedure will be followed by a developer applying for an OSDP or VPA:

- (A) The base number of units shall be determined by the total “Usable land” divided by the minimum lot size for that zone and rounded down to the nearest whole number.
- (B) An OSDP or VPA plan will be presented describing the entire subdivision; including road and drive layouts; building location, size, type; open space; buffer landscaping (if any); scenic view amenities; size and location of wetlands/watersheds; and topography. Setbacks, lot sizes, building locations are encouraged to vary from lot to lot within the subdivision to retain significant, natural vegetation along the roadway, provide increased privacy for residents and increase the visual variety provided by the homes within the subdivision.
- (C) The developer will submit a Completed Application as stipulated in Section IV of the Subdivision Regulations.
- (D) If a VPA is restricted to no more than 20% of the buildable area of the original tract, the remaining open space will be eligible for a conservation easement when the owner provides the town with a recorded easement.
- (E) Conditional Use Permit (CUP) procedure:

1. Application is to be made by the owner of the affected property or designated agent on a form obtainable from the Planning Board Clerk (see page ZO 56). The completed application and nonrefundable fee as set by the Board of Selectmen shall be submitted to the Planning Board Clerk. The form shall provide for the reasons for subdividing the land in a manner precluding OSDP/VPA land use.
2. The completed application shall be transmitted to the Planning Board for consideration at their next regularly scheduled meeting.
3. The review and evaluation of the CUP by the Planning Board may proceed only after notification of abutters and general public as required by RSA 676:4 I.(d).
4. Upon approval or denial by the Planning Board, the application and all subsequent information, evaluations, recommendations and decisions shall be placed on permanent file with the Planning Board Clerk, and, in the case of approval, findings of fact and conditions of approval shall be recorded at the Cheshire County Registry of Deeds.
5. Should the Planning Board deny the application, no re-submittal of the application for the same or similar use may be made for 1 year from the date of denial unless sufficient new evidence or conditions demonstrate circumstances have altered and further consideration may be warranted.
6. Upon determination of the Building Inspector that there is a reasonable basis to believe that the conditions of approval have been violated, notice shall be made to the applicant and abutters pursuant to RSA 676:4 I. (d) of a hearing before the Planning Board to determine if conditions of approval have been violated in whole or in part. In the event of a revocation, a declaration of revocation shall be recorded. Nothing in these provisions shall impair any statutory or constitutional rights of the applicant or the Town.
7. Transferability—Once granted a CUP with its terms and conditions shall run with the Lot or use and not be affected by transfer of ownership.
8. Criteria for approval—A CUP shall be granted only if the Planning Board determines that the application conforms to all of the following criteria:
  - a) The site is suitable for the use given the availability of adequate public services and the absence of environmental constraints.
  - b) Impact on public and private rights of others shall not be greater than the impacts of other permitted uses in the zone.
  - c) The proposed layout, design and structures shall not be incompatible with the established character of the neighborhood.
  - d) The proposed use of the site will not affect natural, cultural, historic and scenic resources on the site.
  - e) The proposed use will not diminish surrounding property values.
  - f) The proposed use will not result in extraordinary fiscal impact to the Town. The Planning Board may commission at

the applicant's expense an independent analysis of fiscal impact.

- g) OSDP/VPA development is not reasonably feasible given the unique characteristics of the site.
- h) The proposed use is not contrary to the intent of the Master Plan and this ordinance.
- i) Economic hardships and personal, family circumstances shall be considered.

(F) Incentives- The following increases in base density shall be applied if certain performance criteria are met:

- a) Base density bonus of 10%, excluding the Mountain Zone.
- b) Increase open space =5% bonus for every 10% above 40% minimum of the parcel minus wetlands. Maximum bonus of 5% in Mountain Zone.
- c) Open Space contiguous with existing open space or conservation easement = 5% including the Mountain Zone.
- d) Provision for workforce or senior housing = 5% excluding the Mountain Zone and Rural Zone.
- e) Maximum bonus not to exceed 25%.

## **SECTION VIII: PERSONAL WIRELESS SERVICED FACILITIES**

### **Article I: Definition**

Personal Wireless Service Facility (PWSF): Facility or device for the provision of personal wireless services, as defined by the telecommunications act of 1996, as amended.

### **Article II: Purpose**

- A. To conform with the law defined in the telecommunications act of 1996, as amended or replaced.
- B. To guard against adverse impacts of such facilities of devices on environmentally sensitive areas, historically significant locations, scenic viewsheds as defined by the Jaffrey Zoning Ordinance (ZO), on safety by injurious accidents to persons and/or property, or diminuation of property values.

### **Article III: Provisions**

- A. No PWSF may exceed 125' in height; when feasible height will be less.
- B. All connected utilities, including but not limited to electric and telephone, will be underground in accordance with accepted engineering practices.
- C. The site development will provide a vegetative buffer compatible with the immediate surrounding environment at the ground level.
- D. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

- E. PWSF's will blend with the natural or built setting in the immediate environment.
- F. All facilities shall meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal or state government having the authority to regulate such facilities.
- G. PWSF's whose height extends above the tree line must be of modular construction in order to facilitate removal of any modular component of the facility, which may become obsolete.
- H. PWSF's will be built in accordance with accepted engineering practices, and plans must be approved by a NH licensed engineer whose stamp shall be placed on the plans submitted to the Jaffrey Planning Board.

**Article IV: Procedures**

- A. All PWSF's are subject to Site Plan review.
- B. All PWSF's must comply with applicable building codes and safety standards.
- C. All municipalities within twenty (20) miles of the proposed location will be notified of the public hearings by certified mail, postage to be paid by the applicant.
- D. The applicant shall demonstrate that falling ice will not be a safety hazard.
- E. The applicant shall furnish the Office of State Planning with a copy of the application for Site Plan review.
- F. The applicant will provide a demonstration of visual impact. (e.g. balloon test)
- G. The Town of Jaffrey may require a performance guarantee for construction for the PWSF.
- H. The applicant shall provide a bond to the Town of Jaffrey in an amount sufficient to cover the costs of removal and disposal of the facility's components. The Planning Board shall determine the amount and form of the security. The minimum standard shall be \$2,000 plus \$100 per foot of the height of the facility. Review of the exercise of the bond shall begin at twelve months of the non-use of the facility or any portion thereof.

**SECTION IX: SMALL WIND ENERGY SYSTEMS (added March 13, 2010)**

Tower-mounted Small Wind Energy Systems, also referred to as "SWES" shall be permitted, up to Sixty (60) kw, as an accessory use in specified zoning districts by Conditional Use Permit in accordance with the Land Use Plan and the Site Use Plans and Regulations. Construction of small roof-mounted or wall-mounted units up to a 5 kw design rating requires submittal of a building permit application; these units shall be permitted by right when in complete compliance with the applicable local, state, federal and international building and electrical codes and laws.

## 9.1 Purpose

This SWES ordinance is adopted in accordance with RSA 674:62 – 66 as amended plus the purposes outlined in RSA 672: 1 III a, as amended . This section is to promote the safe, effective and efficient use of small wind energy systems which are installed to reduce the on-site consumption of utility supplied electricity, subject to reasonable conditions that will protect the public health, safety and welfare.

## 9.2 Findings

The Town of Jaffrey finds that wind energy is an abundant, renewable and non-polluting energy resource and that its conversion to electricity will reduce dependence on nonrenewable energy resources and decreasing the air and water pollution that results from the use of conventional energy sources.

The Town of Jaffrey finds that appropriately sited SWES will complement the goals laid out in the Master Plan update of 2007 as stated policy to promote local renewable energy options.

## 9.3 Definitions

“Small Wind Energy Systems” also referred to as a SWES, shall mean: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics of rated capacity consistent with net metering specifications of RSA 362 –A:9 as amended, which is intended to primarily reduce on-site consumption of utility power.

‘System Height’ shall mean: The distance from the surface of the ground level to the tip of the wind turbine blade when at its highest point.

## 9.4 Permitted Use

No tower-mounted SWES shall be erected, constructed, installed or modified without first obtaining a Conditional Use Permit after a public hearing from the Planning Board. A SWES may be permitted in all zoning districts except The Historic District, and the Mountain District. Uses are subject to the issuance of a Conditional Use Permit and further provided that the use is maintained and complies with all requirements set forth herein and as described in the Conditional Use Permit.

No Conditional Use Permit shall be granted unless the Board determines:

- 9.4.1 That the SWES shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts resulting from the SWES.
- 9.4.2 the proposed SWES complies with the general siting and design criteria.
- 9.4.3 that the use will be sited, constructed and operated in a manner that minimizes any adverse effect on any abutter’s scenic views as described in the Town’s Master Plan.

If the Board finds that the information is not adequate or complete, it may continue the application process to allow the applicant time to submit additional information which may be needed for a decision.

A Conditional Use Permit issued for a SWES may impose reasonable conditions on construction safeguards and limitations on time and use. The applicant may be required to implement all reasonable measures to mitigate reasonably foreseeable adverse impacts of the wind facility.

## 9.5 Application requirements

- 9.5.1 Application for a Conditional Use Permit submitted to the Planning Board shall contain a completed Jaffrey application checklist including all items on the checklist.
- 9.5.2 The applicant shall provide to the Planning Board, a list of abutters to the applicant's property.
- 9.5.3 Abutter and Regional Notification: In accordance with RSA 674:66 as amended, the Building Inspector shall notify all abutters and the local governing body, by certified mail upon application for a building permit and/or conditional use permit to construct a small wind energy system. The Building Inspector shall review the application for regional impacts per RSA 36:55 as amended. If the proposal is determined to have potential regional impacts, the Building Inspector shall follow the procedures set forth in RSA 36:57, IV as amended.
- 9.5.4 If a conditional use permit is required there will be a public hearing conducted in accordance with the procedures for notice and hearing as set forth in RSA 676:4 on the application prior to the issuance of the conditional use permit. If a conditional use permit is *not* required, abutters will be afforded 30 days to submit comments to the Building Inspector prior to issuance of a building permit.
- 9.5.5 The applicant shall provide a scaled, surveyed plot plan depicting property boundaries, abutting landowners and uses.
- 9.5.6 Engineered drawings of the wind turbine, including the tower, base, tower footings, tower anchoring devices shown in sufficient detail for a determination by the Building Inspector that the proposal complies with the State Building Code.
- 9.5.7 The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the State of New Hampshire, if available.
- 9.5.8 Site plan. Site plans must be submitted, prepared to scale accompanied by a photo to show scale for the proposed SWES location, property lines for the site parcel, outline and distances of existing and proposed structures within the

allowed tower setbacks including utility lines and other significant features, as well as any proposal for landscaping and screening.

