ZONING ORDINANCE

Town of Swanzey,
New Hampshire

ADOPTED SEPTEMBER 8, 1947

AS AMENDED THROUGH MARCH 14, 2024

2024 ZONING ORDINANCE
TOWN OF SWANZEY, NEW HAMPSHIRE

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ZONING ORDINANCE
TOWN OF SWANZEY
NEW HAMPSHIRE

SECTION I
PURPOSE

To promote the health, safety, convenience and general welfare of the community by regulating and restricting the use and construction of buildings and premises in the Town of Swanzey and for said purpose dividing the Town into districts, the following ordinance is hereby enacted by the voters of the Town of Swanzey pursuant to the authority conferred by the Revised Laws of the State of New Hampshire.

SECTION II
ZONING DISTRICTS AND ZONING MAPS

The Town of Swanzey is hereby divided into the following Zoning Districts as shown on the "Zoning Map of Swanzey, New Hampshire" dated September 1, 1947, as amended which, with all explanatory matter therein, shall be considered a part thereof. The original map is filed in the Office of the Swanzey Town Clerk.

A. DISTRICTS: Purpose and Intent.

1. Rural/Agricultural District. This district is designed to accommodate residences and agricultural uses in what is commonly recognized as being a rural atmosphere. The property included within this district will generally be agriculture and forestry, low-density housing, open space protection, water supply protection, and recreation. This district is the potential future growth area for the town and is carefully controlled with monitoring, planning and re-zoning to prevent scattered and premature development. (Amended March 14, 2006)

2. Residence District. This district encompasses the more highly developed sections of town. It provides the transitional areas between the outlying rural and more densely developed business districts. Commercial facilities and essential services are convenient and semi-public facilities such as churches and clubs are readily available to the residents of the district.

3. Village Business District I. This district is intended to provide a compact area within which the commercial and business uses necessary to service the needs of the community may function. In addition, provision is made for areas to allow the controlled development of business uses oriented to the roads and highway network.

4. Business District. The intent of this District is to provide for the development of commercial, retail, office, and similar uses that are oriented to serving the needs of the community and the traveling public. This District is also intended to accommodate traffic generators of such size as to be more properly located on a highly accessible highway network. (Amended March 8, 2022)

5. Commercial/Industrial District. The purpose of this zone is to minimize strip development and encourage off road development on portions of Route 10.

6. Shoreland Protection District. The Shoreland Protection District is hereby established as an overlay district which is superimposed over the

conventional existing zoning. The uses permitted in the underlying districts shall be allowed only if they meet the minimum standards promulgated by the State of New Hampshire Comprehensive Shoreland Protection Act, RSA 483-B (as amended). Pursuant to authority granted by RSA 674:14, this Shoreland Protection District is adopted by the Town of Swanzey to further protect the public waters of the Town.

(Replaces Special Lake Protection District March 14, 1995.)
(Amended March 10, 2009)

7. Flood Plain District. The Flood Plain District is herein established as an overlay district. The underlying permitted uses shall be allowed only by special exception provided they meet the additional requirements set forth in Section IX of this ordinance. The Flood Plain District includes all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its 'Flood Insurance Study for the County of Cheshire, NH' dated May 23, 2006 or as amended together with the associated Flood Insurance Rate Maps (FIRM) dated May 23, 2006 or as amended, on file with the Town Clerk, Planning Board and Building Inspector. These maps as well as the accompanying Swanzey Flood Insurance Study, are incorporated herein by reference.

8. Wetlands District. The purpose of this district is to prevent the development of structures and land uses on wetlands which would contribute to the pollution of surface and groundwater.

9. Airport District. The Airport Zoning District is established to regulate and restrict the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the Dillant-Hopkins Airport by creating airport approach zones and other restricted areas and establishing the boundaries thereof.

10. Industrial Park District. The intent of this District is to allow industrial activities, such as manufacturing, processing, assembly, wholesaling, and warehousing in a park like setting with greater aesthetic and site controls. It is the intent of this District, to preclude small business and office operations unless they are grouped together in the same building. This district also excludes service operations and retail activities except those that are clearly accessory to the primary use. (Amended March 8, 2022)

11. Village Business District II. This district is intended to provide a compact area within which commercial, industrial and business uses may function. *(Adopted March 8, 2011)*

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to include the area described in Section XA entitled Industrial Park. (Adopted March 14, 1995)

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show property known as Tax Map 58, Lot 47 (currently owned by Tory W. Frazier, known as 28 South Grove Street, consisting of 2.7 acres, more or less), as being in the Village Business District. (Added March 14, 2006)

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show property known as Tax Map 87, Lot 2 that is currently located in the Business Zoning District (currently owned by Pine Grove MHP Cooperative, Inc.) as being in the Residence District. (Added March 14, 2006)

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show the portions of the properties currently shown as Tax Map 19, Lots 97, 97-2, 98, 99, 100, 101 and 102 that are currently located in the Business District as being in the Industrial Park District. (Added March 10, 2009)

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show the portion of the property currently shown as Tax Map 19, Lot 97-5 that is currently located in the Residence District as being in the Industrial Park District. (Added March 10, 2009)

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show Tax Map 72, Lot 31 (as shown on tax map 72 amended through April 1, 2009) as being in the Village Business District II. (Added March 8, 2011)

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show Tax Map 56, Lot 3 and Tax Map 56, Lot 4 (as shown on tax map 56 amended through April 1, 2009) as being in the Business District. (Added March 8, 2011)

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show Tax Map 18, Lot 185 (as shown on tax map 18 amended through April 1, 2010) as being in the Business District. (Added March 8, 2011)

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show Tax Map 18, Lots 65, 67, 68, 69, 70, 72, and 73 (as shown on Tax Map 18 amended through April 1, 2017) as being entirely within the Business District.

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show Tax Map 18, Lots 79, 80, 81, 82, 83, and 84 on Suburban Acres Road (as shown on Tax Map 18, amended through April 1, 2021) as being entirely within the Residence District. (Added March 8, 2022)

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show Tax Map 20, Lots 153 and 153-6 on Arrowcrest Drive (as shown on Tax Map 20, amended through April 1, 2021) as being entirely within the Residence District. (Added March 8, 2022)

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show property known as Tax Map 16, Lot 1 (currently owned by Thoris Lewis Revocable Trust, known as 69 James Road, consisting of 55.4 acres more or less), as being entirely within the Business District. (Added March 14, 2023)

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show Village Business I north of the Wilson Pond Dam and South of the Keene line. Reference Section V, Article A for further description of the area.

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show Village Business II parcels in West Swanzey along North Winchester Street, Main Street, Ashuelot Street, and Summer Street. Reference Section V, Article C for further description of the area.

B. DISTRICT BOUNDARIES

1. Where uncertainty exists with respect to the boundaries of any of the aforesaid Districts as shown on the Zoning Map, the following rules shall apply:

a. Property lines – If the District boundary is a property line, the boundary shall follow such property line as described in the Tax Assessor's records on the effective date of these regulations;

b. Measured lines – Unless otherwise indicated, if a District boundary is stated by measured distance from street, such distance shall be measured perpendicularly from the boundary of such street which is on the same side as the District;

c. Streets, Rivers, Brooks – If opposite sides of a street, river or brook are in different districts, the center line of the street, river or brook shall be the District boundary;

d. Railroad lines – Where the boundary of a District follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line;

e. Rivers, Lakes or other bodies of water – Where the boundary of a District follows a River, lake or other body of water, the boundary line shall be deemed to be at the limit of the jurisdiction of the town of Swanzey unless otherwise indicated.

2. Where interpretation is required, or in case of uncertainty, the Swanzey Planning Board shall determine the location of the District Boundaries.

SECTION III
GENERAL PROVISIONS APPLICABLE TO ALL DISTRICTS

A. Except as herein provided:

1. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located.

2. (Section III.A.2. deleted March 10, 2009)

3. (Section III.A.3. deleted March 10, 2009)

4. No more than one "one-family dwelling" may be permitted on a lot. (Amended March 10, 1998; Amended March 10, 2009)

B. No building or improvement shall be erected, used or maintained, and no land shall be used or maintained for any use, trade, business, or process which is obnoxious or offensive by reason of gas, odor, dust, smoke, vibration, liquid discharge, illuminations, noise or appearance, or which constitutes a public health hazard whether by fire, explosion, or otherwise.

C. Accessory Uses and Accessory Buildings

1. Any accessory use or any accessory building which is customarily incidental to the principal use or building located on the same lot with the principal use or building shall be permitted in all Districts.

2. Accessory uses shall not include the deposit or placing outside of any building any waste, refuse or ashes, or the storage of any gasoline or oils.

3. For residential properties, one (1) single-story storage shed up to two-hundred (200) square feet in area may be located up to five (5) feet from the side or rear property lines, but must still comply with the front setback requirement. (Amended March 10, 2020; March 14, 2023)

D. Where a District boundary divides a lot of record at the time such line is adopted, the regulations, for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion provided the lot has frontage on a street in the less restricted District.

E. Provided that safe and adequate disposal of sewage and safe water supply can be provided without endangering the health and safety of adjoining uses, nothing in these regulations shall prevent the construction of a permitted building or establishment on an existing lot of record which has an area of at least eight thousand (8,000) square feet and frontage of at least eighty (80) feet or on a lot which meets the requirements set forth in Section III.M. (Amended March 14, 2000; March 13, 2001)

F. The minimum size for a septic system for a new one family dwelling shall be a system designed for a three bedroom residence which meets all applicable state and local building codes. All other new construction shall meet the minimum size for a septic system as set forth by current regulations promulgated by the State of New Hampshire. (Amended March 9, 2004)

G. After December 31, 1972, no person shall occupy, lease to any person, or permit any other person to occupy a building as a dwelling house unless each family or dwelling unit within such building shall contain at least one flush toilet, either gas, electric or water, properly ventilated and constructed, and connected to a suitable drain or sewer for the flushing of the sewage to a septic tank with adequate leaching area or bed.

H. Indoor composting privies (toilets) may be installed in a single family dwelling within the Town; however, a state-approved septic system shall also be installed to meet minimum standards that would be required for an ordinary wastewater disposal system for a three bedroom house. (Amended March 13, 2012)

I. (Amended March 10, 1992) (Deleted March 9, 2004)

J. (Section moved in its entirety to Section III-A.10 March 11, 2008)

K. Paragraph deleted. (Amended March 10, 1998)

L. MANUFACTURED HOUSING

All manufactured housing placed on any lot in Swanzey shall have a HUD approval plate. (Amended March 12, 1991)

M. REAR LOTS

Lots may be developed for residential or commercial use only in accordance with the following requirements:

1. The lot must contain at least three (3) acres and meet all the requirements of the district in which it is located.

2. The lots must have an average width at least equal to the frontage requirement for the district in which it is located.

3. The lot must have access from a public street along an owned access strip of at least fifty (50) feet and the area contained within the fifty foot access strip shall not be included in determining the required lot area.

4. The driveway constructed to gain access to the lot must meet all gradient and curvature requirements of the Swanzey Subdivision Regulations.

5. There is to be only one housing unit using such access and on such rear lot as provided herein.

6. The intent of the above ordinance is to allow some development of rear lots, but is not to be used to circumvent the required frontage on a Town maintained road.

7. The use of Accessory Dwelling Units on Rear Lots is permitted under the provisions of Section III-AA Accessory Dwelling Unit Ordinance. (Amended March 2024)

N. In accordance with RSA 155-B, the Board of Selectmen or an appointed agent may order the repair or removal of hazardous buildings or the filling or protection of hazardous excavation.

O. Every new dwelling house erected and every existing building proposed to be altered or utilized for a dwelling house in any district shall fulfill the following requirements:

1. (Section III.O.1. Deleted March 9, 2021)

2. Every new multiple dwelling, such as apartment or tenement houses, and every existing building proposed to be altered or utilized for such a multiple unit dwelling shall have a minimum total floor area of four hundred fifteen (415) square feet for up to and including one bedroom and an additional seventy-five (75) square feet for each additional bedroom, inside dimensions, for each dwelling unit. (Amended March 10, 1998)

P. (Section III.P. deleted March 10, 2009)

(Section III.P.2. deleted March 11, 2008)

Q. OFF-STREET PARKING shall be provided as follows: (Entire Section Amended March 9, 2021)

1. Off-street parking shall be provided as shown in the following table:

Table # 1: Schedule of Minimum Parking Requirements	
One-family dwelling & two-family dwelling	2 spaces per unit
Multi-family dwelling	1.5 spaces for 1st bedroom plus 0.5 spaces for each additional bedroom
Hotel, motel, inn, etc.	1 space per unit
Restaurant, theater, church, or other places of indoor assembly	1 space for every 3 seats

Retail sales	1 space per 250 square feet gross floor area
Retail sales – furniture, appliance, motor vehicle sales	1 space per 500 square feet gross floor area
Personal services	1 space per 250 square feet gross floor area
Automobile repair and services	4 spaces per service bay
Nursing homes, hospitals, etc.	1 space per staff person on the largest shift plus 1 space per every 3 beds
Offices	1 space per 250 square feet gross floor area
Industrial use	1 space per employee on largest shift
Warehouse	1 space per 1,000 square feet gross floor area
Place of public assembly not measurable in terms of seats	1 space per 500 square feet gross floor area

2. Except for parking spaces for one-family dwellings and two-family dwellings, off-street parking spaces shall be located a minimum of thirty (30) feet from the front property line and ten (10) feet from the side and rear property lines, unless otherwise specified in a specific Zoning District.

