Town of Webster, New Hampshire

Incorporated in 1860

ZONING ORDINANCE

Adopted March 5, 1974

Amended 3/7/1975
Amended 11/7/1978
Amended 3/8/1983
Amended 3/11/1986
Amended 3/21/1988
Amended 3/17/1990
Amended 3/12/1991
Amended 3/9/1993
Amended 3/8/1994
Amended 3/11/1997
Amended 3/10/1998
Amended 3/9/1999
Amended 10/9/2001
Amended 3/8/2005
Amended 11/8/2005
Amended 3/14/2006
Amended 3/13/2007
Amended 3/11/2008
Amended 3/10/2009
Amended 12/14/2009 by Select Board FEMA resolution
Amended 3/08/2011
Amended 3/12/2013
Amended 3/11/2014
Amended 3/14/2017
Amended 3/14/2023
Amended 3/16/2024

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WEBSTER, NEW HAMPSHIRE
ZONING ORDINANCE

ARTICLE I
Title, Authority, and Purpose

A. Title

This chapter shall be known and cited as the "Zoning Ordinance of the Town of Webster, New Hampshire," hereinafter referred to as "This Ordinance".

B. Authority

This chapter is adopted pursuant to the authority granted by RSA 674:16, New Hampshire Revised Statutes Annotated, as amended.

C. Purpose

The Town of Webster, New Hampshire has determined that the Zoning Ordinance is an appropriate land use planning and regulatory mechanism. The purposes of this Ordinance are to:

1 Promote the health, safety, and welfare of the Town;

2 Retain, protect, and enhance the beauty and rural atmosphere of the town;

3 Protect property values;

4 Conserve natural and historic resources;

5 Facilitate the appropriate use of the land;

6 Allow development that complements and is compatible with the surrounding land uses and the Webster Master Plan;

7 To lessen congestion in the streets;

8 To provide adequate light and air;

9 To prevent the overcrowding of land;

10 To avoid undue concentration of population;

11 To facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, and child day care;

12 To assure proper use of natural resources and other public requirements;

13 To encourage the preservation of agricultural lands and buildings;

ARTICLE II
Definitions

Unless otherwise expressly stated, the following words shall, for the purpose of this Ordinance, have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word "person" includes a partnership, corporation, or other entity. The word "building" includes the word "structure". The word "shall" is mandatory, not directory.

Accessory Dwelling Unit (ADU). A residential living unit that is located on a lot containing a single-family dwelling and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies as defined in RSA 674:71-73. An Accessory Dwelling Unit may be an Attached ADU or it may be a Detached ADU.

Accessory Structure. Shall mean a structure detached from the primary building on the same lot and customarily incidental and subordinate to the primary building or use, such as a pump house, gazebo, or woodshed.

Attached ADU. An Accessory Dwelling unit that is within or physically connected to the principal dwelling unit, or completely contained within a preexisting detached structure.

Building. Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry, other public or private purposes, or accessory thereto, excluding structures for storage of crops.

Commercial Purposes. Any use of land or buildings for the purpose of manufacturing, repairing or selling at retail or wholesale a product, goods or service.

Completed Dwelling. A dwelling whose exterior is complete and the heating, plumbing (including septic system and well) and electrical (including smoke detectors) systems are in a safe, working manner as determined by the Building Inspector. No part of the building or site shall pose any danger to the health or safety of the occupants or the general public.

Detached ADU. An Accessory Dwelling Unit that is neither within nor physically connected to the principal dwelling unit, nor completely contained within a preexisting detached structure.

Dwelling. A building, room, or suite of room forming a habitable unit for one family with its own cooking and food storage equipment, its own bathing and toilet facilities and its own eating, sleeping and living area.

Frontage. Shall mean that portion of a lot bordering on a highway, street, public way, or the shoreline of a river, brook, lake or pond.

Lot. Means a parcel of land capable of being occupied by one principal structure and its accessories, or used for one particular purpose and designated as such on a plat together with such open spaces as are required by the provisions of this ordinance.

Manufactured Housing. Means any current HUD (United States Department of Housing and Urban Development) certified structure transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body fee or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating, electrical systems contained therein. Manufactured housing as defined in this section shall not include pre-site built housing as defined in RSA 674: 31-a.

Multi-Unit Dwelling. A residence containing two or more separate dwelling units.

Non-conforming Use. Shall mean use of land, buildings or premises which is not a use permitted by the provisions of this Ordinance for the district in which such land, building or premises is situated.

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

Property Line. The line dividing adjacent lots.

Recreational Vehicle. The following shall be considered a recreational vehicle.

(1) Camping Trailer. A folding structure mounted on wheels and designed for travel, recreation and vacation use.

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

(3) Pick-up Coach. A structure to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

(4) Travel Trailer. A vehicular portable structure built on a chassis, designed as a temporary dwelling for travel, recreation and vacation.

Residence. A dwelling unit of at least 800 square feet or a manufactured housing unit.

Right-of-Way. Means and includes all present and proposed private, town, state and federal highways and the land on either side of same as covered by statutes to determine the widths of ways.

Seasonal Dwelling. A dwelling consisting of less than 800 square feet.

Setback. The distance between the nearest portion of a building or structure attached thereto and a lot line, right-of-way line. or a shoreline of a river, brook, lake or pond appearing on the current version of the U.S. Geological Survey 7 ½' topographical maps.