- 9.5.9 If deemed necessary by the Planning Board, the applicant shall provide a report estimating current ambient sound at appropriate locations and maximum projected sound from the proposed SWES. Manufacturer's specifications may be accepted when, in the opinion of the Planning Board, the information provided satisfies the requirements.
  - 9.5.10 The certification by the applicant's engineer that the SWES complies with applicable regulations of the Federal Aviation Administration (FAA) including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.
- 9.6 General Sighting Standards
- 9.6.1 System Height

The maximum system height shall be restricted to 35 feet above the tree canopy within 300 feet of the SWES. In no situation shall the system height exceed 150 feet. A lesser height may be imposed by the Federal Aviation Administration (FAA) regulations, other applicable State or Federal laws and this ordinance.
  - 9.6.2 Setbacks

Each SWES structure shall be set back from the property line a distance no less than 1.5 times its total system height.
  - 9.6.3 Design Standards
    - (a) Support Towers. SWES shall be of a simple design with the smallest overall profile. Monopole towers are the recommended type of support.
    - (b) The minimum distance between the ground and any part of a rotor or turbine blade, shall be thirty (30) feet.
    - (c) All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, over speeding and excessive pressure on the tower structure, rotor blades and turbine components.
    - (d) Colors and surface treatment of the installation shall minimize visual disruption, by painting with non-reflective, non-obtrusive colors.
    - (e) Compliance with State and Federal Aviation Regulations. Small wind energy systems must comply with applicable FAA regulations, including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.

- (f) No SWES shall be visibly lit, except to the extent required by the FAA or other governmental authority that regulates air traffic.
- (g) Small Wind Energy Systems shall not be used for displaying any advertising including all signs, flags, streamers and decorative items. The only allowed exceptions are appropriate warning signs and manufacturers ID notations.
- (h) Appropriate landscaping shall be provided to screen accessory structures from roads and adjacent residences.
- (i) Noise Levels: Prior to approval, the applicant shall provide documentation from the turbine manufacturer that the system will not produce noise levels in excess of the following standards. The maximum allowable noise level is 55 dbA as measured at the property line. This maximum may be exceeded on a temporary basis during short-term events such as utility outages and severe wind storms.
- (j) Prevention of Access. All related components of the SWES shall be designed and protected to prevent unauthorized access. Step bolts that are installed a minimum of twelve (12) feet from ground level to first (1<sup>st</sup>) step may be required to control access to the SWES.
- (k) Facility Conditions. SWES owners and operators shall maintain the SWES in good condition and provide for the ongoing maintenance in accordance with the conditions of the Conditional Use Permit, manufacturer's specifications and governmental regulations for all structural, electrical and mechanical operations to ensure safe operation of the SWES.
- (l) All SWES construction and electrical components shall conform to the New Hampshire State Building Code (IEBC).
- (m) All SWES construction and electrical components shall conform to the International Electrotechnical Commissions 61400-2 standards.

#### 9.6.4 Abandonment

- (a) At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the Building Inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
- (b) Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner at the discretion of the Building Inspector. "Physically remove" shall include, but not limited to:

1. Removal of the wind generator and tower and related above-grade structures.
  2. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.
- (c) In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After 12 months of inoperability, the Building Inspector may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the Building Inspector shall determine if the small energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the Building Inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
- (d) If the owner fails to respond to the Notice of Abandonment or if, after review by the Building Inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within 60 days of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the Building Inspector shall pursue legal action to have the small wind energy system removed at the owner's expense.

#### 9.6.5 Additional Provisions

- (a) Safety Determination. Any SWES found to be in violation applicable local, state, federal and international building and electrical codes and laws by the Board of Selectmen or its designee shall be repaired or removed pursuant to their direction.
- (b) No SWES that is interconnected with the electric system may be put in operation prior to execution of an Interconnection Agreement with the local electric utility, consistent with RSA 362-A:9 as amended.

A copy of this agreement will be supplied to the Building Inspector (and the Planning Board if a conditional use permit is required).

- (c) If the SWES owner or operator fails to remove the SWES in accordance with the requirements of this section, the Town of Jaffrey shall have all the remedies available under the laws of the State of New Hampshire.
- (d) The Planning Board may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a review will be at the expense of the applicant.

- (e) Signal Interference: The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the SWES.
- (f) Shadow flicker: Shadow flicker is the visible flicker effect when rotating blades of the wind generator cast shadows on the ground, roads and nearby structures causing a repeating pattern of light and shadow. The Facility Owner and Operator shall make reasonable efforts to minimize shadow flicker on any roads or Occupied Buildings.
- (g) Testing Towers: Testing towers for the purpose of testing wind speeds to determine the potential for wind energy turbines except that testing towers shall be allowed for a period not to exceed two (2) years from the installation date, except as this time may be extended by a Conditional Use Permit issued from the Planning Board.
- (h) Expiration: A Conditional Use permit issued pursuant to this ordinance shall expire if; (a) the SWES is not installed and functioning within 24 months from the date the permit is issued; (b) the SWES is abandoned.
- (i) Violations. It is unlawful for any person to construct, install, modify or operate a SWES that is not in compliance with this ordinance or with any condition contained in a Conditional Use permit decision or building permit issued pursuant to this ordinance. SWES installed prior to adoption of this ordinance are exempt.

#### 9.6.6 Enforcement and Penalties

The enforcement of this ordinance shall be by the Board of Selectmen or its designee, who shall, upon any properly instituted complaint of violation, promptly investigate any complaint of alleged violation and take action to cause the offending violation to be removed or to punish the offenders or both.

Violation of this ordinance shall be governed by any and all penalties available in law, including but not limited to the provisions of RSA 676:15-17-b *et. al.*.

#### 9.6.7 Appeals

Any person who is aggrieved of an administrative decision made by the Building Inspector under the provisions of this ordinance may appeal to the Board of Adjustment.

Any person who is aggrieved of a decision made by the Planning Board under the provisions of this ordinance may appeal pursuant to the applicable provisions of state law. See RSA 676:5 and RSA 677:15.

#### 9.6.8 Performance Guarantee

As a condition of approval, the Planning Board may require the posting of a performance guarantee in an amount sufficient to defray costs of construction.

#### 9.6.9 Severability

If any phrase, section, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and as such holding shall not affect the validity of the remaining portions thereof.

### **SECTION X: DEFINITIONS**

For the purposes of this ordinance, certain terms and words are herein defined as follows:

1. "Accessory Apartment" - An independent living unit subordinate to a single-family dwelling and under the same ownership as the primary residence. The apartment may be attached to the primary residence or located in an accessory building on the property. (Added 1992)
2. "Accessory Building" - A subordinated building and located on the lot with the main building, the use and of which is customarily incidental to that of the main building or to the use of the land.
3. "Accessory Use" - A use customarily incidental to that of the main building or to the use of the land.
4. "Apartment House/Apartment Building" - A structure containing more than two (2) dwelling or living units. Alternatively, one or more living units in the same structure as another kind of permitted use, such as a living unit in the same structure as a retail store.
5. "Bed and Breakfast Establishment" - Means an owner-occupied residence, a portion of which is used for lodging overnight guests for compensation and where the only meal served is breakfast.
6. "Building" - The word building shall be deemed to include structure, and in addition, shed, garage, stable, greenhouse and other accessory buildings.
7. "Buffer Area" - A land area used to visibly separate one use from another or to shield or block noise, lights, or other nuisances. A buffer may be treed, landscaped, or left in its natural state, and might include fencing or some other type of protective facility. (Amended 2000)
8. "Child Care Agency" - Any establishment located either in the home of the provider(s) or separate therefrom, maintained for or the care of children, whether known as day nursery, nursery school, kindergarten, cooperative, or day care center, and which is licensed or approved by the State of New Hampshire.
9. "Condominium" - Real property lawfully submitted by recording of condominium instruments pursuant to Chapter 356B RSA, State of NH, and conforming to the provisions of that Chapter.
10. "Condominium Building" - A structure containing commonly held condominium facilities, condominium living units, or any combination of these.

11. "Condominium Unit" - A portion of a condominium designed and intended for individual ownership and use, together with the undivided interest in the common areas appertaining to the unit.
12. "Condominium Living Unit" -A condominium unit, any portion of which is intended for habitation by one family.
13. "Dwelling" - A structure designed for residential occupancy, but excluding hotels, motels, and tourist homes.
14. "Dwelling Unit or Living Unit" - Means the living quarters for one family. Such units shall include separate and complete kitchen and bathroom facilities for each family.
15. "Family" - A small number of individuals living together on the premises as a single housekeeping unit.
16. "Front Yard" - A front yard is an open unoccupied space on the same lot with a main building and extending the full width of the lot situated between the street line and the front line of the main building projected to the side lines of the lot.
17. "Group Home or Group Residence Facility" - Means an establishment that provides room and board to persons who are residents by virtue of receiving supervised specialized services limited to health, social and/or rehabilitative services provided by a governmental agency, their licensed or certified agents, or any other responsible nonprofit social service corporation. These services shall be provided in a family environment and only to persons under 18 years of age; physically or mentally handicapped of any age; or elderly (62 or more years of age) who are in need of supervision and specialized services. This category shall not include facilities for persons 19 or more years of age, released from or under the jurisdiction of a governmental bureau of corrections or similar institution. Supervision shall be provided by responsible adults whose number shall be determined and certified by the sponsoring agency. However, one responsible adult shall be available to the residents on a 24-hour-a-day basis while the residents are on the premises.
18. "Home Occupations" - A use conducted by the residents of a dwelling for gainful employment involving the manufacture, provision, or sale of goods and/or services. Such use is clearly incidental and secondary to the nature of the dwelling and does not change the residential character of the district. On-site retail sales are not considered a home occupation. (Amended 1992)
19. "Major Residential Development" - The creation of more than four lots (unless restricted from residential use), or construction of more than four dwelling units within a two-year period from or on a property or set of contiguous properties in common ownership.
20. "Minor Site Plan" — An adjustment to an approved site plan or a building lawfully erected prior to May 1980 that does not alter the approved usage but involves external construction of at least 100 square feet but less than 500 square feet.
21. "Multifamily" - More than two families.