3. The Planning Board, during Site Plan Review of new uses or expansion of an existing use, may allow a reduction of up to twenty (20) percent in the number of required built parking spaces, provided an area is reserved on the approved site plan to accommodate the minimum number of required off-street parking spaces should they become necessary in the future. The construction of any unbuilt parking spaces shall be reviewed and approved by the Planning Board as a modification of the approved site plan.

R. (Section deleted March 11, 2008)

S. SIGN ORDINANCE (Amended March 12, 2019)

1. The purpose of this section is to establish uniform regulations for the installation and use of signs in the Town of Swanzey.

2. No sign shall be erected or moved within the Town of Swanzey until the landowner has obtained a permit from the Code Enforcement Officer. No permits shall be issued unless the sign meets the following specifications:

3. Freestanding Signs and Secondary Signs:

DISTRICT	MAXIMUM # OF FREE-STANDING SIGNS PER LOT	1 SIGN PER "X" FEET OF FRONTAGE	TOTAL SIGN FACE PER EACH FREE-STANDING / SECONDARY SIGN	SQUARE FOOTAGE OF SECONDARY SIGN(S)	# OF SECONDARY SIGNS PER FREE-STANDING SIGN
Rural/Ag.	1	Not Applicable	4 square feet	Not Applicable	Not Allowed
Village Business	4	X = 100 feet	1 square foot per 3 linear feet of frontage	20 square feet maximum	1 per each business on lot – name & nature of business only
Business	4	X = 125 feet	1 square foot per 3 linear feet of frontage	20 square feet maximum	1 per each business on lot – name & nature of business only
Comm./Industrial Access from Route 10	4	X = 400 feet	1 square foot per 3 linear feet of frontage	20 square feet maximum	1 per each business on lot – name & nature of business only
Comm./Industrial Access from feeder road from Route 10	4	X = 125 feet	1 square foot per 3 linear feet of frontage	20 square feet maximum	1 per each business on lot – name & nature of business only
Industrial Park	4	X = 200 feet	1 square foot per 3 linear feet of frontage	20 square feet maximum	1 per each business on lot – name & nature of business only
Residence	1	Not Applicable	4 square feet	Not Applicable	Not Allowed

4. Freestanding Sign(s) – Location. No freestanding sign shall be erected within 20 feet from any boundary line and all such signs shall be placed so as not to obstruct the view of traffic.

5. No freestanding sign shall exceed thirty-five (35) feet in height. (Amended March 14, 2000)

6. Attached Signs.

a. In addition to a free-standing sign with attached secondary sign(s), one attached sign for each business in a building shall be permitted provided it is permanently and securely attached to the primary business building.

b. The total sign face area of signs attached to the primary business building in the aggregate shall not exceed one square foot for each linear foot of width of the side of the building on which the sign(s) is attached.

7. Drive-through facility signs. In districts where a drive-through facility is allowed, up to two (2) signs related to the drive-through facility use shall be permitted. Each sign shall be no more than twenty (20) square feet in size. (Adopted March 9, 2021)

8. Residential Development. A single freestanding sign shall be permitted at the entrance to any residential development, said sign not to exceed 32 square feet.

9. Lighting. No light shall be used to illuminate any sign except steady white light. Sign lighting shall be installed and arranged so as not to reflect or cause glare upon abutting properties, highways or roads.

10. Double faced signs or corner signs are permitted provided they comply with these regulations. Signs with three (3) or more faces are prohibited.

11. Signs Permitted in All Districts. The following signs are permitted in all districts without the need to obtain a permit: (Amended March 12, 2019)

a. One (1) temporary non-illuminated For Sale, Rent or Lease sign not exceeding six (6) square feet in the Rural/Agricultural and Residence Districts nor greater than twenty (20) square feet in all other districts;

b. One (1) sign not exceeding thirty-two (32) square feet on a construction site identifying the architect, owner and/or contractor. The sign is to be maintained on the premises during actual construction and removed within seven (7) days after issuance of a certificate of occupancy;

c. Any sign not exceeding four (4) square feet in area, limited solely to directing traffic within a parking area or indicating parking restrictions in the use of such parking area;

d. Any sign not exceeding six (6) square feet in area solely indicating entrance and exit driveways;

e. Any sign not exceeding six (6) square feet indicating only the date of erection of a building.

f. Placement and removal of political advertising. Advertising for political parties or candidates must comply with RSA 664:17, as amended;

g. Temporary Signs. Banners, posters, pennants, "A" frame, sandwich board and portable signs shall not be used on a permanent basis. Such signs will be permitted at the opening of a new business or reopening of an existing business under new management or special sales event only in the Business, Village Business, Commercial/Industrial and Industrial Park Districts. Said signs shall be permitted for a period not to exceed two (2) weeks. Only one (1) temporary sign shall be permitted on a lot at any one time. A temporary sign once removed may not be re-erected until a period of thirty (30) days has passed. Only six (6) temporary signs (either the same sign or different signs) may be erected during a calendar year.

h. All signs required by law, municipal signs and governmental flags.

i. Sign face replacements. No sign permit shall be required for the replacement of a sign face in a permitted sign cabinet.

12. All signs shall be stationary. Signs that rotate, revolve, or move in any manner are prohibited.

13. The sign face of all business signs shall advertise only businesses conducted on the premises where the sign is located.

14. This section does not apply to signs legally existing as of the date of the passage of this ordinance.

T. HEIGHT REGULATIONS

No building or structure in any district shall be greater than forty-five (45) feet with the following exceptions:

1. Buildings of the Town of Swanzey or their agents when permitted in a district may be erected to a height not exceeding sixty (60) feet, and churches or temples may be erected to a height not exceeding sixty-five (65)

feet if the building is set back from each boundary line at least one foot for each additional two feet of building height above the height limit for the district in which it is located;

2. Special industrial structures such as cooling towers, fire towers, tanks, water towers, elevator bulkheads which require a greater height than provided in the district may be erected to a greater height than required providing the structure does not occupy more than 25% of the lot area and the yard area is increased by one square foot for each foot of height over the maximum;

3. The height limitations of this ordinance shall not apply to flagpoles, church spires, belfries, chimneys, antennas and wind conversion systems;

4. Definition of Building Height. The vertical distance of a building measured from the average elevation of the finished grade within twenty (20) feet of the structure to the highest point of the roof;

5. Telecommunications Facilities may exceed 45 feet in height if it is necessary to fulfill their function, subject to the requirement that the height of the tower shall not exceed the average height of the surrounding tree canopy by more than a factor of two (2). (Adopted March 14, 2000)

U. HOME OCCUPATIONS AND HOME-BASED BUSINESSES (Amended March 12, 2019)

1. Home Occupations are allowed by right in all districts with no Site Plan Review requirement provided that the criteria below are met:

a. The home occupation shall only be conducted by an inhabitant of the dwelling;

b. The home occupation shall not utilize an area of more than 300 square feet in the dwelling or an accessory structure;

c. There shall be no visible, audible, or odor evidence of the home occupation activity, and the use shall not cause any pollutants to enter the sewer system;

d. Examples of home occupations include, but are not limited to, computer-related activities, such as software design, web page design, and internet sales, home offices, artists, and crafts people.

2. Home-Based Businesses may be allowed in all districts provided that the criteria below are met:

a. No home-based business shall be conducted at any dwelling

unless and until it has undergone Site Plan Review by the Planning Board to determine that the proposed use complies in all respects with the provisions of this ordinance and the standards set forth in the Site Plan Review regulations;

b. The use does not result in the alteration of the residential appearance of the dwelling unit or the lot on which it is located and is clearly incidental to its use as a residence;

c. The use does not result in the production of any offensive noise, vibration, light, odor, dust, smoke or other pollution external to the property and will not cause any pollutants to enter the sewer system;

d. The maximum number of vehicle trips permitted per day to the premises related to the home-based business shall be determined by the Planning Board on a case-by-case basis and imposed as a condition of site plan review approval. No on-street parking associated with the home-based business shall be permitted;

e. It is not identified by any external on-premises advertising other than a small sign not exceeding four (4) square feet. Off premises signage identifying the location of the property or home-based business shall not be permitted;

f. Home-based businesses may occur within the dwelling unit and/or within an accessory structure subject to the condition that the home-based business does not result in the use of any area greater than 500 square feet;

g. There shall be no more than 3 people (whether full or part time), at least one of whom shall be an inhabitant of the dwelling, engaged or employed in the home-based business;

h. The following uses may qualify as home-based businesses: Hairdressing, dressmaking, tutoring, offices for lawyers, engineers, architects, real estate brokers, accountants, mobile veterinarians, shoe repair, light machine work and woodworking, and excluding doctors, dentists, and veterinarians.

i. The maximum number of vehicles permitted to be stored outside shall be determined by the Planning Board on a case-by-case basis and imposed as a condition of site plan review approval;

j. Any applicant proposing a Home-Based Business shall clearly and fully state the type and amount of equipment required to conduct the use and the Planning Board may limit the number of hours that any machines or equipment may be used. Expansion of the number and kinds of equipment used in the Home-Based Business will require subsequent approval from the Planning Board.

V. TEMPORARY MANUFACTURED HOUSING PERMITS

(Adopted March 14, 1995) (Amended March 14, 2006)
During construction or rehabilitation of any permanent structure, the Board of Selectmen may permit the temporary occupancy of a manufactured housing unit or recreational vehicle on any lot in any district for a period not to exceed six (6) months, provided the manufactured housing unit meets all other requirements of this ordinance. Such temporary permit shall automatically expire six (6) months after issuance.

W. ENCROACHMENT UPON SETBACK AREAS

(Amended March 10, 1998) (Deleted March 9, 2004)

X. In all zones, the minimum lot size requirement must include contiguous land and must exclude land classified as wetlands or having steep slopes (25% or greater). (Adopted March 11, 2003)

Y. RECREATIONAL VEHICLES, TENTS AND HOMEMADE SHELTERS

No occupied recreational vehicle, tent or homemade shelter shall be permitted to be placed on any lot for a period of more than fourteen (14) consecutive days. Occupied recreational vehicles, tents and homemade shelters that have been on a property for fourteen (14) consecutive days must be removed from the property for at least twenty-eight (28) consecutive days before re-occupying the same property. This provision does not apply to commercial campgrounds approved by the Swanzey Planning Board or to the provisions of Section III.V. Temporary Manufactured Housing Permits. (Adopted March 14, 2006)

Z. DRIVE-THROUGH FACILITY (Adopted March 9, 2021)

1. No stacking space shall obstruct any required parking space, drive aisle, or loading area, and shall be sufficiently set back so as not to obstruct the intersection of any driveway and a right-of-way line.

2. The minimum stacking requirement for restaurants shall be not less than eight (8) stacking spaces per lane.

3. The minimum stacking requirement for a retail or service business, such as a bank, drug store, or pharmacy, shall be not less than four (4) stacking spaces per lane.

4. Each stacking space shall be calculated on the basis of nine (9)

feet in width by twenty (20) feet in length. Each stacking lane shall be a minimum of twelve (12) feet in width.

5. Stacking lanes shall be clearly delineated by means of striping, curbing, or a raised median.

SECTION III-A
SWANZEY BUILDING REGULATIONS

Section III-A.1. Purpose To establish minimum regulations governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of buildings and building systems in the Town of Swanzey; providing for the issuance of permits; collection of fees; making of inspections; and for the enforcement of this Section as provided by law.

Section III-A.2. State Regulations Where State of New Hampshire laws, codes, rules or regulations are more restrictive or preempt local authority, the state requirement shall be observed.

Section III-A.3. Administration and Enforcement The provisions of this section and its requirements will be enforced by the Building Inspector, hereinafter called the Code Enforcement Officer. In the absence of the Code Enforcement Officer, the Board of Selectmen (or their designee) shall perform his duties.

Section III-A.4. Permits A permit issued by the Code Enforcement Officer shall be required before the placement of foundations or construction, including the placement of manufactured housing. In addition, a building permit shall be required prior to the alteration, repair, removal, or demolition of a building or structure, unless exempt from permit requirements.

The Code Enforcement Officer shall not issue any permits until all applicable driveway, fire code, septic, wetland, Zoning Board of Adjustment, Planning Board or other required permits are in place.

Section III-A.5. Means of Appeal Any party who has been aggrieved by a decision of the Code Enforcement Officer may appeal from such action by filing a written appeal from said administrative decision within thirty (30) days from the date of decision, said appeal to be filed with the Zoning Board of Adjustment.

Section III-A.6. Building Code Adoption All buildings, building components, and structures constructed in Swanzey shall comply with the most recent State of New Hampshire Building Code as currently set forth in RSA 155-A, including any amendments. The Building Code shall apply to all construction, design, structure, maintenance, and use of all buildings or structures to be erected and to the alteration, renovation, rehabilitation, repair, maintenance, removal, or demolition of all buildings and structures previously erected.