Street. A state highway, or a highway or road which is lawfully existing and maintained by the Town for vehicular travel. The word street shall include the entire right of way.

ARTICLE III
Uses Permitted

1. The Town of Webster is hereby divided into two (2) districts for the purposes so stated:

    A. The Pillsbury Lake District, which shall comprise all of the land shown as the Pillsbury Lake Water Precinct on Plan No. 2128 recorded at the Merrimack County Registry of Deeds and such additional land included in the documents creating the Pillsbury Lake District as a village district under the New Hampshire Revised Statutes Annotated and filed with the New Hampshire Secretary of State (the intent being to include the approximately three hundred (300) acres of land known as the "Hunting Preserve"), to accommodate residential uses.

    B. The Residential/Agricultural District, which is comprised of all land in the Town not contained within the Pillsbury Lake District, and which is designed to accommodate residential and agricultural uses at a mix of higher and lower densities in a rural environment.

    The Pillsbury Lake District shall be for residential uses only and the Residential/Agricultural District shall be for residential and agricultural uses (as defined below) only. Business, commercial and industrial uses are prohibited in these districts except as hereinafter provided.

2. A building lot shall have no more than one single family residence, one Accessory Dwelling Unit, or manufactured housing unit thereon unless otherwise permitted by Special Exception.

3. Home products may be bought, sold and exposed for sale in this district.

4. Agricultural use: "Agricultural Use" shall mean land us for agriculture, farming, dairying, pasturage, horticulture, floriculture, silviculture and animal and poultry husbandry. All such uses in accordance with the law are permitted.

5. Recreational Vehicles in Campgrounds

    A. A recreational vehicle located in a State approved and locally approved campground may be occupied or used for any other purpose only during the operating season approved for said campground by the Zoning Board of Adjustment.
    B. Screen rooms or decks may be added to recreational vehicles in an approved campground but must be temporary in nature, the extent that they must rest on the ground and not be on piers extending below grade or on an in-ground foundation of any kind.

6. Use of Recreational Vehicles on Residential Property

   A. The purpose of this Section is to allow reasonable incidental use of recreational vehicles (RVs) on residential property, but to ensure that no RV evolves into a second residence, which is prohibited by Section 2 above.
   B. RVs may be occupied or used for any other non-commercial purpose for up to 15 days, either consecutive or cumulative, in any calendar year, without any requirement for a permit. The Select Board may, upon application from the property owner, grant a permit for more than 15 days of occupancy/use. Such permits shall normally be for a maximum of 90 consecutive days in any calendar year, but the Select Board may exceed that limit if they consider there to be extenuating circumstances.

7. Storage of Recreational Vehicles on Residential Property

   A. RVs may be parked or stored for an unlimited time on residential property, except that large RVs (defined as those greater than 18 feet in overall length) are subject to the following restrictions:
      i. Only one large RV is allowed on lots 2.0 acres or less in area.
      ii. A maximum of 2 large RVs is allowed on lots greater than 2.0 acres but less than 5 acres in area.
      iii. A maximum of 3 large RVs is allowed on lots 5 or more acres in area.

Exceeding these limits is allowed only upon the granting of a special exception by the Zoning Board of Adjustment, per Article V-7 of this ordinance.

   B. The location of an RV on a residential property must comply with setback requirements and all other provisions of this ordinance, as well as any relevant State regulations.

ARTICLE IV
Lot Area and Yard Requirements

1. A. All lots in the Residential/Agricultural District shall be at least five (5) acres in size, provided however, that lots of record within this District as of the effective date of this Amendment that (a) are in size equal to or greater than four (4) acres but less than ten (10) acres and (b) satisfy all other requirements of this Ordinance, the Town's Subdivision Regulations, and all other Town ordinances and regulations (hereinafter "Qualifying Lots") shall be permitted to be subdivided once into a total of two lots each of a minimum size of two (2) acres. No further subdivision of Qualifying Lots shall be permitted.

   B. No lots in the Pillsbury Lake District may be subdivided.

2. Each lot shall have a minimum of 250 foot frontage on the road or highway that serves it.

3. Each lot shall be at least 150 feet wide at a distance 200 to the rear of and parallel to the front

property line.

4. In the Residential/Agricultural District there shall be observed the following setbacks in the construction of new buildings or in the relocation of existing ones:

   (A) The minimum distance between a building and any road or highway shall be
   (a) one-hundred (100) feet for lots that are five or more acres in size, and
   (b) fifty (50) feet for all other lots.

   (B) The minimum distance between a building and a lot sideline or lot rearline shall be fifty (50) feet.

   (C) The setback from rivers, brook, lakes or ponds shall be fifty (50) feet for accessory and primary structures.

5. All lots in the Pillsbury Lake District shall observe the following setbacks:

   (A) Minimum distance between buildings and front or rear property lines shall be twenty (20) feet.

   (B) Minimum distance between buildings and side property lines shall be twelve (12) feet.

6. No building, residence, or manufactured housing unit may be located anywhere in either District unless it meets all of the area and yard requirements of a residence in such District.

7. Onsite Wastewater Treatment

   A. All components of an Individual Sewage Disposal System (ISDS*)* must meet the setbacks noted in the most current version (or its successor) of Table 1008-2 in Chapter Env-Wq 1000: SUBDIVISION AND INDIVIDUAL SEWAGE DISPOSAL SYSTEM DESIGN RULES.