22. "Nonconforming Use of Land or Building" - An existing use of land or of a building that does not conform to the provisions of the district in which such use of land, structure, or building exists.
23. Personal Wireless Service Facility (PWSF) – Facility or device for the provision of personal wireless services, as defined by the telecommunications act of 1996, as amended. (Amended 2002)
24. "Places of Amusement" - Primarily commercial facilities that offer amusement facilities to the public. These include theaters, bowling alleys, pool or billiard halls, coin-operated facilities such as video arcades, and any other facilities deemed to be similar.
25. "Public Recreation" - Facilities where the public may partake of park or beach recreation or of active sports, physical activities, and outdoor life. These include State- or Town-owned and -operated parks, beaches, and picnic areas; camping facilities, golf courses, athletic and fitness centers such as gymnasiums, tennis courts, and swimming pools. Public recreation does not include activities such as massage parlors or places of amusement.
26. "Rear Yard" - A rear yard is an open space on the same lot with the main building, unoccupied except as hereinafter permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the main building and projected to the side lines of the lot.
27. "Setback" - The minimum horizontal distance between the property line and the nearest part of a structure.
28. "SideYard" - A side yard is an open space on the same lot with the main building, unoccupied, and situated between the side line of the main building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.
29. "Street Frontage" - The length of a lot bordering on a street.
30. "Street" - A publicly approved road maintained for vehicular travel; a Class VI road, or a private road, either of which appears on a subdivision plat approved by the Planning Board or is existing.
31. "Structure" - Something constructed or built, including, but not limited to, principal and accessory buildings, swimming pools, and prefabricated structures, and whether installed above ground or in ground.
32. "Two-family Dwellings" - A single structure containing two living units.
33. "Wetlands" - See Wetlands Conservation District Ordinance.
34. "Yard" - An unoccupied space on the same lot as a building or structure.
35. Scenic Views or scenic viewsheds, scenic values, scenic qualities, or similar references shall mean any of those features of the environment that bring aesthetic satisfaction, pleasure, or value when seen. Such features may include views of ridgelines, hillsides,

open land, forests, wetlands, watercourses of rivers, streams, and lakes or ponds, especially when those areas or others related also include environmental impacts on animal or plant life. (Amended 2001)

## **SECTION XI: NONCONFORMING USES, STRUCTURES, AND LOTS**

Any lawful use of land or buildings, or parts thereof, existing at the time of the adoption of this ordinance, even though such use does not conform to the provisions of this ordinance, subject to the conditions listed below:

### 11.1 Nonconforming Uses

11.1.1 A nonconforming use may not be changed to another nonconforming use. If a nonconforming use is superseded by a conforming use, the nonconforming use may not thereafter be assumed.

11.1.2 A nonconforming use may not be substantially expanded or enlarged; natural, but limited, expansion may be allowed, provided it does not have a substantially different impact upon the neighborhood.

11.1.3 When any existing nonconforming use of land or buildings has been discontinued for one-year, the land and buildings shall thereafter be used only in conformity to this ordinance.

### 11.2 Nonconforming Structures

11.2.1 Restoration, reconstruction, alteration and/or replacement of nonconforming structures are allowed, provided that the cubic contents and the footprint of the original structure stay the same; any nonconforming structure that has been destroyed in whole or in part by fire or other natural disaster may be replaced within one year of the damage.

11.2.2 The relocation on a lot of a structure that does not comply with the setback provisions is allowed provided the new location complies with the setback provisions.

11.2.3 A nonconforming structure may be expanded provided that the expansion does not encroach any more into the nonconforming direction than the existing structure. Expansion in a conforming direction is permitted.

### 11.3 Nonconforming Lots of Record

In any district, a vacant lot that was a lawful lot of record as of the effective date of this ordinance may be developed for the uses permitted in that district, even though the lot does not conform to the area or frontage requirements of this ordinance. The applicable district requirements for yard setbacks and state septic system requirements shall still apply.

## **SECTION XII: ENFORCEMENT AND PENALTIES**

- 12.1 The Board of Selectmen is hereby authorized and empowered to adopt such rules or organization and procedure as are necessary for the efficient administration and enforcement of this ordinance.
- 12.2 Upon any well-founded information that this ordinance is being violated, the Selectmen shall, on their own initiative, take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any other appropriate legal action.
- 12.3 Infractions are punishable in accordance with the provision of RSA 676:15-19.

## **SECTION XIII: AMENDMENT**

- 13.1 Regulations embodied in the Jaffrey Land Use Ordinance may be amended by a majority vote at Town Meeting when such amendment is published in the warrant calling for the meeting and when such amendment has received a public hearing, which hearing has been advertised and given legal ten-day (10) notice, all in accordance with RSA 675:3 and 4.

## **SECTION XIV: SIGNS (effective March 11, 1986, amended March 13, 2004, amended March 14, 2009, amended March 13, 2010)**

- 14.1 Purpose and Intent. The purpose of the sign ordinance is to protect the health, safety, and welfare of the townspeople and visitors, and to improve the appearance of the town while recognizing the economic importance of signs to our business community. This ordinance is also intended to recognize that signs are a unique and important medium for sharing political, religious, or personal messages within the community. The display of signs should be in keeping with the community goals set forth in the Jaffrey Master Plan and any other documents adopted by reference therein. It is further the intent of this section that signs should not destroy or detract from the scenic vistas or buildings and surroundings of historical or cultural importance, compete unnecessarily with the natural environment, or proliferate in an unrestricted manner. This ordinance encourages the use of graphics and materials that are architecturally appropriate and compatible with community character, readable and clear, non-distracting to vehicular and pedestrian traffic, and are maintained in good repair.
- 14.2 Districts. Recognizing that the downtown district of Jaffrey reflects a diverse business climate that must allocate for close proximity of vehicular, pedestrian, and multi-directional activity, this ordinance establishes the following districts for the purpose of permitting signs: The Downtown District (as described and bounded in Section 14.2.1) and all other zoning districts as described in Section XV of the Jaffrey Zoning Ordinance.
  - 14.2.1 Downtown District. This district shall encompass the Main Street District as approved by town vote in 1999, and also the Downtown Jaffrey National Register Historic District which falls within those bounds. All properties fronting from the southerly edge of Ridgecrest Road to the northerly edge of Gilmore Pond Road on NH Route 202, the westerly edge of Oak Street to the easterly edge of Highland Avenue on NH Route 124, NH Route 137 to Cross Street, Goodnow Street, Bradley Court, Ellison Street, Union Street, Stratton

Road (the intersection of Union and Ellison to Main Street), Blake Street, Laundry Way, Christian Court, Sunset Way, Driscoll Way, School Street, and Charlonne Street.

14.3 General Definitions. For the purposes set forth in this ordinance, the following definitions shall apply:

**AWNINGS & CANOPIES** — Any structure consisting of pipes, wood, metal, and canvas or other like material attached to the exterior of a building for the purpose of providing shade or shelter from the elements.

**BANNERS**- A sign composed of light weight material, either affixed to a structure by ropes, pins, cables, etc. or by framing.

**BUSINESS FRONTAGE** — The exterior portion of a building devoted to a particular business establishment, which is coterminous with all or part of a primary or secondary business building frontage.

**BUSINESS SIGN** — An on-premises sign, which directs attention to any primary business, industry or other activity which is sold, offered, or conducted on the premises.

**BRACKETED OR HANGING SIGN** — Any sign which is affixed perpendicular to the exterior wall of a building or structure.

**CHANGEABLE COPY SIGN** — A sign on which message copy can be changed. “Changeable copy” sign includes a sign which has automatic switching, limited to time and temperature.

**CONSTRUCTION SIGN** — A sign advertising an architect, lending institution, developer, contractor, or engineer for a building project, when such sign is placed on the premises under construction.

**FLAG** — A sign, constructed of cloth and attached to a staff or pole.

**FLUSH MOUNT OR WALL SIGN** – Any flat sign painted onto or affixed to the exterior wall of a building.

**FREESTANDING SIGN** — Any sign supported by poles, pylons, uprights, braces, cables, ropes, and or chains and placed upon the ground.

**ILLUMINATION** — The directing of light onto a sign, whether the light fixture is attached to, directed at, or located on the ground at the sign structure, or the lighting of the sign from a source within the sign itself.

**MAINTAIN** — To permit the repair or refurbishing of a sign or sign structure.

**MARQUEE** — A permanent roof-like structure, including the structural support system, projecting beyond a building wall at the entrance to a building or extending along and projecting beyond the building wall.

NONCOMMERCIAL SIGN — A sign that is not related to or connected with trade and traffic, or commerce in general.

NONCONFORMING SIGN — Any sign that existed lawfully prior to the adoption of the Sign Ordinance (amended April 2004) which now does not conform with the provisions of the ordinance.

OFF-PREMISES DIRECTIONAL — A sign on private property whose only purpose is to direct vehicular traffic for deliveries and visitation and is not intended to be used as a form of advertisement.

OFF-PREMISES SIGN — A sign, which pertains to a business, industry, or other activity which is not located on the premises upon which the sign is located.

PERMANENT SIGN — A sign that is displayed for more than a total of ninety (90) days in any one year.

PERMITTED SIGN — A sign must be specifically authorized by this section in order to be “permitted”.

POLITICAL SIGN — A temporary sign that advertises or promotes a) the candidacy of any individual for elected local, county, state or federal office, or b) a position on a referendum question, warrant article, or any other matter submitted for a public vote at an election.

PORTABLE/SANDWICH SIGN — Any sign not permanently attached to the ground or to a building or building surface.

PREMISES—A lot or number of lots on which are situated a building or group of buildings designed as a unit or on which a building or group of buildings are to be constructed housing multiple businesses.

PRIMARY BUILDING FRONTAGE — The exterior building wall or walls facing a traveled public right-of-way or private roadway, or any other exterior wall or walls facing an on premise parking lot which contains the public entry to the occupants premises.

PROPERTY MAINTENANCE SERVICE SIGN — A sign advertising an independent contractor who provides maintenance services to a property, including, but not limited to window washing, grounds keeping, painting, and the like.

PUBLIC, CIVIC, or EDUCATIONAL SIGN—A sign which denotes the public, civic, or educational nature of buildings or activities and non profit activities or events.

REAL ESTATE SIGN — A sign, which advertises only the sale, rental or lease of buildings or land on which the sign is located.

SECONDARY FRONTAGE — The exterior wall or walls that are not described as primary frontage, but face a traveled public right-of-way or private roadway.

SIGN — Any device, illuminated or non-illuminated, or by presentation by words, letters, figures, pictures, or designs, publicly displayed to give notice relative to a person,

goods, a business, products, a service, an action, or a solicitation. “Sign” includes identification, advertising and informational signs and also includes an emblem, logo, or trademark that is designed or intended to announce, attract, promote, or direct. For the purpose of removal, “sign” shall also include a balloon, banner, pennant, flag, awning, canopy or other figure of similar character located outdoors, whether or not constituting a structure, vehicle, or any part thereof, or whether or not painted, attached to, or in any other manner represented on a building, structure, or commercial site which is used to attract, announce, direct, advertise, or otherwise promote.

**SIGN STRUCTURE** — Any structure, which supports or is capable of supporting any sign, including decorative cover. A “sign structure” may be a single pole and may or may not be an integral part of a building or structure.

**SITE FRONTAGE** — The length of the property line parallel to and along each traveled public right-of-way or private roadway.

**TEMPORARY SIGN** — A sign not constructed for or intended for permanent use. Temporary signs may not be displayed for more than a total of ninety (90) days in any one year.

**TRAILER SIGN** — A sign mounted, located or painted upon a vehicle or trailer for the primary purpose of advertising an activity or business not located in the trailer.