If the State Building Code or portions thereof are repealed, the most recent versions of the International Residential Code, International Building Code,

International Energy Conservation Code, International Mechanical Code, International Plumbing Code, National Electrical Code and State Fire Code shall apply. The regulations, provisions, conditions and terms of said code are hereby referred to and adopted and made part hereof as if fully set out in this section, with any amendments prescribed in this section as follows:

Amendments:

a. Amend Section R101.1 by inserting: The Town of Swanzey.

b. Amend Section R102.5 by adding: Appendices C, G and J are referenced and adopted as part of this code.

c. Delete Section R112, Board of Appeals.

III-A.7. Installation of New Septic Systems. New septic systems may not be installed until a building permit for a structure to be served by the new septic system has been issued by the Town of Swanzey.

III-A.8. Certificate of Occupancy/Completion A Certificate of Occupancy/Completion is required prior to the occupation or use of a building/structure for which a building permit has been issued. If applicable, the following must be inspected or approved before a Certificate of Occupancy/Completion will be issued.

a. Fire Inspection – A statement signed by the Fire Chief or designee regarding installation of smoke detectors at all levels; inspection of chimney clearances and height above roof; and installation of furnace, wood stoves and fireplaces, where regulated.

b. A statement from the Swanzey Public Works Director and/or NH Department of Transportation that the driveway entrances have been completed to specifications on driveway permit(s).

c. Operational approval for the Septic System from the State of New Hampshire.

d. In the event that other permits were required in order to issue the building permit, sign-off from the granting agency is required.

Certificates of Occupancy/Completion will be issued by the Selectmen (or their designee).

III-A.9. Fees - The fees for permits shall be determined and set by the Board of Selectmen. Fees must be paid to the Town of Swanzey before a permit may be issued.

Professional review of plans and site inspections if required by the Code Enforcement Officer shall be at the expense of the applicant and must be paid before a Certificate of Occupancy/Completion is issued.

(Adopted March 13, 1990; section moved to III-A.10. March 11, 2008; entire section revised March 13, 2012)

SECTION III-AA ACCESSORY DWELLING UNIT ORDINANCE

Authority
This section is enacted in accordance with the provisions of RSA 674:71-73.

Purpose
For the purpose of providing expanded housing opportunities and flexibility in household arrangements to accommodate family members or non-related people of a permitted, owner occupied, one family dwelling, while maintaining aesthetics and residential use compatible with homes in the neighborhood.

Definitions
"**Attached** accessory dwelling unit" means a residential living unit that is within or attached to 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.

"Detached accessory dwelling unit" means a residential living unit that is located within a detached accessory structure. A detached accessory dwelling unit 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.

Criteria for Approval

A. Attached accessory dwelling units (AADU) shall be permitted as an accessory use in all zoning districts that permit single-family dwellings. One attached accessory dwelling unit shall be allowed without additional requirements for lot size, frontage, space limitations, or other controls beyond what would be required for a single-family dwelling without an attached accessory dwelling unit.

1. No more than one accessory dwelling unit (either attached or detached) shall be permitted per single-family dwelling and/or lot.
2. An attached accessory dwelling unit shall be no greater than 1,000 square feet. (Amended March 9, 2021)
3. An interior door shall be provided between the principal dwelling unit and the attached accessory dwelling unit. A second means of egress from the AADU shall be provided.
4. Either the principal dwelling unit or the AADU must be owner occupied. The owner must demonstrate that one of the units is their physical place of residence.

5. A building permit for an AADU must be approved and issued prior to its construction. An AADU shall have an interconnected fire alarm system and shall meet all life safety and building codes.
6. Adequate off-street parking shall be provided to serve the combined needs of the principal dwelling unit and the AADU. The principal dwelling unit shall provide two parking spaces; the AADU shall provide one parking space for each bedroom contained in the AADU.
7. The AADU shall have no more than two (2) bedrooms.
8. The existing or proposed septic system must be certified by a licensed septic designer or engineer as adequate to support the AADU and principal dwelling unit in accordance with New Hampshire RSA 485-A:38.
9. Prior to occupancy of the AADU, the homeowner shall obtain an occupancy permit from the Code Enforcement Officer.
10. Both the primary dwelling unit and the AADU must remain in common ownership. Transfer of either dwelling unit to condominium ownership is prohibited.

B. Detached Accessory Dwelling Units (DADU) shall be permitted by Special Exception only in all zoning districts that permit single-family dwellings. Only one DADU shall be allowed without additional requirements for lot size, frontage, space limitations, or other controls beyond what would be required for a single-family dwelling without a detached accessory dwelling unit.

Requirements/Limitations

In granting a Special Exception for a DADU, the Zoning Board of Adjustment must find that:

1. The DADU shall maintain an aesthetic continuity with the principal dwelling unit as the single family dwelling.
2. No more than one accessory dwelling unit (either detached or attached) shall be permitted per single-family dwelling and/or lot.
3. A DADU shall be no greater than 1,000 square feet. (Amended March 9, 2021)
4. Either the principal dwelling unit or the AADU must be owner occupied. The owner must demonstrate that one of the units is their physical place of residence
5. A building permit for a DADU must be approved and issued prior to its construction. A DADU shall meet all life safety and building codes.
6. Adequate off-street parking shall be provided to serve the combined needs of the principal dwelling unit and the DADU. The principal dwelling unit shall provide two parking spaces; the DADU shall provide one parking space for each bedroom contained in the DADU.

7. The DADU shall have no more than two (2) bedrooms.
8. The existing or proposed septic system must be certified by a licensed septic designer or engineer as adequate to support the DADU and principal dwelling unit in accordance with New Hampshire RSA 485-A:38.
9. Prior to occupancy of the DADU, the homeowner shall obtain an occupancy permit from the Code Enforcement Officer.
10. Both the primary dwelling unit and the DADU must remain in common ownership and shall not be subdivided and or transferred to condominium ownership.

(Adopted March 10, 2009)
(Entire section deleted and new section added March 14, 2017)

SECTION III-B
CONSERVATION RESIDENTIAL SUBDIVISION (CRS)

1. Purpose The purpose of a Conservation Residential Subdivision (CRS) is to encourage developers of single-family and duplex housing in the Town of Swanzey to use alternate subdivision design that preserves Swanzey's rural character and the natural and historic features on specific property. A Conservation subdivision design groups homes together on one portion of a property, with the undeveloped portion permanently protected from future development.

2. Authorization This Section is adopted pursuant to the authority of RSA 674:21. The Planning Board is authorized to adopt rules and regulations necessary to administer, interpret, and implement Conservation Residential Subdivisions.

3. Location, Acreage and Frontage Requirements A CRS shall be permitted on properties which are located within the Residence or Rural/Agricultural Zoning District and which contain at last ten acres, exclusive of wetlands and steep slopes. A CRS must have a minimum of 50 feet of frontage on a State or Town maintained road.

4. Subdivision Approval A CRS shall require Planning Board approval. The application for approval shall comply with subdivision regulations and the following requirements:

a. Existing Conditions Plan: The applicant shall submit an existing conditions plan showing the physical features and character of the site and the surrounding area.

b. Housing Density Determination: To determine the maximum number of housing units that can be constructed on the parcel, the developable land shall be divided by the minimum acreage requirement in the underlying zoning district. The resulting number will equal the maximum number of housing units that can be constructed on the developable land. Wetlands, along with lands having slopes of 25% and greater, shall not be considered developable land.

c. Permanent Restriction on Conservation Land: A maximum of 40% of the developable acreage (land excluding wetlands or steep slopes) may be developed for house lots. The remainder of the parcel shall be designated as Conservation Land and permanently protected from development.

d. Two-family Dwellings Two-family dwellings are a permitted use in the CRS, without the need for a special exception.

e. Access All structures within a CRS shall be accessed from interior street, rather than from roads bordering the tract.

f. Minimum/Maximum Lot Size The minimum lots size is one-half acre. The maximum lot size is two acres. Wetlands and steep slopes shall not be included in the minimum or maximum lot sizes.

g. Lot Frontage and Setbacks The Planning Board may approve individual lots in a CRS with less than the required minimum frontage in the

underlying zoning district provided the Planning Board finds that the lot sizes and frontage proposed will create a high quality living environment for the residents of the subdivision and provide adequate access to the residences and other facilities, but in no case shall any lot have less than one-half acre and fifty (50) feet of frontage. Lots shall be laid out to minimize the number of curb cuts onto public streets through the use of shared or common driveways or other methods.

h. Buffers A minimum 100 foot buffer shall be maintained between individual lot property lines and adjacent property not part of the CRS. The buffer land (exclusive of wetlands and steep slopes) may be considered developable land for density calculations. Buffers shall be included as part of the parcel designated as Conservation Land and will be subject to all restrictions and conditions applicable to said Conservation Land.

i. External Road Frontage Buffer A minimum 100 foot buffer shall be maintained between individual lot property lines and all external road rights of way not part of the CRS. The buffer land (exclusive of wetlands and steep slopes) may be considered developable land for density calculations. Buffers shall be included as part of the parcel designated as Conservation Land and will be subject to all restrictions and conditions applicable to said Conservation Land.

(Adopted March 11, 2008)

SECTION IV
RESIDENCE DISTRICTS USES

A. RURAL/AGRICULTURAL DISTRICT

1. PERMITTED USES. In the Rural/Agricultural District, no buildings or premises shall be erected, altered or used and no land shall be used for any purposes except:

a. One-family dwelling; (Amended March 9, 1999)

b. (Item moved to Section IV.A.2.j. – Amended March 10, 1998)

c. Veterinarian, kennel or stable;

d. General farming, including horticulture, dairying, livestock and poultry raising and other agricultural enterprises or uses. Farming as a business will require a Special Exception from the Board of Adjustment and Site Plan review from the Planning Board; (Amended March 10, 1998)

e. Roadside stands for the sale of home grown produce provided that they are so located on the lot as to not create roadside hazards or undue congestion;

f. Home occupation and home-based business (Amended March 12, 2019);

g. Manufactured housing on individual lots, provided they meet the requirements of the district and all other pertinent requirements of this ordinance; (Amended March 1987; Amended March 8, 1994)

h. Accessory uses which are clearly incidental to the uses permitted herein;

i. (Amended March 10, 1992; Deleted March 11, 2003)

j. Daycare or kindergarten facility; (Adopted March 10, 1992)

k. Hospital or licensed nursing home. (Adopted March 10, 1992)

2. In addition to the aforementioned permitted uses, the following are permitted after the issuance of a Special Exception by the Board of Adjustment:

a. Gift shop, antique shop or craft shop;

b. Manufactured uses, corporate offices and industrial parks; (Amended March 8, 1994)

c. (Amended March 14, 2000) (Deleted March 14, 2006)

d. The removal and processing of clay, sod, loam, crushed stone, sand or gravel for sale, subject to the minimum standards established pursuant to RSA 155-E; (Amended March 14, 2000)

e. (Deleted March 11, 1997)

f. (Deleted March 14, 1995)

g. Two-family dwelling. The density requirement for a two-family dwelling shall be three and one-half (3-1/2) acres, unless connected to public sewer; (Amended March 9, 1999; Amended March 11, 2008))

h. Septage lagoons; provided they comply with all state and local regulations and provided they are situated at least one hundred fifty (150) feet from any surface water or wetland; (Adopted March 10, 1992)

i. Bed and Breakfast Facilities; (Adopted March 8, 1994)

j. Educational or religious institution, club, or lodge when the primary function is indoors; (Amended March 10, 1998)

k. Telecommunications Facility, with Special Exception by the Zoning Board of Adjustment. Telecommunications Facilities may exceed 45 feet in height if it is necessary to fulfill their function subject to the requirement that the height of any tower shall not exceed the average height of the surrounding tree canopy by more than a factor of two (2). Requirements for granting a Special Exception, in addition to those requirements set forth in Section XII.C.2. of the Swanzey Zoning Ordinance, shall be as follows:

i. The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the town at large, including demonstration of realistic analysis of multiple sites and the need for the proposed height;

ii. Any telecommunications facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms by lease or other legal instrument to other telecommunications services;

iii. Any alteration of the original permitted use and device configuration of the facility will require a new special exception approval and site plan approval;

iv. The Zoning Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto. (Adopted March 14, 2000)

l. The following recreation uses conducted as a business or by a private club or organization, whether they are conducted indoors or outdoors, are permitted after the issuance of a Special Exception by the Board of Adjustment:

Summer camp
Golf course/country club
Campground
Riding stables/riding trails/riding ring
Petting zoo
Farm recreation: sleigh rides, hayrides, farm demonstrations
Nature-related recreational activity: nature centers
Playing fields
Cross-country ski trails
Associated uses to any of the above uses including, but not limited to, snack-bar, pro-shop, etc.