   B. No waste waters or sewage shall be permitted to run free into wetlands or surface waters or be discharged in any way that may be detrimental to the health of others or otherwise violate State Water Quality Standards. All such waste shall be conveyed away through use of an accepted sanitary system or in such a way that it will not be detrimental to the health of others or otherwise violate State Water Quality Standards.

   C. All sanitary systems shall be constructed and maintained in accordance with standards set by the New Hampshire Department of Environmental Services.

   D. Where ledge and/or high seasonal water tables are involved, at least four (4) feet of in-place soil shall exist above ledge or any other impermeable strata and two (2) feet of in-place soil shall exist above the seasonal high water mark before fill.

   E. The Town Septic Inspector may waive the provisions of this section for the repair or

replacement of pre-existing septic systems.

ARTICLE V
Special Exceptions

(Personal Wireless Service Facilities, see Section 9 of this Article)

1. **Commercial Exceptions**. Business, commercial or industrial uses may be permitted by special exception by the Board of Adjustment provided, however, that the following regulations and standards are met.

A. Required Plan. A plan for the proposed site of a special exception shall be submitted with the application. The plan shall show the location, distances and measurements of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and the location of the site within the town and any other pertinent information that the Board my deem necessary to determine if the proposed use meets the requirements of this ordinance.

B. Prohibited Uses. No business, commercial or industrial venture or use shall be permitted which could cause any undue hazard to health, safety or property values or which is offensive to the public because of noise, vibration, excessive traffic, unsanitary conditions, noxious odor, smoke, unsightliness, or other similar reason. In order for a special exception to be granted, the proposed use shall not adversely affect:

1. The capacity of existing or planned community facilities.

2. The character of the area affected.

3. Traffic on roads and highways in the immediate vicinity.

C. Mining or Excavation. Before mining, excavation, or removal of soil, rock, sand, gravel or similar material, a special exception must be received from board of adjustment. The Board shall require the following standards to be met:

1. That all standards required by RSA Chapter 155-E Local Regulation Excavations be met by the applicant.

2. That the applicant post a bond in an amount to be determined by the Board to ensure compliance.

D. Existing Violations. No special exception shall be issued for a property where there is an existing violation of this ordinance unless the granting of the exception will correct the violation.

E. Expiration. A permit for a special exception shall be deemed to authorize only one particular use and shall expire if the use shall cease for more than one year for any reason.

F. Alteration. Any future enlargement of the commercial use or alteration of the use can be made only with the approval of the Board of Adjustment.

2. **Home Business.** A home business may be permitted by special exception if the following conditions are met:

   A. A plan shall be submitted to the Board of Adjustment which shall contain a sketch of the site showing the location of the site within the town and the location of all buildings, driveways and parking areas.

   B. The proposed business may not occupy more than 25% of the gross floor area in the dwelling and must be carried out entirely within the principal dwelling structure.

   C. The business must be operated only by the resident owner of the dwelling.

   D. There shall be no physical evidence of equipment or materials visible from the lot line.

   E. Traffic impact shall be a maximum of twice the traffic impact of the average single family home.

3. **Conditions to be Applied to Special Exceptions**. If the Board of Adjustment approves an application for a special exception, it shall impose such conditions as it finds reasonably appropriate to safeguard the surrounding area or otherwise serve the purposes of this Ordinance, including, but not limited to, the following:

   A. Increasing the required lot size in order to protect adjacent properties.

   B. Limiting the coverage of height of buildings because of obstruction to view and reduction of light and air to adjacent properties.

   C. Controlling the location and number of vehicular access points to the property.

   D. Increasing the street width adjacent to the property.

   E. Increasing the number of on-site off-street parking or loading spaces required.

   F. Limiting the number, location, and size of signs.

   G. Requiring on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character and keeping with the surrounding area.

   H. Providing for the specific layout of facilities on the property such as location of the building, parking areas, access to the building, so as to minimize the effect on surrounding properties.

4. **Procedure**. The applicant shall apply to the Board of Adjustment within thirty days of the decision of the Selectmen, Planning Board, Building Inspector or other officer from whom the appeal is taken.

A. Application. The applicant shall submit the following to the Secretary of the Board of Adjustment:

1. A completed application. A copy shall be sent to Selectmen, Planning Board, Building Inspector or other officer from whom appeal is taken.

2. The filing fee set by the Board.

3. The required plan.

4. A list of all abutters and their addresses.

B.Date of Hearing. The Board shall set a public hearing on the application not less than thirty days from the date the completed application is received by the Secretary. The applicant and all abutters shall be notified at least five days before the date of the hearing in compliance with RSA 676:7.

6. **Seasonal Dwelling.** A dwelling consisting of less than 800 square feet may be permitted by special exception provided that:

A. It shall be used for recreational purposes such as hunting or camping only and not as a residence.

B. It shall be inhabited no more than 90 days in a calendar year.

C. It shall comply with all applicable setbacks and lot size requirements.

D. It shall meet all relevant life safety and sanitary codes.

E. A permit shall only be issued to the owner of the lot.

7. **Recreational Vehicles.** A number of stored large recreational vehicles (RVs) greater than allowed on a residential lot by Article III, Section 6-B of this ordinance may be permitted by special exception, provided that:

A. The proposed locations and use of all such large RVs comply with setback requirements, all other provisions of this *Ordinance*, and all applicable State regulations.