**WINDOW/DOOR SIGN** — A sign located on the glass or inside a window or door, visible from the exterior.

#### 14.4 MEASUREMENT OF SIGNS:

- 14.4.1 **SIZE OF A SIGN**—When determining the size of a sign the area of the lettering, background, and frame shall be included, but the foundation and supports or brackets shall be excluded, unless the foundation and supports are of such size or prominence by painting or identification by word or logo as to become part of the sign itself. Sign shapes shall be determined to be a square, rectangle, circle, oval, triangle, parallelogram, trapezoid or combination of shapes such that a generally accepted geometric formula(s) may be used to determine the area.
- 14.4.2 **IRREGULAR SHAPES**—Shall be determined to fall within the perimeter of a shape as outlined by section 14.4.1 above, and the measurement of the entire perimeter used to determine the area.
- 14.4.3 **INDIVIDUAL PIECES**—When signs are constructed of individual pieces or shapes attached to a building wall or window, the sign area shall be determined by drawing a perimeter around all pieces.
- 14.4.4 **THREE-DIMENSIONAL SIGN**—Any three-dimensional sign shall have its area determined by projecting a plane on the largest cross section.

- 14.4.5 DOUBLE FACED SIGNS—Only the area of one side of a double faced sign is counted.
- 14.4.6 HEIGHT—The height of a sign shall be measured from the grade directly below the sign to the highest point of the sign or sign structure.
- 14.5 No sign or advertising device, including advertising devices affixed to vehicles that are allowed to remain on premises with intent to serve as a sign, shall be erected on any premises or affixed to any structure, or be visible from the outside of any structure, except as specified herein.
- 14.6 Existing Nonconforming Uses.
- 14.6.1 Every sign lawfully in existence at the time of the adoption of this ordinance may continue in existence and be maintained but may not be changed in any of its dimensions or character, or to be moved except to comply with this ordinance.
- 14.6.2 Any nonconforming sign, the use of which has been discontinued for a period of twelve calendar months or more, shall not be re-established, restored, or repaired unless it is made to comply with this ordinance.
- 14.7 Signs that do NOT require a permit:
- No permit is required for these signs. Persons wishing to display a sign that does not meet the specific criteria listed in this subsection, and is not otherwise prohibited in subsection 14.10, may apply for a sign permit under the provisions of subsection 14.9.
- 14.7.1 Signs not exceeding one square foot in area and bearing only property numbers, postal numbers, names of occupants, and other non-commercial identification.
- 14.7.2 Street signs, no greater than four square feet in area.
- 14.7.3 Directional signs, no greater than four square feet in area such as those indicating entrances, exits, and parking.
- 14.7.4 Any sign required by federal, state, county, or local law.
- 14.7.5 Legal notices such as “No Trespassing” or “No Hunting” signs; not to exceed one square foot in area.
- 14.7.6 Business name and directional signs located over or adjacent to doorways. Maximum size: three square feet.
- 14.7.7 Signs located on rolling stock of licensed common carriers or registered motor vehicles fit for highway use.
- 14.7.8 Noncommercial flags not exceeding thirty two (32) square feet in area.

- 14.7.9 Commercial signs not exceeding one square foot, with any of the following messages: “Open”, “Closed”, “Welcome”, “Vacancy”, “No Vacancy”. Also announcement-type commercial flags (e.g., “Welcome”, “Open”, “Sale”), pennants or “sock-type” flags not to exceed fifteen (15) square feet. Maximum number of flags per business is two.
- 14.7.10 Window and door signs. Window and/or door signs, including flyers, in the downtown or general district shall not require a sign permit, provided that their aggregate surface covers no more than twenty five percent (25%) of the window or door on which they are placed. Flyers and posters with noncommercial messages shall not be calculated in the allowable twenty five percent (25%). (Added March 2000)
- 14.7.11 For a religious institution, nonprofit organization, public service agency, public school, or municipal building: One changeable copy board no greater than fifteen (15) square feet in size.
- 14.7.12 For fraternal or social clubs, local service and philanthropic organizations: One multi-organizational sign, not to exceed fifteen (15) square feet in size, identifying meeting locations.
- 14.7.13 For a parking lot, to identify aisles or reserved areas or spaces, identification signs no greater than three (3) square feet; business name and directional signs no greater than three (3) square feet.
- 14.7.14 Construction sign. For construction work in progress: One sign identifying owner, contractor, architect, or developer to be removed within one month of completion or occupancy of the project, not to exceed fifteen (15) square feet in size.
- 14.7.15 Signs identifying Customary Home Occupations shall comply with the provisions of Section IV, 4.16.1.c of the Jaffrey Zoning Ordinance.
- 14.7.16 Real Estate Signs. “For Rent” or “For Sale” signs placed: On site –no more than one sign for every three hundred (300) feet of site frontage; maximum size of twelve (12) square feet. Off-site, a maximum of two off premises directional signs are allowed, each sign not to exceed six (6) square feet in size. These signs may only be used in conjunction with the sale or rental of a specific property and must be removed within four (4) days of the sale closing date or the property rental date.
- 14.7.17 “Open House” signs no larger than twelve (12) square feet may be erected no more than seven (7) days prior to the event and shall be removed immediately thereafter. The placement and number of signs shall conform to the placement and number cited in subsection 14.8.17.
- 14.7.18 Property Maintenance/Service Sign. One (1) sign per provider, up to and including a maximum of six (6) square feet, to be removed when the project or service is completed.

- 14.7.19 Permanent noncommercial signs not exceeding fifteen (15) square feet may be placed on private property with the owner's permission.
- 14.7.20 Temporary noncommercial signs not exceeding thirty two (32) square feet may be placed on private property with the owner's permission.
- 14.7.21 Temporary signs promoting an event are to be placed not more than three (3) weeks in advance of the event and shall be removed not later than two (2) days after the event is concluded. Back to back promotions are not permitted.
- 14.7.22 No entity may erect temporary signs for more than a total of ninety (90) days in any one year.
- 14.7.23 Political signs not exceeding thirty two (32) square feet may be displayed in compliance with NH RSA 664:17, and as it may be amended from time to time.

#### 14.8 Substitution

Noncommercial signs are allowed in all districts and may be substituted for any sign expressly allowed under this ordinance. Noncommercial signs are subject to the same permit requirements, restrictions on size and type, and other conditions and specifications as apply to the sign for which they are being substituted.

#### 14.9 Signs that Do require a permit:

Any sign not listed in subsection 14.7 requires a permit, is subject to the limitations listed in this subsection, and is also subject to the prohibitions listed in subsection 14.10.

- 14.9.1 No sign shall exceed 10% of the area of the business frontage as measured by the width of the wall containing the main public entrance by the height (measured from the floor level to the top of the first floor cornice area, or to one foot below second story windows).
- 14.9.2 One free-standing sign (one side only of two dimensional sign is used for calculating area) per premise not to exceed thirty two (32) square feet if the sign is located within two hundred (200) feet of the centerline of the traveled way. A sign set back more than two hundred (200) feet may have the area increased to forty-eight (48) square feet. In addition, each business establishment located within a premise may have one sign affixed to the wall of a building. In the case of a business establishment containing more than one business activity (e.g., stationer's and fax services), only one sign is permitted. (Amended March 2000).
  - (a) The frame or support for the sign shall not be computed in the overall area unless they are intended to draw attention or be part of the advertising.
  - (b) If the sign is an irregular shape such that it cannot be divided into accepted geometric shapes for the purpose of measurement, then the area shall be computed by drawing a regular shape around the extremities of the sign.

- 14.9.3 One sign, not to exceed thirty-two (32) square feet, affixed to a vertical wall of a building that is located within two hundred (200) feet of the centerline of the traveled way. A sign set back more than two hundred (200) feet is permitted to increase the size to forty-eight (48) square feet. This may be in addition to a free standing sign. Within the Downtown District only, the thirty-two square foot limitation may be divided between two permitted signs, a flush mount, hanging sign, awning, or canopy provided that the total square footage does not exceed thirty-two square feet of area, and all other criteria are met.
- 14.9.4 Projecting from and attached to a building, one hanging sign, not to exceed fifteen (15) square feet in area.
- 14.9.5 For structures housing more than one business, a directory sign not to exceed thirty-two (32) square feet may be used as an alternative to a freestanding sign.
- 14.9.6 For Industrial parks, complexes, and shopping centers of more than ten acres, each lot (dimensions as per Section 5.1) may have one free standing sign not to exceed thirty-two (32) square feet and one sign not to exceed thirty-two square feet affixed to the wall of a building in addition to a directory sign located at the entrance to the industrial park, complex, or shopping center.
- 14.9.7 Internally lighted signs (with the exception of neon signs) that meet all other provisions of this ordinance are permitted in the General Business/Commercial and Industrial Zones.
- 14.9.8 For Restaurants with “Drive-Thru” windows, one menu board sign may be constructed, provided that the “informative side” is not directly visible from the street and that any lighting of the sign (internal or external) is turned off when the restaurant is closed. (Amended 2002)
- 14.9.9 For Businesses within the Downtown District, one portable/ sandwich board sign, may be permitted per business to alert the general public to sales or other special events of general interest. The sign shall not exceed twelve (12) square feet in area and in no case shall it exceed sixty-six (66) inches in height. These signs shall be placed so as to not interfere with public rights of ways and must be stored inside during storms and when the business is not open. The town may cause the removal of any such sign, which is not properly maintained or is a hazard to public health, safety or welfare.
- 14.9.10 For more than 4 businesses within one building in the Downtown District signs must not exceed 10% of each business frontage, but in no case shall exceed thirty-two (32) square feet. Like natures, sizes, graphics and colors are deemed to be desirable.
- 14.9.11 Dual (2) Businesses on the same business frontage set back thirty five (35) feet from the traveled way may be allowed one freestanding sign, not to exceed thirty-two (32) square feet, and one flush mount or hanging sign, provided that all other criteria are met.

- 14.9.12 Off premises directional signs may be allowed for businesses fronting on a dead end street within the Downtown District, not to exceed four (4) square feet in area, provided permission is obtained in writing from the property owner on whose premises the sign is to be placed. In the case of multiple businesses, such signs must conform to the criteria of freestanding signs, but no individual business sign shall exceed four (4) square feet. These signs shall be so positioned as to not obscure any portion of a road, intersection or sidewalk.
- 14.9.13 Businesses with both primary and secondary frontage on the publicly traveled way may be permitted a sign, not to exceed twenty (20) square feet on secondary frontage in addition to the sign allowed on the primary business frontage, provided all other criteria are met.
- 14.9.14 Awning, Canopy and Marquee Signs: In addition to any limitations or conditions set forth elsewhere in this ordinance, all marquee, awning, and canopy signs shall be subject to the following provisions:
- (a) Area- The sign face area of any sign affixed or imprinted upon the surface of any awning, marquee, or canopy shall be subtracted from the maximum allowable wall mount area allowed for this district. If the awning, canopy, or marquee sign has only a logo, establishment's name or monogram on it not exceeding one (1) square foot, that area need not be subtracted from the maximum allowable wall mount area for this district.
  - (b) Height- The lowest portion of any marquee, awning, or canopy, including any sign mounted on it, shall not be less than seven (7) feet six (6) inches above the level of a sidewalk or public right-of-way, whichever is greatest.
  - (c) Number of messages or logos: Marquees, awnings, or canopies may have signage on the front, side, or ends of the marquee, awnings, or canopy and/or any combination thereof. All such signage shall be considered as one sign. Said signage may contain the same message or logo. If any front, side, or end of a marquee, awning, or canopy is greater than ten (10) feet in length, a message and/or logo may be repeated up to a maximum of three (3) times, provided each message or logo is at least five (5) feet in length.
  - (d) Setback: No marquee, awning, or canopy shall be located closer than two (2) feet from the street edge of a curb.