Construction of permanent facilities for racing, time trials or endurance events for cars, purpose-built race cars, OHRVs (off-highway recreational vehicles) or motorcycles is prohibited in the Rural/Agricultural Zoning District. Special events such as benefit mud bogs, ice drags, poker runs, etc. will be handled under the existing special event ordinance administered by the Board of Selectmen. (Adopted March 11, 2003)

m. Accessory buildings having a footprint of 1000 s.f. or greater or 25 feet or more in height. (Adopted March 11, 2008)

3. All lots shall be of at least three (3) acres in size with two hundred twenty-five (225) foot frontage on a Town or State maintained road. The front setback is 30 feet from the front property line and 20 feet from the side and rear property lines. (Amended March 11, 2008)

B. RESIDENCE DISTRICT

1. USES PERMITTED. In the Residence District, no building or premises shall be erected, altered or used and no land shall be used for any purpose except:

a. One-family dwelling; (Amended March 9, 1999)

b. Customary agricultural uses including gardens, nurseries and greenhouses;

c. Roadside stands for the sale of home grown produce provided that they are located on the lot as not to create roadside hazards or undue congestion;

d. Home occupation and home-based business (Amended March 12, 2019);

e. Accessory uses which are clearly incidental to the uses permitted herein;

f. Signs shall be permitted as follows: Town and State highway directional and regulatory signs, historic signs and those signs used to advertise the profession or goods dealt in by the owner or occupant of the property on which it is placed. No sign or group of signs shall be placed so as to obstruct the view of the highway. The size of signs allowed shall be a maximum of four (4) square feet;

g. Manufactured housing on individual lots, provided they meet the requirements of the District and all other pertinent requirements of this ordinance. (Adopted March 8, 1994)

2. In addition to the aforementioned permitted uses, the following are permitted after the issuance of a Special Exception by the Board of Adjustment: (Section IV.B.2. Amended March 9, 1999)

a. Multi-family dwelling(s). The density requirement for a multi-family dwelling(s) shall be one acre for the first unit and one half (1/2) acre for each additional unit, unless connected to public sewer. The maximum density permitted for a multi-family dwelling(s) connected to public sewer shall be three (3) units per acre; (Amended March 14, 2000; Amended March 8, 2022)

b. Two-family dwelling. The density requirement for a two-family dwelling shall be one and one-half (1-1/2) acres, unless connected to public sewer;

c. Daycare facility; educational, governmental, or religious facility; rooming or a boarding house; bed and breakfast facility.

d. Accessory building having a footprint of 1000 s.f. or greater or 25 feet or more in height. (Adopted March 11, 2008)

3. All lots shall be of at least one (1) acre in size with one hundred fifty (150) feet of frontage on a Town or State maintained road. The front setback is 30 feet from the front property line and 20 feet from the side and rear property lines. (Amended March 11, 2008)

SECTION V
VILLAGE BUSINESS DISTRICTS I AND II USES AND BUSINESS DISTRICT USES

A. VILLAGE BUSINESS DISTRICT I

Village Business District I extends along the western side of State Route 32 from the Keene line to the outlet of Wilson Pond Dam. The airport property frontage along Route 32 affected by this extends 200 feet into the lot. Village Business District I includes along the eastern side State Route 32 from the Keene line and continues South to Lake Street, on the north side, in Village Business District I. Additional lots located on Walnut Street extends, up to and including, Lot 24 on the north side of the street and 39 on the south side. Additional lots on Grove Street extend, up to and including, Lot 46 on the north side and 50 on the south side. On Park Street, lots up to and including Lot 30 on the north side and 35 on the south side are included. Lake Street includes lots up to and including 41 on the north side. (Amended March 2024)

1. USES PERMITTED. In the Village Business District I no building or premises shall be erected, altered or used and no land shall be used for any purposes except:

a. One-family dwelling; (Amended March 9, 1999)

b. Restaurant;

c. Bed and breakfast facility;(Amended March 8, 1994; Amended March 2024)

d. Professional business offices;

e. (Amended March 2024)

f. Retail business establishment;

g. Personal service shop or service establishment;

h. (Amended March 2024)

i. (Amended March 2024)

j. Home occupation and home-based business (Amended March 12, 2019);

k. Manufactured housing on individual lots; provided they meet the requirements of the district and all other pertinent requirements of this ordinance; (Adopted March 11, 1997)

l. Accessory uses which are clearly incidental to the uses permitted herein.

2. In addition to the aforementioned permitted uses, the following are permitted after the issuance of a Special Exception by the Board of Adjustment: (Section V.A.2. Amended on March 9, 1999)

a. Recreational facility conducted as a business only when such business activity is conducted indoors; daycare facility; (Amended March 14, 2000; Amended March 11, 2003) (Amended March 2024)

b. (Amended March 14, 2000; Amended March 8, 2022; Amended March 2024)

c. Two-family dwelling: The density requirement for a two-family dwelling shall be one and one half (1-1/2) acres, unless connected to public sewer.

d. Accessory buildings having a footprint of 1000 s.f. or greater or 25 feet or more in height. (Adopted March 11, 2008)

3. All lots shall be of at least one-half (1/2) acre in size with one hundred (100) feet of frontage on a Town or State maintained road. The front setback is 30 feet from the front property line and 20 feet from the side and rear property lines. No building or structure in this district may exceed thirty-five (35) feet in height. (Amended March 11, 2008; Amended March 2024)

B. BUSINESS DISTRICT.

1. USES PERMITTED. In the Business District, no buildings or premises shall be erected, altered or used and no land shall be used for any purpose except:

a. (Amended March 9, 1999; Deleted March 14, 2000)

b. Restaurant;

c. Educational, governmental, or religious facility;

d. Hotel, motel, inn or bed and breakfast facility; (Amended March 8, 1994)

e. Professional and business offices;

f. Retail sales, services; (Amended March 10, 1998)

g. Bank or financial institution;

h. Funeral home;

i. Private club or lodge;

j. (Deleted March 8, 2022)

k. Commercial greenhouse or nursery;

l. Home occupation and home-based business (Amended March 12, 2019);

m. (Adopted March 11, 1997; Deleted March 14, 2000)

n. (Amended March 10, 1998, Deleted March 8, 2022)

o. Function halls; (Added March 10, 2009)

p. Indoor auctions; (Added March 10, 2009)

q. Recreation facility conducted as a business; (Added March 8, 2022)

r. Research and development; (Added March 8, 2022)

s. Accessory uses which are clearly incidental to the uses permitted herein. (Amended March 8, 2022)

t. One-family to two-family dwelling conversions that do not change the footprint of the existing one-family dwelling shall be considered a permitted use in the Business District; (Amended March 2024)

u. Non-Retail electric vehicle charging station; (Amended March 2024)

2. In addition to the aforementioned permitted uses, the following are permitted after the issuance of a Special Exception by the Board of Adjustment: (Section V.B.2. Amended March 9, 1999)

a. Daycare facility; gasoline service stations; repair garage or body shop; motor vehicle dealership; wholesale, warehousing or manufacturing facility; industrial park; vehicle wash facility; (Amended March 14, 2000, Amended March 8, 2022, Amended March 2024)

b. Multi-family dwelling(s): The density requirement for a multi-family dwelling(s) shall be one (1) acre for the first dwelling unit and one half (1/2) acre for each additional dwelling unit, unless connected to public sewer. The maximum density permitted for a multi-family dwelling(s) connected to public sewer shall be twelve (12) units per acre. The minimum number of units for a multi-family residential dwelling in the Business District shall be five (5) units; (Amended March 14, 2000, Amended March 8, 2022)

c. (Deleted March 8, 2022)

d. The removal and processing of clay, sod, loam, crushed stone, sand or gravel for sale, subject to the minimum standards established pursuant to RSA 155-E; (Adopted March 14, 2000)

e. (Adopted March 14, 2000; Deleted March 8, 2022)

f. (Adopted March 14, 2000; Deleted March 8, 2022)

g. Drive-through facility. (Adopted March 9, 2021)

h. Licensed nursing home; (Adopted March 8, 2022)

i. Hospital; (Adopted march 8, 2022)

j. Bulk storage and distribution of large quantities of material, liquid, solid, or gaseous intended for resale. (Adopted March 8, 2022)

3. All lots shall be of at least one (1) acre in size with one hundred twenty-five (125) foot frontage on a town or State maintained road. For properties with frontage on NH Route 10 or NH Route 12, all buildings and structures shall be located thirty (30) feet from the right-of-way line. For all frontages other than NH Route 10 or NH Route 12, all buildings and structures shall be located thirty (30) feet from the front property line. The side and rear setbacks are twenty (20) feet from the side and rear property lines. (Amended March 11, 2008; Amended March 10, 2020; March 14, 2023)

4. A non-residential use established after the adoption of this subparagraph on a lot in the Business District shall be set back fifty (50) feet from any abutting residential dwelling and shall be screened from the abutting residential dwelling by a fence, hedge, berm, vegetative planting or other screening material, the size and type of screening to be determined by the Planning Board during the Site Plan Review process required of all new businesses proposed in the Town of Swanzey. (Adopted March 10, 1998; Amended March 14, 2000)

5. A one-family dwelling, two-family dwelling, or manufactured housing dwelling established prior to the adoption of this subparagraph on a

lot in the Business District shall be considered to be a permitted use in the Business District and shall not be subject to Section XI, Article A of this Ordinance. (Adopted March 8, 2022)

C. VILLAGE BUSINESS DISTRICT II.

Parcels include that of all lots consecutively numbered 83 through 92 along the southern part of North Winchester Street, and Lot 3, below the Mill, on Map 109. On Map 108, Lots 23, 24, 37, and 38 will be included, located along the southern part of North Winchester Street. Map 110's affected lots include Lots 45, 46, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70, and 71, located east of the Ashuelot River, between Main Street and Ashuelot Street. Also affected by this rezoning includes Lot 19 located on Summer Street, north of the intersection of Holbrook and Summer, on map 233.

1. USES PERMITTED. In the Village Business District II no building or premises shall be erected or used and no land shall be used for any purposes except:

a. Club or Lodge;

b. Education, Government or Religious Facility;

c. Indoor Auctions;

d. (Amended March 2024)

e. Professional, Business or Corporate Offices;

f. Personal Service Shop or Service Establishments;

g. Printing and Publishing Establishments;

h. Recreational Facility;

i. (Amended March 2024)

j. Retail Business Establishment;

k. Telephone and Internet Sales;

l. (Amended March 2024)

m. (Amended March 2024)

n. Accessory uses which are clearly incidental to the uses permitted herein;

o. Restaurant;

p. Hotel or Inn;

q. Bank or Financial Institutions;

r. Function halls.

s. Multi-family dwellings(s): The density requirement for a multi-family dwelling(s) shall be one (1) acre for the first dwelling unit and one half (1/2) acre for each additional dwelling unit, unless connected to public sewer. The maximum density permitted for a multi-family dwelling(s) connected to public sewer shall be six (6) units per acre. The minimum number of units for a multi-family residential dwelling in the Business District shall be three (3) units. (Amended March 10, 2020; Amended March 2024)

t. Home occupation and home-based business (Adopted March 14, 2023)

2. All lots shall be of at least one-half (1/2) acre in size with one hundred (100) feet of frontage on a Town or State maintained road. The front setback is 30 feet from the front property line and 20 feet from the side and rear property lines.

3. In addition to the aforementioned permitted uses, the following are permitted after the issuance of a Special Exception by the Board of Adjustment: (Section V.C.2. Amended March 9, 1999)

a. Manufacturing Facility (Amended March 2024)

b. Research and Testing Laboratories (Amended March 2024)

c. Utility Generation (Amended March 2024)

d. Wholesale, Warehouse or Storage Facilities with office, repair and customer service areas (Amended March 2024)

(Section V.C. adopted on March 8, 2011; revised on March 8, 2016.)

SECTION VI
COMMERCIAL/INDUSTRIAL DISTRICT AND INDUSTRIAL PARK DISTRICT USES

(Adopted March 13, 1990, Amended March 8, 2022)

A. COMMERCIAL/INDUSRTIAL DISTRICT (Amended March 8, 2022)

1. From the center line of Sawyers Crossing Road at its junction with Rte. 10 on the east side, fifteen hundred (1500) feet east and then north to the Keene line. On the west side of Rte. 10 from the north bound of Forest Avenue fifteen hundred (1500) feet west of the center line of Rte. 10 and then north to the Keene line. Also includes the area between Forest Avenue and California Street/California Brook Road on west side of West Swanzey Road (NH Route 10) to the east bank of the Bailey Brook, which is now zoned Residence District. (Amended March 10, 1998)

a. All lots within this zone using an access from Rte. 10 will contain a minimum of three (3) acres and have four hundred (400) feet frontage on Rte. 10;

b. All lots using a feeder road from Rte. 10 will contain a minimum of one (1) acre with one hundred twenty-five (125) feet frontage on the feeder road;

c. For purposes of this section, "feeder road" means the existing highways intersecting Rte. 10 within this zone (i.e. Forest Avenue, Sawyers Crossing Road, Ash Hill/Base Hill Road and the Whittemore Farm Road), and any new streets built hereafter that intersect Rte. 10 within this zone. All new feeder roads shall have a minimum width of one hundred (100) feet at their intersection with Rte. 10; (Amended March 10, 1992)

d. USES PERMITTED. In the Commercial/Industrial Zone no building or premise shall be erected, altered or used and no land shall be used for any purpose except:

1) Establishments engaged in the manufacturing, assembly, compounding, processing/packaging, treatment or distribution of products including primary product production from raw materials but excluding such establishments which produce or emit dust, refuse matter, toxic or noxious gases, odors or fumes, excessive noise, vibration or electrical interference, or similar substances or conditions into adjacent or other properties;

2) Wholesale, warehouse and storage facilities;

3) Research and testing laboratories devoted to the research, testing, design, and experimentation of products and processing and fabrication operations that are incidental thereto;

4) Printing and publishing establishments;

5) Educational activities;

6) Business and professional offices;

7) (Deleted March 14, 2000)

8) Restaurant;

9) Educational, governmental, or religious facility;

10) Hotel, motel, inn or bed and breakfast facility; (Amended March 8, 1994)

11) Retail sales, services;

12) Bank or financial institution;

13) Funeral home;

14) Private club or lodge;

15) Nursing home;

16) Commercial greenhouse or nursery;

17) Home occupation and home-based business (Amended March 12, 2019);

18) Accessory uses which are clearly incidental to the uses permitted herein;

19) (Deleted March 14, 2000)

20) Gasoline service station, repair garage and body shop, motor vehicle dealership, vehicle wash facility; (Amended March 14, 2000)

21) Recreational facility conducted as a business.