B. All such RVs are located and/or screened from view by abutters and passersby to the extent that the character of the neighborhood and the values of abutting properties are not adversely affected.

8. **Setbacks.**

A. Any non-commercial building or new addition thereto, may as a special exception, be approved to within twenty-five (25) feet of a property line upon finding of no detriment to the neighborhood.

B. Accessory structures such as storage sheds and gazebos, but excluding automobile garages may be approved to within twenty (20) feet of a river, brook, lake, or pond provided:

1. The location and construction of the structure is consistent with the intent of the State requirement to maintain a vegetated buffer;

2. The structure is required as a shelter for humans, equipment, or firewood;

3. The structure is usually customary and incidental to a legally authorized use within the shoreline district.

9. Personal Wireless Service Facilities (PWSF)

This is printed in a separate booklet**.**

ARTICLE VI
Non-conforming Building, Land or Uses

1. Non-conforming, vacant lots lawfully in existence prior to the enactment of this ordinance, March 5, 1974, or its amendment, November 7, 1978, (having an area less than one acre prior to March 5, 1974 or an area less than two acres prior to November 7, 1978, or an area less than five (5) acres prior to March 13, 2007) may be used for the erection of a structure permitted by Article III provided that such erection be in compliance with current applicable setback requirements and current applicable local and state regulations relating to subsurface disposal systems. However, to qualify under this section 1 such lots must be in separate ownership and shall not be of continuous frontage with other lots in the same ownership with which it could be combined, in whole or in part, to create a conforming lot or lots.

2. Any non-conforming property consisting of a lot occupied by a structure, which is non-conforming, either because of any requirement of Article IV or because of use prohibited by Article III, and was lawfully in existence and in active use when this Ordinance became effective, may continue indefinitely in such use.

3. Upon approval of the Board of Adjustment after submission of a site plan, any and all property non-conforming because of use prohibited by Article III, which was lawfully in existence and in active use when this Ordinance or subsequent amendments became effective, may be altered or expanded in use as the business and conditions reasonably warrant; provided the Board finds that such alteration or expansion will not make any existing conforming structure non-conforming under part 4, Article IV and that the previous use will not be altered materially in purpose or so as to be more detrimental to the neighborhood.

4. Any and all non-conforming property which is partially or totally destroyed by reason of obsolescence, fire or other act of God may be restored, remodeled and operated, if done within two (2) years, providing, however, that proximity to a lot line or right-of-way may be no nearer than the lesser of the original building and the setbacks defined in this ordinance.

ARTICLE VII
Growth Management

1. Growth Management and Timing of Development – Authority and Purpose

   This Article is enacted pursuant to the authority granted by NH RSA 674:22 as amended. It is intended to regulate and control the timing of development in accordance with the objectives of each of the Town of Webster's Master Plan and Capital Improvements Plan. These two documents assess and balance the community development needs of the Town of Webster and consider regional development needs. This Article allows the orderly growth of population and development at a rate that avoids placing an undue strain and burden upon existing and planned Town services, schools, roads and other infrastructure.

2. Annual Building Permit Limitation

   A. The number of building permits issued in a calendar year for new residential dwelling units is limited to an amount that is 4.0% of total dwelling units in the town of Webster as of December 31 of the prior year. When the maximum number of building permits has been issued the building inspector may continue to accept applications for placement on a waiting list. Any waiting list will be discarded at the end of each calendar year.
   B. For the purpose of this Article, the December 31 base of dwelling units shall be the number of buildings valued at $5000.00 or greater according to the Town of Webster property tax data base as of December 31.

3. Equitable Distribution of Building Permits

   The Town shall issue building permits on a "first come, first serve" basis provided, however, that no more than three (3) permits per year will be issued to any individual, corporation, partnership, or entity.

4. Expiration

   This Article shall expire at 11:59 p.m., March 31, 2010.

ARTICLE VII-A
Growth Management Pillsbury Lake

The number of building permits issued in a calendar year for new residential dwelling units in the Pillsbury Lake Community shall be limited to no more than 2% of the number of dwelling units in the Pillsbury Lake Community as of December 31 of the prior year. When the maximum number of permits has been issued the building inspector may continue to accept applications for placement on a waiting list. Any waiting list will be discarded at the end of each calendar year.

ARTICLE VIII

Building and Construction

A. Building Inspector may be appointed annually by the Board of Selectmen and he shall be the administrative officer under this article and be answerable to the Board of Selectmen. If the Selectmen do not appoint a Building Inspector, his administrative powers and duties shall be vested in the Board of Selectmen.

1. Any individual, corporation, partnership or entity before commencing construction of any new dwelling unit, must first obtain a permit from the Building Inspector. Any such permit shall be void unless the foundation is completed within six (6) months of the date of issuance. The outside of the structure must be completed within two (2) years of issuance of permit.
2. All applicants shall supply the Building Inspector with all required documentation, including but not limited to: proof of ownership, septic system approval, subdivision approval, driveway permit and a detailed drawing of the lot. The drawing shall show the location, size, and topography of the lot; the location, size and elevation of the proposed dwelling, accessory structures, drainage systems, wells, driveways, curbs, sidewalks, setbacks, bodies of water, and wetlands. The Building Inspector may at his discretion waive the inclusion of some of these where applicable. The Building Inspector shall determine what constitutes proper documentation and a completed application. Construction or placement of any item shall not deviate from that described or shown in the documentation supplied as part of the application process. The Building Inspector shall determine if such deviation exists.
3. Subdivisions are also governed by the Webster Subdivision Regulations and all State and Federal regulations.
4. Effective Dates

   This article becomes effective upon adoption.