14.10 Prohibited Signs:

- 14.10.1 Any off premises advertising signs, except those solely connected with the sale of agricultural products, the majority of which are grown locally, and "For Sale" and "For Rent" signs as specified in 14.7.16.
- 14.10.2 Moving objects, sign rotation, or movement such as shimmer or ripple. Exceptions are traditionally moving signs such as barber signs and signs that show time or temperature.

- 14.10.3 Any placement of signs that would be unsafe, interfere with pedestrian or traffic view or passage, or that would be similar to traffic or directional signs and, thus, confuse motorists.
- 14.10.4 Any sign illumination that throws light directly onto any street or highway, onto any adjacent property, onto any building being used in whole or in part for residence, or upward into the sky.
- 14.10.5 Any flashing lights, intermittent lighting, or changing lighting or lettering, except as provided in 14.10.2 above.
- 14.10.6 Any signs affixed to the roof of any structure in such a way as to be above the vertical height of the structure.
- 14.10.7 Any free-standing sign having the advertising portion of the sign greater than fifteen (15) feet above the normal, undisturbed level of the ground or the supporting structure greater than seventeen (17) feet above ground level.
- 14.10.8 Signs that emit odors, vapors, sound, or noise.
- 14.10.9 Signs placed in the Public Right-Of-Way; however, signs affixed to buildings and hanging above sidewalks are permitted.
- 14.10.10 Sound trucks of any sort.
- 14.10.11 Internally lighted signs in Residence A, B, and Rural Districts.
- 14.10.12 External use of wall-mounted, window-mounted, or free-standing neon signs.
- 14.10.13 Obsolete Signs. Any sign relating to or identifying a business or activity that has not been conducted on the premises for six months. Any sign referring to a transpired election or event, or to a political party or organization that no longer exists.

#### 14.11 Application, Enforcement, and Penalties

- 14.11.1 Except as stated in Section 14.7, *Signs that do not require a permit*, it shall be unlawful for any person to erect, redesign, alter or relocate any sign within the Town of Jaffrey without a permit.
- 14.11.2 Application for a sign permit shall be to the Board of Selectmen, or their designee who shall devise and make public an application form and establish an appropriate fee schedule.

An application shall contain at a minimum the following information:

- a) Name, signature, address and telephone number of the applicant.
- b) Owner's authorization for the application, if not the applicant.

- c) Location of the building, structure or lot to which the sign will be located.
- d) The district in which the sign will be located.
- e) A representative drawing of the sign, showing location, size, method of illumination, types of materials used in construction, number of all other existing signs on the lot and/or building. A fully completed application shall be included with a Site Plan Review application when required.

14.11.3 Upon review of application, the Board of Selectmen, or their designee shall approve the sign permit provided that the sign meets all requirements of the ordinance and all other applicable electrical, life safety and building code requirements. The Board of Selectmen, or their designee shall notify the applicant in writing within ten (10) business days after the receipt of a completed application whether it has been approved or disapproved. The applicant must notify the Selectmen or their designee once the sign is erected so that it may be inspected as to conformity with the application. The sign must be erected within one year from the date of approval or the permit shall be void.

14.11.4 The enforcement of this ordinance shall be by the Board of Selectmen, or their designee, who shall, upon any properly instituted complaint of violation, promptly investigate any complaint of alleged violation.

14.11.5 The property and/or sign owner upon which any sign is found to be in violation of this Ordinance shall be notified in writing of the violation. An appropriate time frame shall be stipulated for correcting the violation. Written notice shall also inform the property and/or sign owner of their right to appeal to the Board of Adjustment.

14.11.6 If the violation is not corrected within the time frame specified or within the appeal period for the Board of Adjustment, the Board of Selectmen, or their designee may then cause the sign to be removed.

14.11.7 Penalty for violation of this ordinance shall be in accordance with the provisions of RSA 676:15-19.

#### 14.12 Appeals:

Any person who is aggrieved of an administrative decision made under the provisions of this ordinance may appeal to the Board of Adjustment, who, under the provisions of RSA 674:33 I(a) shall have the power to review the administrative decision and determine whether the permit criteria specified in the ordinance have been applied correctly.

#### 14.13 Severability

If any article, section, subsection, paragraph, subparagraph, sentence, clause, phrase or portion of this zoning ordinance is for any reason held invalid or unconstitutional by any

court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

## **SECTION XV: GUIDE TO ZONING DISTRICT IN THE TOWN OF JAFFREY**

### 15.1 General

Districts are designated by name for ease in identification. The following shall pertain in determining district boundaries:

- 15.1.1 Points of road intersection shall be measured from the center line of the traveled way unless otherwise specified (*e.g.*, 500' south of Route 124 means 500' south of the center line of Route 124).
- 15.1.2 When the edge of a road is specified, it means the edge of the legal road property or right-of-way.
- 15.1.3 When the shoreline of a body of water is specified, it means the shoreline at the normal high water mark.
- 15.1.4 Distances are to be read as stated, not as rounded-off approximations.
- 15.1.5 In cases of a conflict of district lines, the more restrictive district requirements should prevail.
- 15.1.6 In the event of a discrepancy between the verbal description of zoning districts (in the Jaffrey Zoning Ordinance) and the boundaries as shown on the zoning map of Jaffrey as prepared by Cartographic Associates, Inc., the verbal description will take precedence.

### 15.2 Historic District

The boundaries of the Historic District are described by street in the Historic District Regulations. The Historic District is also zoned Residence A.

### 15.3 Residence A district (West)

Beginning at Route 124 at a point 500 feet east of the intersection of Sawtelle Road, running parallel to Sawtelle Road on the southeast side at a distance of 500 feet to Sandy Lane, 500 feet south of the intersection of Sawtelle Road and Gilmore Pond Road. Thence northerly along the west side of Sandy Land and Gilmore Pond Road to the mountain stream, thence following the mountain stream to the east shore of Laban Ainsworth Pond; following the eastern shore of Laban Ainsworth Pond to its north end. Thence running in a straight line to the intersection of Dublin Road and Route 124. Running along the south side of Route 124 to the western boundary of the Historic District. Thence running along the western boundary of the Historic District; then continuing easterly on the same line approximately 800 feet to the westerly line of tax map 228 / lot 80; thence following the property line of map 228 / lot 80 to the point where it intersects Thorndike Pond Road; then crossing Thorndike Pond Road easterly to a point 200 feet east of Thorndike Pond Road; thence southerly, and running 200 feet

parallel from Thorndike Pond Road to a point 185 feet North of the North side of Main Street; then easterly to Match Point Road; then southerly 500 feet to the point of beginning.

15.4 Residence A District (Central)

Starting at the intersection of Prospect Street and Route 124 and running along the east side of Prospect Street to the end of Prospect Street. Thence in a straight line easterly to Route 137 where the stone wall boundary between tax map 238 / lot 212 (Cutter's pasture) and tax map 237 / lot 30 intersects Route 137. Crossing Route 137, then in a straight line northeasterly approximately 500 feet to the south side of Amos Fortune Road bridge over Tyler Brook. Then easterly along the south side of Amos Fortune Road and Nutting Road to a point opposite the intersection of Nutting Road and Dean Farm Road. Then southerly and paralleling Nutting Road at a distance of 500 feet east of Nutting Road to a point where the eastern borders of Tax Lot 31 and Lot 33 on Tax Map 245 intersect. Then southeast about 1,700 feet, crossing the southeast boundary of Lot 54 on Map 246, to the shore of Cheshire Pond. Thence southerly along the western shore of Cheshire Pond to a point 500 feet northeast of Route 202 and on the northeast boundary of Lot 126, Tax Map 245. Thence paralleling Route 202 at a distance of 500 feet northwesterly to a point opposite the centerline intersection of Webster Street and Route 202. Then in a northwesterly direction to the southeast corner of Lot 243, Tax Map 238. Thence, continuing in a northwestern direction along the southwesterly line of said Lot 243 to the northerly side of Nutting Road and following Nutting Road to the intersection of Route 137. Thence southerly to the northwest side of Goodnow Street and crossing Main Street, and following the northwest side of School Street to a point on the south side of the public school property at the intersection of Lots 32 and 33, Tax Map 238. Thence westerly along the north boundary of Lot 32, Tax Map 238, in a straight line to Charlonne Street. Then southerly along Charlonne Street to a point that is 500 feet northwesterly of River Street. Then running parallel to River Street at a distance of 500 feet, crossing Gilmore Pond Road to a point 500 feet south of Gilmore Pond Road and 500 feet west of River Street. Thence westerly paralleling Gilmore Pond Road at a distance 500 feet south of Gilmore Pond Road to a point 500 feet south of the intersection of Gilmore Pond Road and Highland Avenue. Thence northerly across Gilmore Pond Road at the intersection of Highland Avenue. Continuing northerly, parallel to Highland Avenue to the northwest corner of Lot 95, Tax Map 238. Then northerly along the west line of Lots 96 and 97, Tax Map 238, to the northwest corner of Lot 97, Tax Map 238. Thence in a straight line to the intersection of Prospect Street and Route 124 - the point of the beginning.

15.5 Residence A District (East)

Starting at Michigan Road and the Jaffrey/Rindge line, paralleling Michigan Road at a distance 500 feet west of Michigan Road and running northerly to a point where the extension of a line 500 feet south of Howard Hill Road and paralleling Howard Hill Road intersects the line paralleling Michigan Road (intersection is in Forest Park). Thence southeasterly and paralleling Howard Hill Road at a distance of 500 feet to a point 250 feet from the shore of Contoocook Lake. Thence northeasterly in a straight line and crossing Squantum Road, to a point 500 feet northeast of Squantum Road to the southeast corner of Lot 56, Tax Map 243, on Contoocook Avenue. Thence southeasterly, paralleling Squantum Road at a distance of 500 feet north of Squantum Road, to the intersection of that line and the westerly boundary of Lot 12, Map 257, and Map 242.

Thence following the westerly border of Lot 12, Map 257, to Squantum Road. Thence southeasterly on Squantum Road to the intersection of Sherwin Hill Road and Squantum Road, and following the east side of Sherwin Hill Road to the Jaffrey/Rindge line. Thence west along the Jaffrey/Rindge line to the point of the beginning.