22) Bulk storage and distribution of large quantities of material, liquid, solid, or gaseous intended for resale. (Adopted March 8, 2022)

23) Retail electric vehicle charging station; (Amended March 2024)

e. SETBACKS

1) All buildings or structures within this zone shall be located (1) at least thirty (30) feet from the right-of-way of Route 10; (b) at least fifty (50) feet from the boundary line of any abutting residential dwelling; (c) at least thirty (30) feet from the right-of-way of any feeder road; and (d) at least twenty (20) feet from any other boundary. (Amended March 14, 2000; Amended March 11, 2008; Amended March 10, 2020; March 14, 2023)

2) Any abutting residential dwelling shall be screened by a fence, hedge, berm, vegetative planting or other screening material, the size and type of screening to be determined by the Planning Board during the Site Plan Review Process required of all new businesses proposed in the Town of Swanzey. (Amended March 10, 1992; Amended March 14, 2000)

2. In addition to the aforementioned permitted uses, the following are permitted after the issuance of a Special Exception by the Board of Adjustment:

a. The removal and processing of clay, sod, loam, crushed stone, sand or gravel for sale, subject to the minimum standards established pursuant to RSA 155-E; (Adopted March 14, 2000)

b. (Adopted March 14, 2000) (Deleted March 9, 2004)

c. (Adopted March 14, 2000) (Deleted March 9, 2004)

d. (Adopted March 14, 2000) (Deleted March 9, 2004)

e. Drive-through facility. (Adopted March 9, 2021)

B. INDUSTRIAL PARK DISTRICT (Moved from X-A March 8, 2022; Amended March 8, 2022)

Beginning at a point four hundred (400) feet easterly of Page Court and Rte. 32 on the north side of Page Court, proceeding southerly on a line parallel to Rte. 32 to the point of intersection with the southern boundary of Lot 19-98, proceeding easterly along Lot 19-98 southern boundary to its southeast corner, then southerly to a point of intersection with the southern boundary of Lot 19-102, then easterly to the southeast corner of Lot 19-102 then northerly along Lot 19-102 to a point of intersection with the southern boundary of Lot 19-97-1, in a then northerly direction along boundary of Lot 19-97-1 to a point of intersection on Rte. 12. Then northerly following boundary of Lot 19-97-1 along Route 12, to the lot's most northeastern corner. Then westerly following the boundary of Lot 19-97-1 to a point of intersection with the existing residence district (which runs northerly 1000' parallel from the intersection of Page Court and Wilson Pond Road). Continue southerly along the line of the residence district to the private road between

Lot 19-24 and 19-97-1, then westerly along the north side of the private road to the intersection of Wilson Pond/Page Court then westerly to the point of origin. (This description of Industrial Park District was taken from the Town of Swanzey Tax Maps dated 4/1/94)

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show the portions of the properties currently shown as Tax Map 19, Lots 97, 97-2, 98, 99, 100, 101 and 102 that are currently located in the Business District as being in the Industrial Park District. (Added March 10, 2009)

The zoning map of the Town of Swanzey dated September 1, 1947, as amended, is further amended to show the portion of the property currently shown as Tax Map 19, Lot 97-5 that is currently located in the Residence District as being in the Industrial Park District. (Added March 10, 2009)

2. PERMITTED USES In the Industrial Park District, no buildings or premises shall be erected, altered, or used, and no land shall be used for any purposes, except: (Amended March 8, 2022; March 14, 2023)

a. Manufacturing, production, fabrication, processing, packaging assembly, refurbishing and/or repair of goods; (Amended March 8, 2022)

b. Research and development; (Amended March 8, 2022)

3. (Deleted March 8, 2022)

c. Corporate offices; (Amended March 8, 2022)

d. Publishing companies; (Amended March 8, 2022)

e. Warehousing; (Amended March 8, 2022)

f. Wholesaling; (Amended March 8, 2022)

g. Recreation facility conducted as a business; (Adopted March 12, 2002; Amended March 8, 2022)

h. Child care facility. (Adopted March 12, 2002)

i. Home occupation and home-based business (Adopted March 14, 2023)

3. In addition to the aforementioned permitted used, the following are permitted after the issuance of a Special Exception by the Board of Adjustment: (Adopted March 8, 2022)

a. Bulk storage and distribution of large quantities of material, liquid, solid, or gaseous, intended for resale; (Adopted March 8, 2022)

b. Self-storage facility. (Adopted March 8, 2022)

4. PROHIBITED USES (Amended March 8, 2022)

1. Industrial uses which discharge contact type process waters on site; contact type process water is that used in an industrial process which comes into direct contact with that process. Cooling water that cools the work directly would be considered contact type;

2. On site processing of hazardous or toxic materials;

3. Storage of road salt or salted sand;

4. Any use producing offensive or noxious fumes, continuous loud noise, or large amounts of smoke which may be disruptive to any adjacent landowner.

D. (Deleted March 8, 2022)

5. HAZARDOUS MATERIALS. The storage and use of hazardous materials necessary to the permitted use will conform to all applicable regulations of the pertinent Local, State and Federal agencies. (i.e. local fire codes, OSHA, EPA, or whatever agencies exist at the time). Since such materials may pose a present or potential hazard to human health or the environment when improperly stored, transported, disposed of or otherwise used; these materials shall include without exception materials identified as hazardous and listed in accordance with Section 3001 of the Resource Conservation and Recovery Act of 1976. (Amended March 8, 2022)

6. LANDSCAPING. Outside storage areas shall be screened from adjacent properties, service roads and public roads with a form of screening, such as fencing or landscaping. (Amended March 8, 2022)

G. (Amended March 14, 2000; Deleted March 8, 2022)

7. BUILDINGS (Amended March 8, 2022)

a. Height – Maximum of forty five (45) feet. (Amended March 8, 2022)

b. The setback requirement is 50 feet from the front property line and 20 feet from the side and rear property lines. (Amended March 11, 2008; Amended March 8, 2022)

3. (Deleted March 8, 2022)

8. LOT SIZE (Amended March 8, 2022)

a. Minimum area – Two (2) acre. (Amended March 8, 2022)

b. Minimum width – At building line one hundred and fifty (150) feet. (Amended March 8, 2022)

c. Minimum frontage – one hundred and fifty (150) feet. (Amended March 8, 2022)

d. Maximum percentage of lot occupied by structures – 50%. (Amended March 8, 2022)

e. Maximum percentage of lot covered by impermeable materials including structures – 80%. (Amended March 8, 2022)

f. A minimum of 20% of the lot is to be left vegetated and undeveloped. Setback, buffer zones, wetlands, and areas required for storm water detention may be included in the 20%. (Amended March 8, 2022)

9. PAVED SURFACES (Amended March 8, 2022)

1. Minimum front, side and rear setback – twenty five (25) feet from public road or service road, excluding access and fifty (50) feet from any abutting residential district. (Amended March 8, 2022)

10. DRAINAGE (Amended March 8, 2022)

1. The drainage design for construction within the District shall be such that no net increase in volume or velocity of surface water leaving the District will be allowed. This may be accompanied either by a common runoff detention system for the District or by individual systems for each lot.

2. Because the provisions of paragraph K.1. above may create a series of manmade wetlands in the district, the setback from wetlands for septic systems will adhere to State standard within the District.

L. (Deleted March 8, 2022)

SECTION VII
WETLANDS CONSERVATION DISTRICT
(Amended March 8, 2005)

A. PURPOSE

1. By the authority granted in NH RSA 674:16-17 and 20 and in the interest of public health, safety and general welfare, the Swanzey Wetlands Conservation District is hereby enacted to regulate the uses on those lands defined as wetlands:

a. To prevent the development of structures and land uses on wetlands which would contribute to the pollution of surface and groundwater;

b. To prevent the destruction of natural wetlands which provide flood protection, groundwater recharge, pollution abatement, the augmentation of stream flow during dry periods, and valuable wildlife habitats.

c. To prevent unnecessary or excessive expenses to the Town to provide and maintain essential service and utilities;

d. To encourage those uses that can be appropriately and safely located in wetlands areas;

e. To preserve and enhance those aesthetic values associated with the wetlands of this Town.

B. DISTRICT BOUNDARIES

1. The Swanzey Wetlands Conservation District is defined as those areas of the town that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The Wetlands Conservation District is sometimes referred to herein as “wetlands” or “wetland areas.”

C. GENERAL PROVISIONS

1. In all cases where the Wetlands Conservation District is superimposed over another zoning district in the Town of Swanzey, that district whose regulations are more restrictive shall apply.

2. Boundary Appeals. In the event that the Selectmen, Conservation Commission, Planning Board, Zoning Board of Adjustment, Code Enforcement Officer or the Health Inspector, showing just cause, questions the accuracy of the boundaries of a Wetland area on a specific parcel of land, the accuracy of the boundaries shall be determined by a certified wetland scientist (as defined by RSA 310-A:76,II-a), with associated costs to be the responsibility of the Applicant (RSA 676:4,I(g)).

D. USES PERMITTED

Uses permitted in the Wetlands Conservation District, provided that all required permits have been obtained, are as follows:

1. Water impoundments, to the extent that wildlife considerations will allow and construction of wells for water supply;

2. Drainage ways, streams, creeks or other paths of normal runoff water;

3. Wildlife habitat development and management;

4. Parks and such recreation uses as are consistent with the purpose and intent of Section C;

5. Conservation areas and natural trails;

6. Open spaces as permitted by subdivision regulations and other sections of the Ordinance;

7. Forestry and Tree Farming in Wetlands.

8. Agriculture in Wetlands.

9. The construction or reconstruction of fences, footbridges, catwalks, wharfs and structures that enhance the site as wildlife habitat provided:

a. Said structures are constructed so as to permit the unobstructed flow of water; and

b. The natural contour of the wetlands is preserved.

10. Alteration of the surface configuration of the land by filling or dredging provided that:

a. The alteration enhances the wetland wildlife aspect of the site; and

b. The natural contour of the wetland is preserved.

11. Construction of streets, roads and other access ways, and pipelines, powerlines and other transmission lines.

E. SPECIAL PROVISIONS

1. No leach field or dry well may be located closer than one hundred twenty five (125) feet to any designated wetland. In instances of septic failure, certified to by the Town of Swanzey Health Officer, the one hundred twenty five (125) foot requirement is waived if a licensed septic designer certifies to the Health Officer that a one hundred twenty five (125) foot setback is not possible; in that event, the system can be replaced to State specifications.

2. Wetland areas will not be used to satisfy minimum lot area and setback requirements and may not be used when applying a residential density factor.

SECTION VIII
SHORELAND PROTECTION DISTRICT

(Amended March 14, 1995 replacing Special Lake Protection District)
(Amended March 10, 2009, Amended March 12, 2013)

A. SHORELAND PROTECTION DISTRICT

The Shoreland Protection District is hereby established as an overlay district which is superimposed over the conventional existing zoning. The uses permitted in the underlying districts shall be allowed only if they meet the minimum standards promulgated by the State of New Hampshire Shoreland Water Quality Protection Act, RSA 483-B (as amended). Pursuant to authority granted by RSA 674:14, this Shoreland Protection District is adopted by the Town of Swanzey to further protect the public waters of the Town.

B. TOWN OF SWANZEY SHORELAND PROTECTION DISTRICT includes all those lands defined as "Protected shoreland" in RSA 483-B:4,XV and as may be amended and any related administrative rules or regulations. As of April 18, 2012 the New Hampshire Department of Environmental Services "Consolidated List of Waterbodies Subject to RSA 483-B, the Shoreland Water Quality Protection Act" included the following:

4th order streams and designated rivers:
Ashuelot River - *Designated Segment;*
Ashuelot River - 4th Order;
South Branch Ashuelot River;
Ash Swamp Brook;
Martin Brook;

Lakes & Ponds:
Ashuelot River Dam
Swanzey Lake
Wilson Pond

C. PRIMARY BUILDING LINE/SETBACK: No primary structure as defined by RSA 483-B, shall be built, placed or erected within one hundred twenty-five feet from the reference line as defined by RSA 483-B:4, XVII as may be amended.

D. DEFINITIONS: The definitions set forth in RSA 483-B shall apply to the terms used through Section VIII, Shoreland Protection District.

SECTION IX
FLOOD PLAIN DISTRICT REGULATIONS

In the Flood Plain District all development is prohibited except by Special Exception from the Swanzey Zoning Board of Adjustment. The term "development" is defined to mean "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 operations."

No Special Exception shall be granted in the Flood Plain District except under the following conditions:

1. The proposed development is otherwise permitted in the underlying District;

2. The applicant demonstrates that such development shall not result in any increase in flood levels during the occurrence of the 100 year flood;

3. The placement of Mobile Home Parks is hereby prohibited in the Flood Plain District and no Special Exception shall be granted for the placement of such Park in the Flood Plain District.