Article IX
Flood Plain Development

Certain areas of the Town of Webster, New Hampshire, are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Webster, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.

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

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Merrimack, N.H." dated April 19, 2010, or as amended, together with the associated Flood Insurance Maps dated April 19, 2010 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

A. Definition of Terms: The following definitions shall apply only to this Floodplain Development Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Webster.

Area of Special Flood Hazard is the land in the floodplain within the Town of Webster subject to one-percent or greater possibility of flooding in any given year. The area is designated on the Flood Insurance Rate Map as Zone A and AE.

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

Base Flood Elevation (BFE) means the elevation of surface water resulting from the "base flood."

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

Building - see "**structure**".

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

FEMA means the Federal Emergency Management Agency.

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

(1) the overflow of inland or tidal waters.
(2) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) means an official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones

applicable to the Town of Webster.

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

Flood Opening means an opening in a foundation or enclosure wall that allows automatic entry and exit of floodwaters. See FEMA "Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures."

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

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

Floodway - see **Regulatory Floodway**.

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

Historic Structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    a. By an approved state program as determined by the Secretary of the Interior, or
    b. Directly by the Secretary of the Interior in states without approved programs.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor;

provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

Recreational Vehicle is defined as:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

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

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

Start of Construction includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement,

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

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

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

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under Section VI, Section IX (2)(b), or Section VIII (3)(4) of this ordinance is presumed to be in violation until such time as that documentation is provided.

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

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

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

1. be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,

2. be constructed with materials resistant to flood damage,

3. be constructed by methods and practices that minimize flood damages,

4. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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

E. For all new or substantially improved structures located in zones A or AE, the applicant shall furnish the following information to the Building Inspector:

1. the as-built elevation (in relation to mean sea level) of the lowest floor (including basement) and include whether or not such structures contain a basement.

2. if the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed.

3. any certification of floodproofing.

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

F. The Building Inspector shall not grant a building permit until the applicant certifies that all

necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.

G. 1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.

2. The Applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

3. Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.

4. Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
5. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:
"No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

H. 1. In special flood hazard areas the Building Inspector shall determine the base flood elevation in the following order of precedence according to the data available:

(a) In zone AE refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
(b) In zone A the Building Inspector shall obtain, review, and reasonably utilize any base flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals). Where a base flood elevation is not available or not known for Zone A, the base flood elevation shall be

determined to be at least 2 feet above the highest adjacent grade.

2. The Building Inspector's base flood elevation determination will be used as criteria for requiring in zones A and AE that:
   (a) all new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation;
   (b) that all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the base flood elevation; or together with attendant utility and sanitary facilities, shall:
      (1) be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
      (2) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
      (3) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;

   (c) recreational vehicles placed on sites within Zones A and AE shall either be on the site for fewer than 90 consecutive days, be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or meet all standards of Item B of this ordinance and the elevation and anchoring requirements for “manufactured homes” in Item H, 2d of this ordinance.
   (d) all manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
   (e) for all new Construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
      (1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
      (2) the area is not a basement;
      (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two flood openings having a total net area of not less than one square inch for every square foot of enclosed

area subject to flooding shall be provided. The bottom of all flood openings shall be no higher than one foot above grade. Flood openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

I. Variances and Appeals:

1. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I , the applicant shall have the burden of showing in addition to the usual variance standards under state law:

   (a) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
   (b) that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
   (c) that the variance is the minimum necessary, considering the flood hazard, to afford relief.

3. The Zoning Board of Adjustment shall notify the applicant in writing that: (a) the issuance of a variance to construct below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

4. The community shall (a) maintain a record of all variance actions, including their justification for their issuance, and (b) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE X
Board of Adjustment

A. Creation and Appointment

1) The Board of Selectmen shall appoint a Board of Adjustment consisting of five (5) members, and no more than five (5) alternate members, conforming in duties, membership and term of office to the provisions of Chapter 673:3, 673:6, and 674:33 of the New Hampshire Revised Statutes Annotated as amended. Thereafter, as terms expire or vacancies occur, the Board of Selectmen shall be responsible for filling vacancies and maintaining a full membership on the

Board of Adjustment.

ARTICLE XI
Impact Fee

A. Purpose. This ordinance is enacted pursuant to RSA 674:21 as amended, and in order to:

1. Promote the public health and welfare and prosperity;

2. Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Webster;

3. Prevent scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services;

4. Provide for the harmonious development of the municipality and its environs;

5. Ensure the proper arrangement and coordination of streets; and,

6. Ensure streets of sufficient width to accommodate existing and prospective traffic.

B. Definitions

1. **Fee Payer** means the applicant for the issuance of a permit that would create new development in this Section.

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

3. **New development** means an activity that results in:

   a. The creation of a new dwelling unit or units; or

   b. The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units; or

c. Construction resulting in a new non-residential building or a net increase in the floor area of any non-residential building; or

d. The conversion of an existing use to another use if such change creates a net increase in the demand on public capital facilities that are the subject of impact fee assessments.

New development shall not include the replacement of an existing mobile home, or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in its size, density or type of use, and where there is no net increase in demand on the public capital facilities of the Town of Webster.