15.6 Residence B District (West)

Beginning at the intersection of Lacy Road and Route 202, thence northwesterly on Lacy Road to a point that is 500 feet west of Route 202, opposite Lot 24, Map 239. Then northerly on a line that 500 feet west of Route 202 and paralleling Route 202 to a point 500 feet south of Gilmore Pond Road near the middle of Lot 45, Map 239. Then, northwesterly and paralleling Gilmore Pond Road at a distance of 500 feet south of Gilmore Pond Road to a point 500 feet south of the intersection of Gilmore Pond Road and Highland Avenue Ext. Thence westerly along Gilmore Pond Road to the intersection of the east side of Jaquith Road. Then running southerly along the east side of Jaquith Road to a point 500 feet south of Lacy Road. Thence easterly and paralleling Lacy Road at a distance of 500 feet south of Lacy Road to the Mountain Stream Reservoir. Thence following the north shore of Mountain Stream Reservoir to its intersection with Route 202. Then northerly along Route 202 to the point of the beginning.

15.7 Residence B District (North)

This district is entirely enclosed by Residence A (Central). Starting at a point on the east side of Nutting Road between Lots 34 and 35, Map 245, proceeding easterly 1,500 feet to a point on the northerly boundary of Lot 42, Map 245. Thence southerly about 1,250 feet crossing the inlet to Cheshire Pond at a point on Lot 116, Map 245. Then westerly and parallel to the northern boundary 1500 feet. Then northerly and parallel to the eastern boundary 1200 feet to the point of the beginning.

15.8 Residence B District (South) (Amended 2007)

Starting at the intersection of Rte 124 and the southwest corner of Lot 96, Map 244 go northerly on the east side of lots 95,80,73,72,64,47 and 67 to the south side of Webster Street, then easterly to a point opposite Lot 12 Map 245 on the north side of Webster Street, then crossing Webster St to the southeast side of Lot 12 Map 245, then northerly 100' more or less, then westerly on said lot on a straight line to a point on the northwest side of Lot 8 Map 245, then southwest by the westerly boundary of said lot to the south side of Webster Street, thence westerly to the west side of Oak Street at the junction of Webster and Oak Streets, then southerly along the west side of Oak Street to the southeast corner of Lot 18 Map 245, thence westerly on a straight line to the northwest corner of Lot 20 Map 245 which is a point of 500' from Route 202, then southwestly staying 500 feet from Route 202 to the center of Ellison Street.

Following Ellison Street westerly through Stratton Road and following Union Street to the northwest corner of Lot 211, Map 239. Thence southwestly to a point 500 feet westerly of Stratton Road and near the northwest corner of Lot 204, Map 239. Southerly and paralleling Stratton Road at a distance 500 feet west of Stratton Road and Howard Hill Road to a point 250 feet from the shore of Contoocook Lake. Thence northeasterly in a straight line and crossing Squantum Road to a point 500 feet northeast of Squantum Road to the southeast corner of Lot 56, Map 243, on Contoocook Avenue. Thence turning north/northwest and paralleling Squantum Road at a distance of 500 feet to a

point on the southeast corner of Lot 128, Map 239. From the southeast corner of map 239, lot 128 then north following the east boundary of said lot to the westerly boundary of Conant Cemetary then following said boundary north then east to a point at which is in the center of the junction of lot 114 map 239 and lot 33 map 244 then north to the north side of Rte. 124 then west along Rte. 124 to the point of beginning.

15.9 General Business District (West) (Amended March 2006, 2007)

From the west shore of Cheshire Pond and at a point 500 feet north of Route 202, then paralleling Route 202 on the northwest at a distance of 500 feet to a point opposite the centerline intersection of Webster Street and Route 202. Then northwest to the southeast corner of Lot 243, Map 238. Thence, continuing in a northwest direction along the southwesterly line of said Lot 243 to the northerly side of Nutting Road. Thence southerly to the intersection of Route 137. Thence southerly to the northwest side of Goodnow Street and crossing Main Street, and following the northwest side of School Street to a point on the south side of the public school property at the intersection of Lots 32 and 33, Map 238, in a straight line to Charlonne Street. Then southerly along Charlonne Street to a point that is 500 feet northwesterly of River Street. Then running parallel to River Street at a distance of 500 feet crossing Gilmore Pond Road to a point 500 feet south of Gilmore Pond Road and 500 feet west of River Street. Thence southerly and paralleling River Street at a distance of 500 feet west of River Street to Lacy Road. Then proceeding southerly, remaining a distance of 500 feet from River Street, to the south shore of Mountain Brook Reservoir on Lot 10 of Map 240 as depicted on the Town's tax map dated April 1, 2005. Then proceeding along said reservoir in a westerly direction to the northwesterly junction of said lot 10 on map 240 and the northeasterly corner of lot 9 on map 240. Then in a southerly direction along the dividing property line of said lots to the westerly side of Route 202. Then in a northeasterly direction on the westerly side of Route 202 to the junction Route 202 and the northerly side of Lacy Route. Then proceeding easterly to the west bank of the Contoocook River approximately 500 feet. Thence northerly and paralleling River Street (Route 202) at a distance of 500 feet east of River Street to a point on the easterly bank of the Contoocook River near the northwesterly corner of Lot 225, Map 239. Thence southerly following the easterly side of the Contoocook River to the southwesterly boundary of lot 225 on map 239. Thence easterly on a straight line to a point on the southeasterly corner of lot 212 of map 239. Thence northerly to the southwest corner at the end of Union Street. Following Union Street to the intersection of Union Street, Stratton Road, and Ellison Street.

Then paralleling Route 202 at a distance of 500 feet to the southwest side of Lot 20 Map 245 then southeasterly to the southeast corner of Lot 18 Map 245 then northerly on a straight line along said lot and keeping on the east side of Lot 19 and crossing to the north side of Webster Street then east on Webster Street on the north side to the west side of Lot 8 Map 245, then northerly on said lot, then easterly on the north side of said lot, then in a straight line on the north side of lots 8, 9, 10 and 11 to the northeast corner of Lot 12, thence southerly 103 feet to the north side of Webster Street, then easterly 377 feet to the southeast side of Lot 69, thence north on said boundary between 69 and 70 on Map 244 then easterly 224.29 feet then northerly 383.41 feet on the east side of lot 7.1 Map 245, thence on a straight line to the southwest side of Cheshire pond to the point of beginning.

15.10 General Business District (East)

From a point 1,250 feet east of the intersection of Hillcrest Road and Route 124 and starting at Route 124, the following directions: North by northeast 500 feet, then at a right angle east by southeast 1,500 feet, then at a right angle south by southwest 1,000 feet, then at a right angle north by northwest 1,500 feet, then north by northeast 500 feet to the point of the beginning.

15.11 Industrial District (Tack shop) (Amended 2007)

Starting at the southwest corner of Lot 96 Map 244 then east along Route 124 crossing Knight Street to the southwest corner of Lot 97, Map 244, then northerly on the west side of said lot in a straight line to the southwest corner of Lot 71 Map 244, then easterly on said lot 200 feet then northerly 250 feet between Lots 71 and 101, Map 244, then easterly from said junction 194.67 feet to the northeast corner of lot 101 then northerly on the west side of Lots 102, 103, 104.01, 104 and 105 on Map 244 and lot 1 on Map 245 then westerly on Lot 70 224.29 feet, then southerly 249.11 feet, then westerly on the north side of Webster Street to the southeast corner of lot 12 Map 245 then crossing to the south side of Webster Street on the junction of lots 67 and 66, Map 244 then southerly on said junction and staying on the east side of lots 47,64,72,73, 80 and 95 to the point of beginning.

15.12 Industrial District (Northeast) (Amended March 2004, March 2006)

From the intersection of Route 202 and Fitch Road, following the center line of Fitch Road, but specifically including Lot 128/Map 245, to a point 500' from the intersection of Route 202 and Fitch Road. Proceeding at a distance of 500' north of Route 202, and paralleling Route 202 (Peterborough Street) to the intersection of Route 202 and Nutting Road. Thence southerly following the center line of Nutting Road and crossing Route 202, and continuing along the center line of Old Sharon Road to a point that is approximately 200' south of the intersection of the northerly end of Coll's Farm Road and Old Sharon Road (for further reference, this point is approximately 800' NNW of the intersection of Old Sharon Road and Chamberlain Road). Proceeding due east approximately 2800' to the Sharon/Jaffrey town line. Thence proceeding southerly to the southeast corner of lot 8 on map 255 dated April 1, 2002. The proceeding westerly along said boundary to the center of Old Sharon Road thence proceeding northerly along Old Sharon Rd. where the easterly extension of a line separating lot 2 of map 255 and lot 4 of map 256 intersects the Old Sharon Rd. Thence westerly running N60° 22'20" a distance of 1,900' to a drilled hole marking the SE end of the boundary between Lots 1 and 2/Map 255. Thence running on the same bearing an additional 2,549' more or less to a point 500' south of Route 202. Proceeding westerly and paralleling Route 202 at a distance of 500' south of Route 202 to the intersection of Hillcrest Road. Thence following the center line of Hillcrest Road northeast to the intersection of Hillcrest Road and Route 202, which is the point of the beginning.

15.13 Industrial District (Drumlin Park)

Starting at a point 365 feet south of Turnpike Road (Route 124) on the west side of Fitzgerald Drive; thence running S-52-35 100 feet and N-73-42 west 419 feet abutting Lot 33, Map 244; thence running S-2-30 south 590 feet abutting Lot 17, Map 244; thence running S-72-30 east 336 feet following a stone wall abutting Lots 27 and 31, Map 244;

thence running S-7-45 south 364 feet and S-6-0 304 feet and N-74-30 west 440 feet along the boundary of Lots 27 and 28, Map 224; thence south 895 feet following the westerly boundary of Lot 28, Map 244, and crossing Plantation Drive at the boundary of Lots 31 and 32, Map 243. Thence 1,041 feet easterly along the southern boundary of Lot 33.1, Map 243; thence 519.7 feet along the southern boundary of Lot 33.1, Map 243; thence easterly along the northern boundary of Lot 61, Map 243, a distance of 640.7 feet; thence 1,086 feet along the eastern boundary of Lots 26 and 27, Map 243; thence N-30 west 1,367 feet on the eastern boundary of Lots 9, 24, and 25, Map 244. Thence N-8-E 423 feet being the eastern boundary of Lot 8 and 9, Map 244, northwest along a brook that is the southern boundary of Lot 7, Map 244, to the point of the beginning.

15.14 Industrial District (Millipore)

Starting at the intersection of Prescott Road and Route 124, running southerly on the east side of Prescott Road to Eastwood Drive. Following Eastwood Drive and its projected extension (1968 survey) for a distance of 1,841 feet, being the northerly boundary of Lot 17, Map 257, and following the extension of the northern boundary of Lot 16, Map 257, to the Jaffrey/Sharon line. Thence northerly along the Jaffrey/Sharon line to Route 124. Thence westerly along the south side of Route 124 to the point of the beginning.