4. The Zoning Board of Adjustment shall, upon approval of the Special Exception, notify the applicant in writing that a permit must also be obtained from the Building Inspector and that the following regulations shall apply to the granting of such permit.

FLOOD PLAIN DEVELOPMENT ORDINANCE (Amended March 10, 1987; March 14, 2006; March 11, 2008)

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 Cheshire, NH' dated May 23, 2006 or as amended, together with the associated Flood Insurance Rate Maps dated May 23, 2006 or as amended, which are declared to be part of this ordinance and are hereby incorporated by reference.

ITEM 1. Definition of Terms:

"Alluvial Fan" means a geomorphologic feature characterized by a cone or fanshaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration. (Adopted March 13, 1990)

"Apex" means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front. (Adopted March 13, 1990)

"Area of Special Flood Hazard" is the land in the flood plain within the Town of Swanzey subject to a 1 percent or greater chance of flooding in any given year. The area is designated as Zone [A, AE] on the Flood Insurance Rate Map.

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

"Basement" means any area of the building having its floor subgrade (below ground level) 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 operations or storage of equipment or materials. (Note: This definition appears in the opening paragraph of Section IX, Flood Plain District Regulations and Item I, Definitions, of the Flood Plain Development Regulations.)

"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 Elevation Study" 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 Insurance Rate Map" (FIRM) means an official map of the community on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

"Flood Insurance Study" see Flood Elevation Study.

"Flood Plain" 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 sanitary facilities, structures and their contents.

"Floodway" see "Regulatory Floodway".

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

"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 program which have been approved by the Secretary of Interior;

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. (Adopted March 13, 1990)

"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

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

"Mean Sea Level" means, for general purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"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 attached 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.

"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 flood plain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by a community and includes any subsequent improvements to such structures. (Amended March 13, 1990)

"100 Year Flood" see "Base Flood".

"Recreational Vehicle" means a vehicle which is built on (i) a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. (Added March 8, 1994)

"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.

"Riverine" means relating to, formed by or resembling a river (including tributaries), stream, brook, etc.

“Special Flood Hazard Area” means an area having special flood, mudslide (i.e. mudflow) and/or flood related erosion hazards, and shown on FIRM as Zone A or A1-30. (See area of special flood hazard.)

“Structure” means for Flood Plain 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.

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

“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. (Adopted March 13, 1990)

“Substantial Improvement” means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:

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

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with

existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"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 in 44CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

(Section Amended March 14, 2006)

ITEM II.

All proposed development in any special flood hazard area shall require a permit. Permits shall not be issued for Manufactured Homes or Parks anywhere in the special flood hazard areas.

ITEM III.

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 in a special flood hazard area, all new construction and 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) will be constructed with materials resistant to flood damages; 3) be constructed by methods and practices that minimize flood damages; and 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 periods of flooding.

ITEM IV.

Where new and replacement water and sewer systems (including on-site systems) are proposed in special flood hazard areas 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.

ITEM V.

The Building Inspector shall maintain for public inspection and furnish upon request, any certification of flood-proofing and the as-built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement. If the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed. This information must be furnished by the applicant.

ITEM VI.

The Building Inspector shall review proposed developments to assure 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 USC 1334. It shall be the responsibility of the applicant to certify these assurances to the Building Inspector, prior to the issuance of a building permit.

ITEM VII.

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 Environmental Services Department 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.

Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse can and will be maintained.

Along watercourses that have a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the designated Regulatory 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. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any floodway data available from a Federal, State or other source as criteria for requiring that

development meet the floodway requirements of this section. (Amended March 12, 2002)

Until a Regulatory Floodway is designated along watercourses, 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.

ITEM VIII.

1. In special flood hazard areas the Building Inspector shall determine the 100 year 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. (Amended March 11, 2008)

b. In Zone A, the Building Inspector shall obtain, review and reasonably utilize any 100 year flood elevation data available from Federal, State, development proposals submitted to the community (example sub-divisions, site approvals, etc.) or other source. (Amended March 11, 2008)

2. The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in Zones AE and A that: (Amended March 11, 2008)

a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level;

b. That all new construction and substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities shall:

1) Be floodproofed so that below the 100 year 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. All manufactured homes to be substantially improved within the 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 level; 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;

d. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted providing the enclosed areas meet the following requirements:

1) The enclosed area is unfinished or flood resistant, usable solely for 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 floodwaters. 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 (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

e. Recreational vehicles placed on sites within Zone AE shall either (i) be on the site for fewer than one hundred eighty (180) consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet all standards of 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "Manufactured Homes" in Paragraph (c)(6) of Section 60.3. (Adopted March 8, 1994; amended March 11, 2008)

ITEM IX (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 is RSA 676:5.

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

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: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) 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: (Adopted March 12, 2002)

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.

(Section Amended in general March 13, 2001)

SECTION X
AIRPORT ZONING
(Adopted March 11, 1997)

A. PURPOSE

1. To regulate and restrict the height to which structures and trees may be erected or allowed to grow, and regulate and restrict the operation and discharge of smoke, steam, dust or other obstructions to visibility, electrical impulses and disturbances which interfere with radio aids or communication, and regulate and restrict lighting as may be necessary to effectuate a safe approach to the airport.

B. DEFINITIONS

1. **Airport –** means the Dillant-Hopkins Airport.

2. **Airport Owner –** means the City of Keene or its successor(s).

3. **Airport Hazard –** means any structure, tree, smoke, steam, dust or other substance which obstructs the aerial approaches to the airport, or impairs the reasonable visibility on or in the vicinity thereof, any electrical impulses or disturbance which interfere with radio aids or communications, and lights which might result in glare in the vision of pilots of aircraft or be confused with airport lights.

4. **Avigation Easement –** means the right of the airport owner and its employees and agents to enter upon private property to make modifications to airport hazards. No such avigation easement shall be valid or enforceable unless it is duly recorded in the Cheshire County Registry of Deeds.

5. **Nonconforming Use –** means any structure, tree or use of land which does not conform to a regulation prescribed in this section or any amendment thereto as of the effective date of such regulations or amendments.

6. **Person –** means any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

7. **Structure –** means any object constructed or installed by man, including such objects regulated or licensed by other provisions of law.

8. **Tree –** means any object of natural growth.

C. AIRPORT ZONE

The Airport Zone is an overlay zone of the airport, and that portion of the Town of Swanzey that lies within the airport approach plan as shown on the attached map entitled, "Airport Approach Plan."

D. HEIGHT

1. No structure shall be erected or altered and no tree shall be allowed to grow above the height indicated within the following described airport approach areas, to wit:

a. Authority and Effective Date. This Airport Approach Plan was prepared under the authority of Chapter 424:3 of the New Hampshire Revised Statutes Annotated (RSA). The effective date of the plan is August 1, 1995.

b. Runways (identified by Approach End)

Identifier	Approach Category	Length	Width	End Elevation
2	Precision	6,201 ft	100 ft	488 ft msl
14	Visual	4,001 ft	150 ft	483 ft msl
20	Visual	6,201 ft	100 ft	482 ft msl
32	Visual	4,001 ft.	150 ft	471 ft msl

c. Primary Surface. A surface longitudinally centered on the runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The dimensions of each primary surface are:

Runway	Length	Width
Runway 2/20	6,601 ft	1,000 ft
Runway 14/32	4,401 ft	250 ft

d. Horizontal Surface. A horizontal plane one hundred fifty (150) feet above the airport elevation, which is four hundred eighty eight (488) feet MSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radii of each arc is:

Runway 2/20	10,000 ft
Runway 14/32	5,000 ft

When a five thousand (5,000) ft arc is encompassed by tangents connecting two ten thousand (10,000) ft. arcs, the five thousand (5,000) ft arc shall be disregarded.

e. Conical Surface. A surface extending outward and upward from the perimeter of the horizontal surface at a slope of 20:1 for a horizontal distance of four thousand (4,000) ft.

f. Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface. It expands uniformly to a width of:

Runway 2	16,000 ft
Runway 14	1,250 ft
Runway 20	1,500 ft
Runway 32	1,250 ft

The approach surface extends for a horizontal distance of:

Runway 2	10,000 ft at a slope of 34 to 1 followed by an additional 40,000 ft at a slope of 29.5 to 1
Runway 14	5,000 ft at a slope of 20 to 1
Runway 20	5,000 ft at a slope of 20 to 1
Runway 32	5,000 ft at a slope of 20 to 1

g. Transitional Surfaces. These surfaces extend outward and upward at right angles to the runway centerline at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surface. Transitional surfaces for those portions of the approach surfaces which project beyond the limits of the conical surface, extend a distance of five thousand (5,000) ft measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

h. Airport Hazards

1) Any structure, natural growth, or terrain that penetrates any of the surfaces described above constitutes an airport hazard as defined in RSA 424:1. However, no provisions of this airport approach plan, except for the Primary Surface (Section c), shall limit the height of a structure, natural growth, or terrain to less than thirty (30) feet above the ground upon which it is located.

2) Notwithstanding any other provision of the Zoning Ordinance, no use may be made of land within the airport zone in such manner as to:

a) Create electrical interference with radio aids or communications between the airport and aircraft;

b) Make it difficult for pilots to distinguish between airport lights and others;

c) Result in glare in the vision of the pilots using the airport;

d) Impair visibility in the vicinity of or on the airport by the creation and discharge of smoke, steam, dust or other obstructions to visibility or otherwise endanger the landing, taking off or maneuvering of aircraft and/or

e) Otherwise be injurious, obnoxious or offensive to the neighborhood.

E. NONCONFORMING USES

All Airport Zoning Regulations adopted hereunder shall be reasonable, and none shall require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations when originally adopted or when amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in RSA 424:6,I.

F. ADMINISTRATION AND ENFORCEMENT

1. Permit Required. Within the airport zone no building or structure shall be erected, constructed, reconstructed, altered, demolished or changed, nor shall the use of any land be changed or altered until a permit has been obtained from the Selectmen or their designated representative (Building Inspector).

2. Application Requirements. Application for a permit shall be submitted on a form prescribed by the Selectmen, accompanied by the following:

a. Plans, drawn to scale, showing the actual shape, dimensions and location of the lot to be used, showing existing buildings and proposed alterations of existing buildings and proposed new buildings.

b. Information concerning the existing and intended use of each building lot or part thereof.

c. Any other information with respect to the land, building and the applicant's proposed use thereof which the Selectmen or their representative may reasonably require to determine whether the proposed use or change for which the permit is sought conforms to the terms of this ordinance or other applicable Local, State or Federal regulations.

d. The Airport Manager will certify that the proposed use will not encroach on the Approach Plan or accessory thereof.

3. Approval or Denial. The Selectmen or their designated representative shall, within 30 days, determine whether the proposed use complies with the provisions of this ordinance. If so, the permit shall be granted; otherwise, the application shall be denied.

Any person aggrieved by the issuance or denial of such permit may, within 30 days from the issuance or denial of the permit, appeal to the Zoning Board of Adjustment pursuant to RSA 676:5.

Issuance of the permit shall not excuse the applicant form complying with site plan review regulations, if applicable.

4. Enforcement. This ordinance shall be enforced by the Selectmen. If any building or land within the airport zone is used or is proposed to be used in violation of this ordinance, the Selectmen shall institute appropriate action to prevent, restrain, correct or abate any such violation.

G. VARIANCES

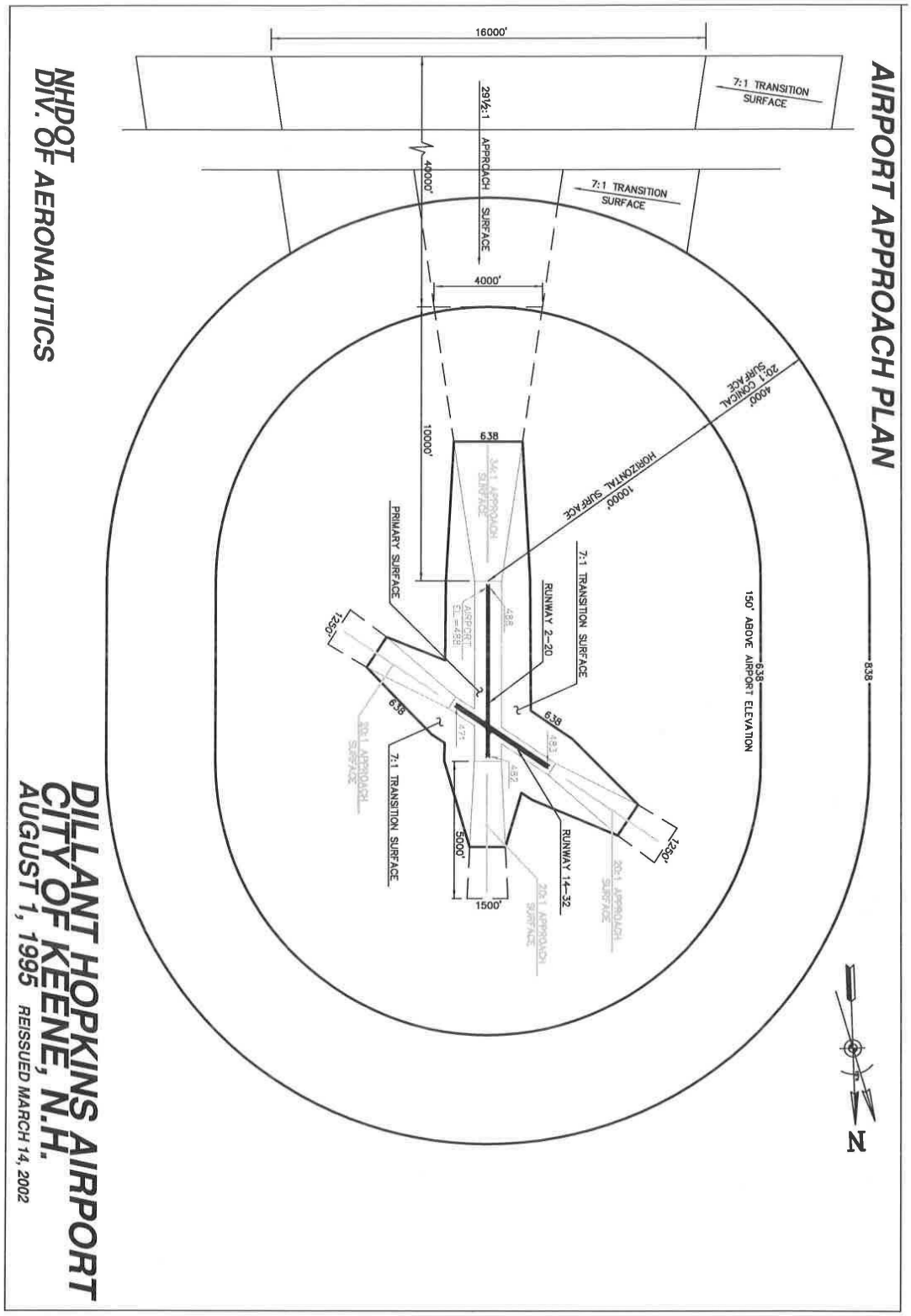
1. Any person desiring to erect or install any structure or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in this Ordinance, may apply to the Swanzey Zoning Board of Adjustment for a variance herefrom.