C. Authority to Assess Impact Fees.

The Planning Board is hereby authorized to assess impact fees, as herein defined, and in accordance with the standards herein set forth. The Planning Board shall have the authority to adopt regulations to implement the provisions of this ordinance.

D. Standards and Methodology for Assessment

1. The amount of any impact fee shall be a proportional share of municipal capital improvement costs, which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee.

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

3. The Planning Board may prepare, adopt, or amend studies or reports that are consistent with the above standards, and which define a methodology for impact fee assessment for public capital facilities, and impact fee assessment schedules therefore.

E. **Waivers**

The Planning Board may grant full or partial waivers of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular public capital facilities for which impact fees are normally assessed.

1. A fee payer may request a full or partial waiver of public school impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over in a development that is also maintained in compliance with the provisions of RSA 354-A:15 as amended, Housing For Older Persons. The Planning Board may

waive school impact fee assessments on such age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy by senior citizens age 62 or over for a period of at least 20 years.

2. The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that would involve a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the Board of Selectmen for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. All costs incurred by the Town for the review of such proposal, including consultant and counsel fees, shall be paid by the fee payer.

F. Administration of Impact Fees

1. All impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development.

2. Between the date of assessment and collection, the Planning Board may require fee payers to post security, in the form of a cash bond, letter of credit or performance bond so as to guaranty future payment of assessed impact fees.

3. Impact fees shall be collected as a condition for the issuance of a Building Permit.

4. The Planning Board and the fee payer may establish an alternate, mutually acceptable schedule of payment of impact fees.

5. Each impact fee shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the governing body, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are collected.

6. In the event that bonds or similar debt instruments have been or will be issued by the Town of Webster or the Merrimack Valley School District for the funding of capital improvements that are the subject of impact fee assessment, impact fees from the appropriate related capital facility impact fee accounts may be applied to pay debt service on such bonds or similar debt instruments.

7. The Finance Director shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current

ownership and tax map reference number of properties for which fees have been paid under this Section for each permit so affected for a period of nine (9) years from the date of receipt of the impact fee payment associated with the issuance of each permit

G. Refund of Fees Paid

The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest under the following circumstances:

1. When either the full or partial portion of the impact fee, whichever is applicable, has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee; or

2. When the Town of Webster, or in the case of school impact fees the Merrimack Valley School District, has failed, within the period of six (6) years from the date of the full and final payment of such fee, to appropriate their proportionate non-impact fee share of related capital improvement costs.

H. Appeals Under This Section

1. A party aggrieved by a decision made by the Code Enforcement Officer regarding the assessment or collection of impact fees authorized by this Section may appeal such decision to the Planning Board.

2. A party aggrieved by a decision of the Planning Board under this Section may appeal such decision to the Merrimack County Superior Court as provided by RSA 676:5, III as amended and RSA 677:15, as amended.

I. Applicability

This ordinance shall not be deemed to affect the existing authority of the Planning Board over subdivisions and site plans, including, but not limited to the authority to declare a development to be premature or scattered in accordance with the regulations of the Board and in accordance with RSA 674:36, II(a) as amended. Payment of the impact fee under this section does not restrict the Town of Webster or the Planning Board from requiring other payments or improvements from new development. Nothing in this section shall be construed to affect fees that are assessed under the authority of other statutes, town ordinances or regulations.

ARTICLE XII
Groundwater Protection Ordinance

A. AUTHORITY

The Town of Webster hereby adopts this Ordinance pursuant to the authority granted under NH RSA

674:16, in particular NH RSA 674:16, II relative to innovative land use controls.

B. PURPOSE

This Ordinance is intended to preserve, maintain, and protect from contamination, existing and potential groundwater supply and groundwater recharge areas of known aquifers, as delineated by the United States Geological Survey (as identified on the Town of Webster Drinking Water and Aquifer Location Map, as updated from time to time, available in the Town Offices), thereby assuring the proper use of natural resources and thus protecting public health, safety and general welfare of the people in the Town of Webster.

Additional purposes include, but are not limited to: (1) assuring adequate private and public drinking water supply; (2) assuring the hydrologic integrity of surface waters and wetlands; (3) reducing the effects of non-point source pollution; (4) protecting in-stream habitat for fish and wildlife; (5) limiting the development of structures and land uses which contribute to the pollution of ground water by sewage and hazardous substances; (6) encouraging those uses that can be safely and appropriately located in the District, as defined in Section D below; (7) assuring adequate water supply for domestic, agricultural, commercial and industrial uses; and (8) assuring adequate water supply for recreational uses.

The standards used in this Ordinance reflect the recommendations of the Town of Webster Master Plan, 2005. This Ordinance imposes additional requirements and restrictions to those of the underlying district zoning. In all cases the more restrictive requirement(s) shall apply.

C. DEFINITIONS

1. **Aquifer**: a geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.

2. **Petroleum bulk plant or terminal**: that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline tank car, tank vehicle, portable tank, or container.

3. **Designated agent**: the person designated by the Planning Board to carry out its inspection and other duties with respect to this Ordinance.

4. **Groundwater**: subsurface water that occurs beneath the water table in soils and geologic formations.

5. **Gasoline station**: that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of gasoline.

6. **Hazardous waste**: "hazardous waste" as defined in NH RSA 147-A:2, VII,

7. **Impervious**: not readily permitting the infiltration of water.