15.15 Industrial District (Annett)

Starting at the intersection of Squantum Road and Mill Road and running along the west side of Mill Road and the west side of Prescott Road to a point 500 feet north of Squantum Road; thence paralleling Squantum Road at a distance of 500 feet north of Squantum Road, running westerly a distance of 1,100 feet; thence southerly 500 feet to Squantum Road; thence easterly on the north side of Squantum Road to the intersection of the east edge of Sherwin Hill Road; thence southerly along the east side of Sherwin Hill Road to the Jaffrey/Rindge line; thence east along the Jaffrey/Rindge line 600 feet; thence northeast 500 feet to the intersection of Squantum Road and Mill Road, being the point of beginning. (Rewritten March 13, 1990)

Amendment 1 to Districts established by the Jaffrey Zoning Ordinance by action of Town Meeting of March 11, 1980, the land bounded and described below is changed from Industrial to General Business District. Starting at the intersection of Webster Street and Route 202 and following the south side of Route 202 to a point and where Cretia Brook crosses Route 202 and enters Cheshire Pond; thence in a straight line to the southeast to the center of the Boston & Maine Railroad tracks; thence in a westerly direction following the railroad tracks to a point where they intersect Webster Street; thence in a northerly direction along to Route 202.

Amendment 2 to Districts established by Jaffrey Zoning Ordinance by action of Town Meeting of March 10, 1981, the land bounded and described below is changed from Rural to Industrial. Starting at the center line of the Old Sharon Road, approximately 800 feet SE of the intersection of Old Sharon Road and Chamberlain Road, easterly along an extension of a line separating the land of Bross from the land of J. Sawyer and along that line a distance of 1,600 feet. Thence SSE 2,250' (and paralleling the Jaffrey/Sharon line) at a distance of 1,100 feet; thence SSW a distance of 700 feet to the center line of Old Sharon Road. Thence northwesterly along the center line of Old Sharon Road a distance of approximately 150 feet. Thence running N 60°22'20" a distance of 1,910 feet to a drilled hole marking the SE end of the boundary between the land of Silver Ranch, Inc.,

and the land of the Town of Jaffrey. Thence running on the same bearing an additional 2,549 feet, more or less, to the center line of the Contoocook River. Thence following the center line of the Contoocook River a distance of 2,000 feet, more or less, to the center line of the northerly Boston & Maine RR trestle. Thence running easterly 2,330 feet back to the point of beginning.

15.16 Mountain Zone

The boundaries of the Mountain Zone are described in the Mountain Zone Ordinance. (Section 3.7) (Amended 1992, 2008)

15.17 Rural

All land not specifically identified in the above-defined districts.

**SECTION XVI: PUBLIC CAPITAL FACILITIES AND SCHOOL FACILITIES  
IMPACT FEE ORDINANCE**

**Article I: Authority**

This ordinance is established pursuant to New Hampshire RSA 674:21 (V).

**Article II: Intent and Purpose**

This ordinance is intended to:

- (A) Implement and be consistent with the Town of Jaffrey's Master Plan.
- (B) Allocate a fair and equitable share of the cost of public facilities to new development; and
- (C) Require new development to contribute its proportionate share of funds necessary to accommodate its impact on public facilities, which is reasonably related to the capital needs created by development and to the benefits accruing to the development.

**Article III: Findings**

- (A) The Town of Jaffrey is responsible for and committed to the provision of public facilities and services at levels necessary to support residential and non-residential growth and development.
- (B) Such facilities and services have been and will be provided by the Town using funds allocated via the Capital Improvements Program which will be annually updated by the Town pursuant to New Hampshire RSA 674:5.
- (C) The rate of growth experienced by the Town in recent years, as well as projected growth rates, would necessitate an excessive expenditure of public funds in order to maintain adequate facility standards.
- (D) Development enabled through this zoning ordinance will create a need for the construction, equipping or expanding of public capital facilities.

- (E) The imposition of impact fees is one of the preferred methods of ensuring that public expenditures are not excessive, and that new development bears a proportionate share of the cost of public capital facilities necessary to accommodate such development. This must be done in order to promote the public health, safety and welfare.
- (F) The fees established by the Impact Fee Schedules for the categories identified in Article VI.(A) are derived from, based upon, and do not exceed the costs of:
  - (1) Providing additional public capital facilities necessitated by the new development for which the fees are levied; or
  - (2) Compensating the Town of Jaffrey for expenditures made for existing public facilities that were constructed in anticipation of new growth and development.

#### **Article IV: Definitions**

The following definitions shall apply specifically to this section, Section XVI: Capital Facilities Impact Fees for New Residential Development, and shall not be affected by the provisions of any other ordinance of the Town of Jaffrey.

- (A) “Applicant” - A person (either individual, partnership or corporation) applying for the issuance of a building permit, permit for manufactured home installation, subdivision, site plan or other local land use decision, permit or approval.
- (B) “Dwelling Unit” - A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (C) “Gross Living Area” - The effective area of a residential unit as indicated in the assessment files. It includes finished space that is heated, but excludes heated garages and outbuildings which do not include living quarters.
- (D) “New Development” - Any building activity which results in:
  - (1) The creation of a new dwelling unit or dwelling units;
  - (2) The conversion of a non-residential use to a dwelling unit or dwelling units.
  - (3) Construction of new non-residential facilities.
- (E) New Development does not include:
  - (1) The reconstruction of a structure that has been destroyed by fire or natural disaster, provided that there is no change in the size and density of the structure;
  - (2) The construction of any accessory structure which would not increase the demand for facilities by the principal structure.
- (F) “Public Capital Facilities” - Assets, facilities, and equipment which are owned and operated by the Town of Jaffrey, the Jaffrey-Rindge School District, or cooperatively with other municipalities and which have a useful life of no less than five years. Public capital facilities do not include the costs associated with the operation, maintenance, repair of such facilities, or with facility replacements which do not increase the capacity or level of service, but does

include reasonable costs for planning, engineering, design, land acquisition, and other reasonable costs associated with such facilities.

- (G) “Off Site Improvement/Exaction” - An improvement that is required of the Planning Board for either a site plan or subdivision that is necessary for the project to operate properly on the day that it opens shall be considered to be an Off-Site Improvement or Exaction. Off site improvements for site specific applications shall be assessed on a case-by-case basis. The applicant shall be assessed their proportionate share for the need for the project. In cases where it is determined that an improvement is necessary for the proper functioning of a site plan or subdivision, and that the improvement will accommodate future development, the Town, at the request of the applicant, may establish an impact fee that assesses future site plans or subdivisions for their proportionate share of the improvement. Such impact fees shall be reimbursed to the original applicant with interest calculated at six percent (6%) per annum.

#### **Article V: Imposition of Impact Fees**

- (A) Any person, who after the effective date of this ordinance and as amended, seeks to undertake new development within the Town of Jaffrey, New Hampshire, and who is not vested under RSA 674:39, is hereby required to pay an impact fee in the manner set forth in Articles VI of this Ordinance, in accordance with any Impact Fee Schedule adopted by the Board of Selectmen.
- (B) Impact fees shall be assessed at the time of Planning Board approval of an application for subdivision or site plan.
- (C) When no Planning Board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or permit for manufactured home installation.
- (D) Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected as a condition when the development is ready for its intended use.

#### **Article VI: Computation of Impact Fees**

- (A) The amounts of the impact fees shall be determined using the values contained in the Impact Fee Schedules for the following types of facilities in accordance with RSA 674:21.V.:
- 0 Storm water, drainage and flood control facilities
  - (1) Public road systems and rights-of-way
  - (2) Municipal office facilities
  - (3) Public school facilities
  - (4) The town’s proportional share of capital facilities for cooperative government ventures
  - (5) Public safety facilities
  - (6) Solid waste collection, transfer, recycling, processing and disposal facilities
  - (7) Public water supply facilities
  - (8) Public sewage collection, treatment and disposal facilities
  - (9) Public library facilities
  - (10) Public recreation facilities (not including open space)

- (B) Impact Fee Schedules shall be established and reviewed as set forth in Article XIV: Establishment and Review of Fees.
- (C) In the case of change of use, redevelopment, or expansion or modification of an existing use which constitutes new development, the impact fees shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use.
- (D) If an applicant elects to dispute the amount of the impact fee, the applicant may prepare and submit to the Planning Board an independent fee calculation study for the new development activity which is proposed. The Planning Board shall review such study and render a decision. All costs incurred by the Town for the review of such study shall be paid by the applicant.

**Article VII: Payment of Fees**

- (A) The applicant shall pay the impact fees required by this Ordinance to the Town of Jaffrey prior to the issuance of an occupancy permit.
- (B) Upon agreement by the Town Manager and the fee payer, the public capital facilities impact fee may be paid in equal installments, including interest accrued at six percent (6%) per annum, over a period of not more than three (3) years. If the fee payer chooses this extended form of payment, he/she shall execute and file with the Town Clerk a condition of the building permit, a “Notice of Capital Facilities Impact Fees Due”, which shall be recorded by the Town as a lien against the subject property and entitle the Town to such remedies as are available as a lien holder.
- (C) All unpaid fees shall constitute a lien on the property and will be collected as allowed by law.

**Article VIII: Appeals**

- (A) The decision of the Planning Board may be appealed to the Superior Court as provided by RSA 677:15.

**Article IX: Administration and Custody of Funds Collected**

- (A) All funds collected shall be properly identified by and promptly transferred for deposit in the appropriate Impact Fee accounts, and used solely for the purposes for which it was collected. Impact fee accounts shall be special revenue fund accounts and under no circumstances will impact fee revenues accrue to the General Fund. Each fee collected under a specific Impact Fee Schedule shall not be commingled with other impact fee accounts or any other funds. These shall be non-lapsing, interest bearing accounts that are not commingled with other Town funds.
- (B) The Treasurer shall have custody of all accounts, and shall pay out the same only upon written orders of the Board of Selectmen.
- (C) Funds withdrawn from a designated Impact Fee account may be withdrawn through an annual requisition of funds made to the Board of Selectmen by the Town Manager for Town Funds or by the Superintendent of Schools for School Funds in accordance with the Capital

- (D) At the end of each fiscal year, the Town Manager shall make a report, giving a particular account of all impact fee transactions during the year.
- (E) In the event that bonds or similar debt instruments have been issued for public capital facilities for which an Impact Fee Schedule has been prepared in accordance with Article VI, impact fees collected may be used to pay debt service.

**Article X: Refund of Fees Paid**

- (A) The current owner of property on which impact fees have been paid may apply for a full or partial refund of such fees plus accrued interest calculated at six percent (6%) per annum as described below.
- (B) The refund shall be owed when the Town has failed, within the period of six (6) years from either the payment of such fee or the last installment payment, to expend or encumber such fees on public capital facilities intended to benefit the development that paid the fees.