2. Such variance shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this Ordinance.

H. HAZARD MARKING AND LIGHTING

Any variance granted under paragraph G which is deemed to be a hazard by an action of the Federal Aviation Administration may require the owner of the tree or structure in question to permit the airport owner, at its expense, to mark and/or light said hazard.

I. AIRPORT APPROACH PLAN



SECTION X-A
INDUSTRIAL PARK

(Adopted March 14, 1995; Amended and Relocated to Section VI March 8, 2022)

SECTION X-B
ADULT ENTERTAINMENT BUSINESS DISTRICT

A. PURPOSE AND INTENT

It is the intent of this section to establish an overlay district providing reasonable and uniform regulations to prevent the concentration of adult entertainment businesses within the Town of Swanzey; and it is the intent to promote the health, safety and general welfare of the citizens of the Town of Swanzey. It is the intent of this section to prevent problems of blight and deterioration which may accompany and may be brought about by the concentration of adult entertainment businesses. The provisions of this amendment have neither the purpose nor the effect of imposing limitation or restriction on the content of any communicative materials, including sexually oriented materials; and it is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

B. LOCATION RESTRICTIONS OF ADULT ENTERTAINMENT BUSINESSES

1. Adult entertainment businesses, as defined in Section C of this adult entertainment businesses district shall be subject to all regulations, requirements and restrictions for the underlying districts in which the adult entertainment business is permitted and shall be subject to the following distance requirements:

a. No adult entertainment business shall be permitted within 1,000 feet of another adult business which is either existing at the time of the effective date of this ordinance or one for which a building permit has been applied for, and no adult entertainment business shall be permitted within a building, premise, structure or other facility that contains another adult entertainment business.

b. No adult entertainment business shall be permitted within 500 feet of any church, public or private school (pre-school through high school), youth center, or Town Hall.

c. Adult entertainment businesses shall be allowed by special exception and only in the following areas of the Town of Swanzey:

(i) Route 12 – Within that portion of the Business District on Route 12 which lies between the Keene-Swanzey town line and the south end of the Cheshire Fairgrounds, so called; and

(ii) Route 10 – Within that portion of the Commercial/Industrial District which lies between the Keene-Swanzey town line and the intersection of Route 10 and Base Hill Road.

The distance requirements above shall be measured in a straight line, without regard to intervening structures from the property line of any site to the closest exterior wall of the adult entertainment business.

C. DEFINITIONS

1. Adult Entertainment Business means: Any place of business at which any of the following activities is conducted:

a. Adult bookstore or adult video store: A business that devotes more than 15% of the total display, shelf, rack, table, stand or floor area for the display, sale and/or rental of the following:

(i) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, computer disks, CD-ROMs or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1; or

(ii) Instruments or devices which are designed for use in connection with "sexual conduct" as defined by NH RSA 571-B:1, other than birth control devices.

An adult bookstore or adult video store does not include an establishment that sells or rents books, videos or periodicals representing "harmful to minors" and/or "sexual conduct" materials as listed above if sales and rentals of such materials are an incidental or accessory part of its principal stock and trade and does not devote more than 15% of the total display, shelf, rack, table, stand or floor area of the establishment.

b. Adult Motion Picture Theater: An establishment with capacity for five or more persons where for any form of consideration films, motion pictures, video cassettes, slides, CD-ROMs, computer displays or similar photographic reproductions are shown, and in which substantial portions of the total presentation time is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1, for observation by patrons. For this subsection (b) and for subsections c, d, e, f, and g below, a "substantial portion of the total presentation time" shall mean the presentation of films or shows described above for viewing on more than seven days within any 56 consecutive day period.

c. Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically,

electrically or mechanically controlled still or motion picture machines, computers, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

d. Adult Cabaret: A nightclub, bar, restaurant, or similar establishment which during a substantial portion of the total presentation time features live performances which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1, and/or features films, motion pictures, video cassettes, CD ROMs, computer displays, slides, audio tapes, or other audio or photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

e. Adult Drive-In Theater: An open lot or part thereof, with accessory facilities devoted primarily to the presentation of motion pictures, films, theatrical productions and/or other forms of visual productions for any form of consideration to persons in motor vehicles or on outdoor seats in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of materials which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

f. Adult Motel: A motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, computers, CD-ROMs, slides or other audio or photographic reproductions, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis upon the depiction or description of materials which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

g. Adult Theater: A theater, concert hall, auditorium or similar establishment either indoor or outdoor in nature which for any form of consideration regularly features live performances, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis on activities which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

h. Nude Model Studio: A place where a person who appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals and is observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration of such display, or where such display is otherwise characterized by an emphasis on activities which

meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1.

i. Sexual Encounter Center: A business or commercial enterprise that as one of its primary business purposes offers for any form of consideration: (a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (b) activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; or where the activities in (a) or (b) is characterized by an emphasis on activities which meets the definition of “harmful to minors” and or “sexual conduct” as set forth in NH RSA 571-B:1.

(Adopted March 14, 2000)

SECTION XI
NON-CONFORMING USE, NON-CONFORMING BUILDING/STRUCTURE AND NON-CONFORMING LOT

A. Non-conforming Use: A non-conforming use may be continued indefinitely subject to the following limitations:

1. When a non-conforming use of land, structures or buildings has been discontinued for one year, then the land, structures and buildings shall be used thereafter only in conformity with the Ordinance.

2. Any change in, or expansion of, an existing non-conforming use shall require Board of Adjustment approval of a Special Exception.

3. A non-conforming use of land, structures or buildings may not be changed to another non-conforming use.

4. If a non-conforming use is changed to a conforming use, then it shall thereafter conform with the use regulations of this Ordinance, and the non-conforming use may not thereafter be resumed.

5. Nothing herein shall prevent the reconstruction of a building or a structure in which a non-conforming use was housed, which was destroyed in whole or in part by fire or other natural disaster so long as the reconstruction is started within one year and does not result in an expansion of the non-conforming use.

B. Non-conforming Building/Non-conforming Structure: A non-conforming building or non-conforming structure may be continued indefinitely and may be repaired or remodeled subject to the following limitations:

1. Restoration, reconstruction, alteration and/or replacement of nonconforming buildings/structures are allowed, provided that the cubic footage and the footprint of the original building/structure stays the same or smaller; any nonconforming buildings/structures that have been destroyed in whole or in part by fire, by other natural disaster, or by voluntary demolition may be replaced within one year of the damage or demolition in the same or smaller footprint and with the same or smaller cubic footage.

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.

3. Existing legally nonconforming buildings or structures that have nonconforming setbacks may be enlarged or changed provided that the expansion does not further encroach into a setback, subject to the following:

a. In no case shall the expansion be closer to a property line or right-of-way line than ½ (one-half) of any setback distance requirement for the Zoning District that the property is located in.

(Adopted on March 9, 1999, Amended March 14, 2000; Amended March 13, 2001; Section 1 deleted March 9, 2004; Amended March 10, 2009; Amended March 10, 2020)

C. Non-conforming Lot: A non-conforming lot may be developed for the uses permitted in the district in which it is located provided that the use proposed for such lot will comply with all health and sanitary regulations for water and sewage systems as required by the State and Town and provided that it complies with all other requirements of this Ordinance or amendments thereto, including but not limited to Sections III.E. and III.M

1. In addition to the above requirements, a non-conforming lot located in the Shorelands Protection Overlay District shall comply with the current regulations of the Department of Environmental Services without waivers as of the date of application for a building permit.

(Adopted on March 9, 1999, Amended March 14, 2000; Amended March 13, 2001; Amended March 10, 2009)

SECTION XII
BOARD OF ADJUSTMENT

A. The Selectmen shall make the initial appointment of a Board of Adjustment of five members, one for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year, each term to expire on the date of the annual Town Meeting, each member to serve until his successor shall be elected and without compensation. Thereafter upon expiration of the term of any member of said Board, his successor shall be elected at Town Meeting for a term of three years.

B. The Board of Adjustment shall have all of the powers and authority granted to Boards of Adjustment by State Laws. In considering applications the Board shall follow procedures set forth in RSA 674. (Amended March 1998)

C. The Board of Adjustment shall have the following powers, as well as any other power conferred upon such Board by the statutes of the State of New Hampshire:

1. To hear and decide appeals where it is alleged there is an error in any order, decision or determination made by an administrative official in the enforcement of this Ordinance.

2. The Board of Adjustment shall have the power to hear and decide Special Exceptions to the terms of this Ordinance, and in doing so, may grant approval in appropriate cases and subject to appropriate conditions and safeguards for the protection of the public health, safety, and welfare. Special Exceptions may be approved if the Board finds that:

a. The proposed use is similar to one or more of the uses already authorized in that district and is in an appropriate location for such a use;

b. Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious, or offensive to the neighborhood;

c. There will be no nuisance or serious hazard to vehicles or pedestrians;

d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

3. To authorize upon appeal in specific cases such Variances from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship and so that the spirit of the

Ordinance shall be observed and substantial justice done. In doing so, the Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and community.

4. To hear and decide Applications for Equitable Waiver of Dimensional Requirements.

5. In exercising the above-mentioned powers, the Board of Adjustment may, in conformity with the powers granted to it under RSA Chapter 674, reverse or affirm in whole or in part or may modify the order, requirement, decision or determination appealed from and may make such order or decision as ought to be made.

D. Time Limits on Special Exceptions & Variances:

1. Special Exception - A special exception shall expire if such use is not substantially acted upon within, or ceases for more than, two (2) years. For a use not substantially acted upon with two (2) years, a one-time, one-year extension may be granted upon application to the Zoning Board for good cause shown. Application for extension must be filed with the Land Use Office not later than thirty (30) days prior to the expiration of the original approval.

"Substantially acted upon" shall mean at least one or more of the following:

a. Construction is commenced within two (2) years after the original approval; and/or

b. Application is made to the Planning Board within two (2) years after the original approval; and/or

c. As otherwise may be defined by the Zoning Board of Adjustment as part of the original approval.

2. Variance - A variance shall expire if such use is not substantially acted upon within, or ceases for more than, two (2) years. For a use not substantially acted upon within two (2) years, a one-time, one-year extension may be granted upon application to the Zoning Board of Adjustment for good cause shown. Application for extension must be filed with the Land Use Office not later than thirty (30) days prior to the expiration of the original approval.

"Substantially acted upon" shall mean at least one or more of the following:

a. Construction is commenced within two (2) years after the original approval; and/or

b. Application is made to the Planning Board within two (2) years after the original approval; and/or

c. As otherwise may be defined by the Zoning Board of Adjustment as part of the original approval.

3. Litigation - In the event that litigation involving the special exception and/or variance occurs, the time clock for expiration of the special exception and/or variance shall commence when all applicable appeals periods have ended.

4. Termination of Expired Variances and Special Exceptions. Variances authorized under Article C, Paragraph 3 and Special Exceptions authorized under Article C, Paragraph 2 that were granted before August 19, 2013 and have not been exercised shall terminate after the following provisions are met:

a. The Planning Board shall post a notice of termination in Town Hall for one year, stating that unexercised Variances and Special Exceptions authorized before August 19, 2013 are scheduled to terminate on a specific date;

b. Unexercised Variances and Special Exceptions authorized before August 19, 2013 shall be valid if exercised within two years of the expiration date of the notice of termination.

(Section XII.D. added March 13, 2012; Amended March 12, 2019)

SECTION XIII
DEFINITIONS

Abutter: Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration.