8. **Impervious surface**: a surface through which regulated contaminants cannot pass when spilled. The term includes concrete and impervious asphalt unless unsealed cracks or holes are present, but does not include earthen, wooden, or gravel surfaces or other surfaces that could react with or dissolve when in contact with the substances stored on them.

9. **Junkyard**: an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary landfills. The word does not include any motor vehicle dealers registered with the director of motor vehicles under NH RSA 261:104 and controlled under NH RSA 236:126.

10. **Outdoor storage**: storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

11. **Public water system**: a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

12. **Regulated substance**: with the exception of (1) ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquified fuels which exist as gases at normal atmospheric temperature and pressure, regulated substances include any of the following:

    (a) Oil as defined in NH RSA 146-A:2, III;
    (b) Any substance that contains a regulated contaminant for which an ambient groundwater quality standard has been established pursuant to NH RSA 485-C:6; and
    (c) Any substance listed in 40 CFR 302, 7-1-05 edition.

13. **Sanitary protective radius**: the area around a public water supply well which must be maintained in its natural state as required by Env-Ws 378 or 379 (for community water systems); Env-Ws 372.12 and Env-Ws 372.13 (for other public water systems).

14. **Secondary containment**: a structure such as a berm or dike with an impervious surface which is adequate to hold at least 110% of the volume of the largest regulated-substances container that will be stored there.

15. **Snow dump**: a location where snow, which is cleared from roadways and/or motor vehicle parking areas, is placed for disposal.

16. **Stratified-drift aquifer**: a geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.

17. **Surface water**: streams, lakes, ponds and tidal waters, including marshes, water-courses and other bodies of water, natural or artificial.

18. **Wellhead protection area**: the surface and subsurface area surrounding a water well or

wellfield supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

D. GROUNDWATER PROTECTION DISTRICT

The Groundwater Protection District (the "District") is an overlay district superimposed over the existing underlying zoning and includes within its boundaries,

(1) all of the Wellhead Protection Areas for public water supply wells as defined under Article III, part (R) of this Ordinance.; and
(2) the Stratified Drift Aquifer(s) shown on the Town of Webster Drinking Water and Aquifer Location Map, dated November 15, 2007, which map may be amended from time to time.

E. APPLICABILITY

This Ordinance applies to all uses in the Groundwater Protection District, except for those uses exempt under Article XI (Exemptions) of this Ordinance.

F. PERFORMANCE STANDARDS

The following Performance Standards apply to all uses in the Groundwater Protection District unless exempt under Article XI:

1. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 2005, and any subsequent revisions;

2. All regulated substances stored in containers with a capacity of 5 gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;

3. Facilities where regulated substances are stored must be secured against unauthorized entry and must be inspected weekly by the facility owner;

4. Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least 75 feet from surface water or storm drains, at least 100 feet from private wells, and outside the sanitary protective radius of wells used by public water systems;

(a) Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of 100 gallons or 800 lbs or more of regulated substances are stored outdoors on any particular property;
(b) Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another;
(c) Prior to any land disturbing activities, all inactive wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with We 604 of the New Hampshire Water Well

Board Rules.

G. PERMITTED USES

All uses permitted by right or allowed by special exception in the underlying district are permitted in the Groundwater Protection District unless they are Conditional Uses or Prohibited Uses. All uses must comply with the Performance Standards unless specifically exempt under Article XI.

H. PROHIBITED USES

Development or operation of the following are prohibited in the Groundwater Protection District:

1. A hazardous waste disposal facility as defined under NH RSA 147-A, or any other facility that generates, treats, or stores hazardous waste, subject to Env-Wm 500-900;
2. A solid waste landfill, solid waste transfer station and/or recycling facility, incinerator, or composting facility;
3. A junkyard;
4. A snow dump;
5. A wastewater or septage lagoon;
6. Any use that involves outdoor storage of road salt or other deicing chemicals in bulk;
7. Any use that will render impervious more than 15% or more than 2,500 square feet of any lot, whichever is greater;
8. Any use involving deposition of sludge.
9. Any underground storage tank used or intended to be used to store or contain any Regulated Substance.

I. CONDITIONAL USES

1. The following uses, if otherwise permitted in the underlying district, are permitted in the District only upon the approval of the Planning Board and the issuance of a Conditional Use Permit signed by the Board or its authorized agent:

   (a) the storage, handling or use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time;
   (b) the development or operation of any one or more of the following: a gasoline station; a petroleum bulk plant or terminal; an automotive service and/or repair shop; a commercial camp ground; a car wash, a laundromat, and/or a dry cleaner.