**Article XI: Credits in Exchange for Public Capital Facility Improvements**

- (A) Public capital facility improvements may be offered by the applicant as total or partial payment of the required impact fee. The offer must be determined to represent an identifiable dollar value computed in a manner acceptable to the Planning Board. Applicants shall provide reasonable documentation as required by the Planning Board to assist the Planning Board with determining if the proposed improvements offered by the applicant provide for partial or full payment of the required impact fee. The Planning Board may authorize the applicant an impact fee credit in the amount of the value of the contribution.
- (B) Any claim for credit must be made prior to the Planning Board vote on subdivision/site plan approval. The applicant shall indicate that such credit will be requested prior to the Planning Board's determination of whether the application is complete.
- (C) Credits shall not be transferable, and run only with a specific subdivision or site plan approval.
- (D) Credits shall not be transferable from one type of impact fee to any other impact fee.
- (E) Determination by the Planning Board pursuant to the credit provision of this section may be appealed to the Superior Court in accordance with RSA 677:15.
- (F) The Planning Board may, at the expense of the applicant, engage the services of a consulting professional to assist the Planning Board in determining the value of the public capital facilities improvements offered by the applicant.
- (G) Under no circumstances shall this section imply that the Planning Board has an obligation to accept any credit offer that is proposed.

- (H) Pursuant to RSA 676:4.I.(g) and when deemed necessary by the Planning Board, it shall be the responsibility of the applicant to pay reasonable fees for the cost of consultant services to assist the Board with determining the value of credit proposed by the applicant and security required to cover the cost of improvements.
- (I) If a credit for construction of improvements is granted by the Planning Board, the Town Manager shall, upon instruction by the Planning Board, issue to the applicant by certified mail, a letter setting forth the dollar amount of the credit, the public capital facilities impact fee component(s) to which the credit will apply, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The letter shall include the amount of security required, as determined by the Planning Board, to be paid in the form of a performance bond, irrevocable letter or credit, or escrow agreement posted with the Treasurer. The applicant must sign and date a duplicate copy of the letter, thereby indicating his/her agreement to the terms of the letter, and return the signed letter to the Town Manager and submit the required security before credit will be given. The failure of the applicant to sign, date, and return such document and submit required security within sixty (60) days of receipt of the letter shall nullify the credit.

#### **Article XII: Additional Assessments**

Payment of an impact fee does not restrict the Town or the Planning Board from requiring other payments from the applicant, including such payments relating to the cost of the extensions of water and sewer mains or the construction or improvement of roads or streets or other infrastructure and facilities specifically benefiting the development which are required by the subdivision or site plan review regulations or as otherwise permitted by law.

#### **Article XIII: Premature and Scattered Development**

Nothing in this Ordinance shall be construed so as to limit the existing authority of the Jaffrey Planning Board to provide against development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Jaffrey's Site Plan Review Regulations, Subdivision Regulations, or Zoning Ordinance.

#### **Article XIV: Establishment and Review of Fees**

- (A) Establishment. In order to establish an impact fee schedule, the Planning Board shall annually adopt a Capital Improvements Program which identifies and recommends projects eligible for impact fee funding. The Planning Board shall then prepare an Impact Fee Schedule, in accordance with RSA 674:21, and Article VI of this Ordinance. The Planning Board shall then submit the Schedule to the Board of Selectmen. The Board of Selectmen shall conduct a public hearing on the proposed schedule within forty-five (45) days of receipt from the Planning Board. The Impact Fee Schedule shall be in effect when a majority of the Board of Selectmen approves the schedule. Should the Board of Selectmen fail to approve the schedule, it shall state its reason for doing so in writing and shall forward these comments to the Planning Board for consideration in revising a new schedule to be proposed to the Selectmen.
- (B) Impact Fee Schedule. The Impact Fee Schedule shall be prepared in accordance with RSA 674:21, and shall be calculated using the following factors, based upon the most recent data available or a conservative estimate:

- (1) A determination of the size of the capital facility.
- (2) An estimate of the proportion of users from future Jaffrey households subject to the impact fee that will use the facility when it has reached its capacity.
- (3) Projections of future users based upon residential building permit projections.
- (4) Estimates of the cost of the facility to the Town of Jaffrey, including financing and excluding non-municipal funding sources;
- (5) Credits subtracted from a base fee accounting for future property taxes paid by the proportion of the project to be financed by impact fees.
- (6) A fee assessed per housing unit based upon the gross livable area of the dwelling unit.
- (7) A determination of the number of building permits that will need to be issued in order to finance the impact fee.
- (8) An accounting of the number of permits issued, with a maximum number of permits to be assessed an impact fee prior to the fee's termination.
- (9) Exemptions, if any.

In developing the impact fee schedule, the Planning Board shall use the most recent data available in order to calculate the fee.

- (C) **Review of Impact Fees.** To ensure any established Impact Fee Schedule(s) are consistent with projects and recommendations included in the Capital Improvements Program, the Planning Board shall, on an annual basis, review established Impact Fee Schedule(s) following the annual review and adoption of the Capital Improvements Program. The Planning Board shall modify an Impact Fee Schedule if it finds that new data is available that will refine the schedule. This may include the replacement of figures used in the Impact Fee Schedule with more accurate or recent projections, data and figures. The Planning Board shall, within sixty (60) days of adopting the Capital Improvements Program, submit the Impact Fee Schedule to the Board of Selectmen if modifications are recommended. The Board of Selectmen shall vote to affirm the modifications within sixty (60) days of receipt of recommended changes from the Planning Board. If the Board of Selectmen fails to affirm the modifications, the impact fee schedule in effect shall remain in place.

**Article XV: Termination of Impact Fees**

- (A) Impact fees shall terminate in accordance with the Impact Fee Schedule, which shall set forth the number of building permits to be issued prior to its obsolescence.
- (B) The Board of Selectmen may also by majority vote terminate an impact fee schedule in effect. This may be done only after soliciting recommendations from the Planning Board, and after conducting a public hearing. The Planning Board shall be given sixty (60) days to produce written recommendations to the Board of Selectmen.

**Article XVI: Relationship to the Capital Improvements Program**

Whenever an impact fee or off-site improvement/exactions is assessed in accordance with this Impact Fee chapter, the project shall become part of the Capital Improvements Program (CIP) as an administrative adjustment. The CIP, when modified by the Town, shall include all projects that are funded through impact fees, and all off-site improvements/exactions.

**Article XVII: Severability**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Article XVIII: Effective Date**

This Ordinance shall become effective on March 18, 2006.

# CONDITIONAL USE PERMIT APPLICATION

Date Received: \_\_\_\_\_ Amount Paid: \_\_\_\_\_

Planning Board Clerk's Signature: \_\_\_\_\_

Application must be filed with the Planning Board clerk at least 21 days before Planning Board scheduled meeting.

**1. Property description:**

Street Address \_\_\_\_\_  
Tax Map # \_\_\_\_\_ Lot # \_\_\_\_\_ Zone \_\_\_\_\_

**2. Owner(s):**

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_ Fax \_\_\_\_\_

**3. Applicant:**

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_ Fax \_\_\_\_\_

**In the event that the applicant is not the land owner, suitable evidence of agency must be submitted with the application.**

**4. Abutters:**

**Attach a separate sheet listing by Map and Lot number, each owner's name and mailing address of all abutters within 300 ft of the property.**

**The list of abutters MUST include any holders of conservation, preservation or agricultural preservation restrictions in accordance with RSA 676:4(I)(d).**

**5. Name & Address of Licensed Professionals (as applicable):**

Engineer \_\_\_\_\_  
Land Surveyor \_\_\_\_\_  
Architect \_\_\_\_\_  
Soil Scientist \_\_\_\_\_  
Attorney \_\_\_\_\_

**6. Proposed Use:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Attach any plans or sketches relating to the proposed use separately.**

**7. Facts supporting this Request:**

**Attach separately a comprehensive written statement demonstrating that the request meets the following factors:**

- a) **The site is suitable for the use given the availability of adequate public services and the absence of environmental constraint.**
- b) **Impact on public and private rights of others shall not be greater than the impacts of other permitted uses in the zone.**
- c) **The proposed layout, design and structures shall not be incompatible with the established character of the neighborhood.**
- d) **The proposed use of the site will not affect natural, cultural, historic and scenic resources on the site.**
- e) **The proposed use will not diminish surrounding property values.**
- f) **The proposed use will not result in extraordinary fiscal impact to the Town.**
- g) **OSDP/VPA development is not reasonably feasible given the unique characteristics of the site.**
- h) **The proposed use is not contrary to the intent of the Master Plan and the OSDP ordinance.**
- i) **Economic hardships and personal, family circumstances to be considered.**

**8. Certification:**

**I hereby certify that all information provided in support of this application is true and accurate to the best of my knowledge and belief:**

**Applicant's signature \_\_\_\_\_ Date \_\_\_\_\_**

**Small Wind Energy System  
Conditional Use Permit  
Checklist Standards**

The standards set forth in this checklist are to insure the safe installation and operation of a Small Wind Turbine generation of power according to the Jaffrey SWES ordinance and in conformance with RSA 674:63.

Date: \_\_\_\_\_ Building Permit No: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Application deemed complete/reviewed by: \_\_\_\_\_

Note: Applications which are not complete will not be scheduled for public hearing.

Requests for waivers from these standards must be in writing and accompany the application.

**GENERAL PLAT REQUIREMENTS**

- \_\_\_\_\_ 1. Location of site, names and addresses of owners of record and all abutting landowners and uses of abutting land
- \_\_\_\_\_ 2. Name and address of surveyor, date of survey and North arrow
- \_\_\_\_\_ 3. Boundary lines of the area included in the site, bearings, dimensions and lot area
- \_\_\_\_\_ 4. Size, shape, height and location of all structures within and around site's boundaries. Location and height of treeline
- \_\_\_\_\_ 5. A vicinity sketch (1"=500') showing the location of the site in relation to existing public roads and any prominent natural features
- \_\_\_\_\_ 6. Zoning district and boundaries for the site and where applicable within 1000' of the site

### Specific Site Data

- \_\_\_\_\_ 1. Location and size of tower foundation on the site. If guyed location of support points and description of method of attachment. Location shall be no less than 1.5 times tower height from boundaries and structures and no less than 200' from the street, and to be stamped by a licensed engineer.
- \_\_\_\_\_ 2. Height of structure measured to the tip of turbine blade in highest vertical position. Height of turbine blade from the ground in the lowest vertical position
- \_\_\_\_\_ 3. Noise level shall be measured from the property boundaries and not to exceed 55dbA. Where the ambient noise level is greater than 55dbA an increase of 2 dbA is permitted for the SWES. The date, location, number of readings and wind direction taken by a qualified professional shall be submitted.
- \_\_\_\_\_ 4. Shadow Flicker shall be mitigated through siting or other measures. Significant shadow flicker is defined as more than 30hours per year on abutting occupied structures. The applicant has the burden of proving that the shadow flicker will not have a significant impact on adjacent uses.
- \_\_\_\_\_ 5. Certification by a licensed electrician shall be required to insure shutdown of the system in the event of a utility power failure to prevent feedback if connected to the utility system
- \_\_\_\_\_ 6. Description of system installed to prevent uncontrolled operation or speed
- \_\_\_\_\_ 7. Description of method of limiting access to the tower