Accessory Building: A free-standing building incidental to primary structure, for any use customarily incidental, related and clearly subordinate to a principal or main use established on the same lot or premises. (Adopted March 8, 1994)

Accessory Use: Any use customarily incidental, related and clearly subordinate to a principal or main use established on the same lot or premises.

Bed and Breakfast Facility: An existing residential building that is used as a residence and which contains not more than six (6) sleeping rooms for rental accommodations to tourists, for duration of less than two weeks which serves breakfast to guests. An accessory building to a residence is not a Bed and Breakfast Facility. (Adopted March 8, 1994)

BOCA Code or BOCA National Building Code: (Adopted March 10, 1992; definition deleted March 14, 2006)

Building: Any structure for the shelter, support or enclosure of persons, animals or property having a roof. (Amended March 9, 1999)

Club or Lodge: An organization of persons pursuant to the provisions of membership cooperative law or the benevolent orders law which is the owner, lessee or occupant of an establishment operated solely for recreational, social, patriotic, political, benevolent, or athletic purposes, but not operated for pecuniary gain and includes the establishment so operated.

Corporate Office: Building or buildings used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers such as a restaurant or coffee shop, health care facility or day care facility. (Added March 10, 1998)

Drive-through facility: Any facility where retail sales, food sales, or other services are provided to customers who drive up to a window or to an automobile device to receive the sales or services provided on the premises. (Adopted March 9, 2021)

Duplex: See Dwelling, two-family. (Adopted March 9, 1999)

Dwelling: A building or part of a building which contains living and sleeping accommodations for permanent occupancy.

Dwelling, one family: A detached building designated for, or occupied solely by one family.

Dwelling, two-family: A residential building designed for or occupied by two families living independently of each other in individual dwelling units attached by a common wall or ceiling/floor. Also known as a duplex. (Amended March 9, 1999)

Dwelling, multi-family: A dwelling or group of dwellings on one lot containing separate dwelling units for three or more families, having separate or joint entrances, services or facilities.

Dwelling Unit: Any room or rooms connected together forming a habitable unit for one family with its own bathing and toilet facilities and its own kitchen, living, eating and sleeping areas wholly within such rooms, or rooms connected together. (Adopted March 9, 1999)

Expansion of Non-conforming Use: Any increase in the size of the building/structure supporting the use, increase in the hours or days of operation, increase in the number of employees, increase in the products produced, increase in the number of services provided, or increase in the land area supporting the use. (Adopted March 9, 1999)

Footprint: The area of a lot upon which a building/structure stands, including, but not limited to, attachments such as porches and decks. (Adopted March 9, 1999)

Frontage: The length of that boundary of a lot that borders on a public street. All lots must have frontage on a public street. On any lot bounded on more than one side by a street, the street boundary that is to be the lot "front" shall be so designated in the application for a permit to build on such lot. Frontage shall be measured along a continuous line connecting the points of intersection of the side lot lines and the front lot line. (Amended March 14, 2000)

Function Hall: A building or part thereof used primarily for conducting activities such as suppers, banquets, receptions, meetings and other functions attended by large groups of people for a single event. Function halls may or may not include kitchen facilities. (Adopted March 10, 2009)

Garage, private: Building for the non-commercial storage of motor driven vehicles. (Adopted March 10, 1992)

Garage, public: A building other than a private garage used for the storage of motor driven vehicles for remuneration. (Adopted March 10, 1992)

Home-Based Business: A commercial use not otherwise permitted in the zone conducted by not more than three people (at least one of whom is an inhabitant of the dwelling), which is clearly incidental and secondary to the use of the premises for dwelling purposes and does not change the residential character thereof. See Section III.U. for additional requirements. (Adopted March 12, 2019)

Home Occupation: The non-apparent use of no more than 300 square feet of a dwelling or an accessory structure for the purpose of generating income. See Section III.U. for additional requirements. (Amended March 12, 2019)

Homemade Shelter: A rudimentary structure intended for protection from the elements. Typically built in a hap-hazard way and not to any construction standard. (Adopted March 14, 2006)

Hotel or Inn: A building, or a portion thereof, where lodging is offered to transient guests for compensation and by which there are more than five sleeping rooms. The accommodations shall constitute the temporary abode, for 30 days or less, of persons whose primary residence is elsewhere. A hotel or inn may also include customarily accessory facilities, services, and activities, such as outdoor and indoor facilities for dining, relaxation, or recreation for guests and the general public. (Revised March 8, 2016)

Lot: A plot or parcel of land, occupied or capable of being occupied, in conformity with these regulations by one principal building and the accessory uses customarily incidental thereto, including such open spaces as are required by these regulations. In the case of multiple dwellings, row dwellings, institutional uses, industrial or commercial buildings, a group of buildings under the same ownership may be considered as occupying the same lot.

Lot of Record: A parcel, the plat or description of which has been recorded at the Cheshire County Registry of Deeds. (Adopted March 9, 1999)

Manufactured Housing or Mobile Home: Any structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and forty body feet or more in length, or when erected on site, it 540 square feet or more, and which is building on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating, and electrical systems contained therein. Manufactured housing as defined in this Ordinance shall not include presite built housing as defined in this Ordinance. (Amended March 10, 1992; Amended March 8, 1994)

Manufactured Housing Park or Mobile Home Park: Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate two or more manufactured houses.

Nothing herein shall be construed to apply to premises used solely for storage or display of manufactured housing. (See RSA 205-A)

Manufacturing: The act of making goods or articles from raw materials or unfinished products. Including processing and assembling. (Adopted March 10, 1992)

Motor Vehicle Dealership: An enterprise which sells or rents new or used trucks, motorcycles, cars and other motorized vehicles. May also include repair garages, paint shops, and vehicle body shop accessory to the main use. (Adopted March 10, 1992)

Motel: A building or a group of buildings providing lodging of persons, generally having private outside entrances for each room or suite of rooms and for each of which rooms or suite of rooms automobile parking is provided on the premises.

Non-conforming Building/Structure: Any building/structure or part thereof not in compliance with the setback, building separation or building height requirements in the district in which it is located. (Adopted March 9, 1999)

Non-conforming Lot: Any parcel of land not meeting the lot size, density, frontage or shore frontage requirements of this Ordinance. (Adopted March 9, 1999)

Non-conforming Use: Any use of a building, structure or land legally existing at the time of the adoption of this Ordinance or any amendments thereto, and which does not conform with the use regulations of the district in which it is located.

Parking Space: Off street space available for parking motor vehicles and having an area of not less than one hundred sixty-two (162) square feet and not less than nine (9) feet wide. (Amended March 14, 2000)

Pool (Permanently Installed Swimming or Wading Pool): Those that are constructed in or on the ground, or in a building in such a manner that the pool cannot be readily disassembled for storage.

Pool (Storable Swimming or Wading Pool): A pool with a maximum dimension of fifteen (15) feet and a maximum wall height of three (3) feet and is so constructed that it may be readily disassembled for storage and reassembled to its original integrity.

Presite Built Housing: Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property

standards and local building codes, for installation, or assembly and installation on the building site. For the purposes of this Ordinance, presite built housing shall not include manufactured housing as defined by this Ordinance. (Adopted March 8, 1994)

Processing: To prepare a product for sale by either a special treatment or to change it through a series of steps, but not the original manufacture of a component. (Adopted March 10, 1992)

Professional: Of or pertaining to a calling requiring specialized knowledge and long and intensive preparation such as doctors, dentists, lawyers, architects, engineers, accountants, etc.

Rear Lot: A lot meeting the minimum lot area requirements and all other requirements of these regulations, but which is situated to the rear on existing property so as to be unable to meet the frontage requirement of the District in which it is located.

Recreation Facility Conducted as a Business: Uses to include, but are not limited to, campground, summer camp, golf course, country club, athletic facilities, paintball facility, nature centers, etc. (Adopted March 11, 2003)

Recreational Vehicle: A vehicle which is built on (i) a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. (Adopted March 14, 2006)

Repair Garage: A building or structure or part thereof, or any premises used for making repairs and adjustments to motor vehicles including structural changes or repairs, including work involving the use of machinery. (Adopted March 10, 1992)

Setback: The distance between any property line and the nearest point to which any building or structure can be erected. Measurement shall be to the outermost vertical plane nearest the property line. The only amenities that may be located within the first 30 feet of a **front** setback area are as follows:

a. Driveway (paved or unpaved);
b. Landscaping;
c. Underground utilities;
d. Utility poles;
e. Lighting fixtures;
f. Fences;
g. Drainage devices;
h. Fire ponds and/or underground cisterns;
i. Signs as permitted under the terms of the zoning ordinance;

j. Mail boxes.

Items specifically not permitted to be located within the first 30 feet of a **front** setback area are as follows: Accessory buildings; buildings; structures; parking spaces except for parking spaces serving one-family and two-family dwellings; parking lots; pavement not part of a driveway; and product display. (Adopted March 11, 2008)

Signs, general: Any identification, description, illustration or device, whether illuminated or not, which is visible to the general public and directs attention to a business, product or service.

a. Business Sign – An on-premises sign which directs attention to any primary business, commodity, service or other activity which is sold, offered or conducted on the premises.

b. Corner Sign – A sign facing more than one street frontage or attached to more than one (1) side of a primary business building.

c. Double Faced Sign – A freestanding sign or projecting sign which has wording, designs or messages on both sides back-to-back.

d. Freestanding Sign – Permanent installed self-supporting sign resting on the ground or supported by means of poles or standards in the ground.

e. Secondary Sign – Any sign attached to a freestanding sing.

f. Off-premises Sign – A sign which pertains to a business, industry or activity which is not located on the premises upon which the sign is displayed.

g. Sign Face – That portion of the sign that contains wording and/or designs which convey a message or attract attention.

h. Sign Face Area – The area of sign faces enclosed in frames or cabinets is determined by measuring the outer dimensions of the frame or cabinet surrounding the sign face. Sign face area does not include foundations, supports or other essential structures which do not serve as a backdrop or border to the sign. Only one side of a double faced sign is counted. When signs are constructed of individual pieces attached to a building wall, the sign face area is determined by a perimeter drawn around all the pieces.

i. Sign Cabinet – A framework, freestanding or attached, containing one or more inserted signs than can be replaced or exchanged without increasing the total square footage of the sign cabinet. (Adopted March 12, 2019)

Slope: Slope is a percentage determined by dividing vertical distance (rise) by horizontal distance (run). (Adopted March 11, 2003)

Special Exception: A Special Exception permits the inclusion into the zoning pattern of uses considered to be essentially desirable, but where the nature of the use is such that its location must be considered in light of special restrictions or conditions tailored to fit the unique problems which the use may present. The Special Exception relates to a specific use in a specific location and the regulations controlling these Special Exceptions are contained in the regulations.

Steep Slope: Steep slope is a slope of twenty-five percent (25%) or greater over any 100 foot segment prior to cut or fill. (Adopted March 11, 2003)

Street/Road: The street or public way giving access to a lot and is intended to include only those ways that are maintained by the state or town as Class I, II, III, IV and V highways. (Amended March 11, 2008)

Structure: Anything constructed with a fixed location on the ground, or attached to something having a fixed location on the ground. Items such as buildings, manufactured housing, swimming pools, sheds, gazebos, garages, docks and boathouses are included in the definition whether prefabricated or site built. Items such as underground waste disposal systems, driveways, water wells, fences, retaining walls, gates, signs, lampposts, mail boxes, flagpoles, well coverings, stairs, walkways and uncovered patios are excluded from this definition. (Adopted March 9, 1999)

Telecommunications Facility: Any structure, antenna, tower, or other device which provides commercial mobile wireless services, unlicensed, wireless services, cellular phone services, specialized mobile radio communications, personal communications services and common carrier wireless exchange access services, operated as a business. (Adopted March 14, 2000)

Tent: A portable shelter consisting of canvas, skins or nylon type material stretched over poles. (Adopted March 14, 2000)

Variance: An act of the Board of Adjustment which allows a variation from the terms of these Regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the Regulations will result in unnecessary hardship, and so that the spirit of the Regulations shall be observed and substantial justice done.

Vehicle Wash Facility: A facility dedicated to the cleaning of the interior and/or exterior of vehicles. (Adopted March 14, 2000)

Warehousing: Inside or outside storage of goods, wares, and merchandise, whether for the owner or for others, and whether it is a public or private facility. (Adopted March 10, 1992; Amended March 9, 1999)

Wholesaling: The receipt, storage and sale of bulk goods for resale, including outside storage of liquid fuels. (Adopted March 10, 1992)

(Section Amended March 14, 2006)

SECTION XIV
PENALTIES

Whoever violates any provision of this ordinance shall be subject to a civil penalty not to exceed the maximum penalty permitted by State law for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the Town of Swanzey that the violator is in violation, whichever is earlier. (Amended March 9, 2004)

SECTION XV
ENFORCEMENT

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.

SECTION XVI
VALIDITY

The invalidity of any section of this Ordinance shall not invalidate any other section or provision hereof.

SECTION XVII
AMENDMENT

The provisions of this Ordinance may be amended or changed at any regular or special Town Meeting by a majority of the voters present as provided by law.

SECTION XVIII
EFFECTIVE DATE

This Ordinance shall take effect upon its passage. (Adopted September 8, 1947)