2. In granting such approval and prior to issuing a Conditional Use Permit, the Planning Board must first determine, and it is the burden of the applicant to demonstrate to the satisfaction of the Board, each of the following:

   (a) that the proposed use is not a prohibited use under this Ordinance or any other Town of Webster ordinance;
   (b) that the proposed use will be in compliance with all other requirements of this Ordinance, as well as all applicable local, state, and federal requirements;

(c) that an adequate spill prevention, control and countermeasure (SPCC) plan will be implemented for the proposed use and is approved by the local Fire Chief and any other designated Health Officer and/or Emergency Management Officer for the Town. The SPCC plan must convince the Board and the Fire Chief and/or other officer that due diligence efforts will be made to prevent release of regulated substances due to ordinary or catastrophic events such as spills, floods, or fires and that, in the event that said due diligence efforts prove to be inadequate, procedures and facilities will be in place to contain and minimize any release of regulated substances. The SPCC plan shall at minimum include:

(1) a description of the physical layout and a facility diagram, including all surrounding surface waters;
(2) a contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies that must be contacted in case of a release to the environment;
(3) a list of all regulated substances in use and locations of use and storage;
(4) a prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure; (5) a description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground;

(d) that an adequate stormwater management and pollution prevention plan that includes information consistent with Stormwater Management For Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices. (US EPA, 1992) has been developed for the proposed use. The plan shall demonstrate that the use will:

(1) minimize, through a source control plan that identifies pollution prevention measures, the release of regulated substances into stormwater;
(2) demonstrate that recharge to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary;
(3) stipulate that expansion or redevelopment activities shall require an amended stormwater plan and may not infiltrate stormwater through areas that may contain contaminated soils without completing a Phase I Assessment in conformance with American Society of Testing and Materials (ASTM) E 1527-05 (also referred to as All Appropriate Inquiry (AAI)).

J. EXISTING NONCONFORMING USES

1. Any nonconforming use may continue and may be maintained, repaired and/or replaced, and to the extent that it shall be made less nonconforming, improved, unless such use is determined to be an imminent hazard to public health and safety by the Selectmen and/or Health Officer. Any such nonconforming use must be in compliance with all applicable state and federal requirements, including Env-Ws 421, Best Management Practices Rules. No nonconforming use may be expanded, changed to another nonconforming use, or renewed after it has been discontinued for a period of 12 months or more.

2. Notwithstanding subparagraph X.A above, underground storage tanks for petroleum, other refined petroleum products, or any other Regulated Substance may not be repaired. All failed underground storage tanks must be removed according to standards established in state statutes and regulations.

K. EXEMPTIONS

The following uses are exempt from the specified provisions of this Ordinance as long as they are in compliance with all applicable local, state, and federal requirements:

1. Any private residence that does not have a business, commercial or industrial use on the premises is exempt from all Performance Standards;
2. Any business, commercial, or industrial use where regulated substances are not stored in containers with a capacity of 5 gallons or more is exempt from Article VI, Performance Standards, sections C through F;
3. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Performance Standard C;
4. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards C through F;
5. The sale, transportation, and use of pesticides as defined in NH RSA 430:29 XXVI are exempt from all provisions of this Ordinance;
6. Mobile fuel transfer tanks used for refueling purposes which have a capacity of 150 gallons or less are exempt from Performance Standard E.

L. RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS

Where both the State and the Town have existing requirements, the more stringent shall govern.

M. INSPECTION

Inspections may be required to verify compliance with this Ordinance. All uses governed by this Ordinance may be subject to such inspections. Such inspections shall be performed by the Planning Board's designated agent. The Selectmen may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Selectmen as provided for in NH RSA 41-9:a.

N. ENFORCEMENT PROCEDURES AND PENALTIES

Any violation of the requirements of this Ordinance shall be subject to the enforcement procedures and penalties detailed in NH RSA 676.

O. SAVING CLAUSE

If any provision of this Ordinance is found to be unenforceable, such provision shall be considered

separable and shall not be construed to invalidate the remainder of the Ordinance.

P. EFFECTIVE DATE

This Ordinance shall be effective upon adoption by the town legislative body.

ARTICLE XIII
Accessory Dwelling Units

1. **Accessory Dwelling Units.** One Accessory Dwelling Unit (ADU) is permitted by right on each zoned single family residential lot (except in cases of attached single-family residences, such as rowhouses) if the following conditions and standards are met:

A. Only one ADU shall be allowed on a lot and the ADU may not have more than nine-hundred and fifty (950) square feet of total living space.

B. The ADU must provide independent living facilities for one or more persons that include provisions for sleeping, eating, cooking, and sanitation.

C. Attached ADUs shall have either an independent means of ingress and egress or ingress and egress through a common space shared with the principal dwelling.

D. Either the ADU or the principal dwelling unit shall be the principal residence and legal domicile of the owner of the property. All building permit applications for an ADU shall include a sworn statement by the owner that either the ADU or the main residence is his or her principal place of residence.

E. An interior door shall be provided between the principal dwelling unit and an attached ADU. The ADU shall have an exterior entry door separate from that of the primary dwelling, except that both units may use a single such door via a shared hallway or vestibule.

F. The proposed unit must meet all applicable building, life safety and sanitary codes, including at least two means of egress leading to safe and open space at ground level.

G. All building permit applications for an ADU shall include provisions for water supply and sewage disposal service in compliance with RSA 485-A:38 *Approval to Increase Load on a Sewage Disposal System,* and regulations adopted by the New Hampshire Department of Environmental Services.

ARTICLE XIV
Effective Dates and Enforcement

Any individual, partnership, corporation or other entity violating any of the provisions of this Ordinance may be fined as permitted under RSA 676:17 as amended or subsequent legislation. The Board of Selectmen may institute in the name of the Town any action they deem appropriate to enforce the Ordinance.

Effective Dates

This article becomes effective upon adoption.

ARTICLE XV
Validity

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

ARTICLE XVI
Effective Date and Amendments

This Ordinance may be amended in accordance with the procedure provided by RSA 675:3, as amended. Amendments shall take effect upon their passage.