LAND USE AND ZONING ORDINANCE

Town of Danbury, New Hampshire

PREAMBLE

The Danbury Master Plan goals give priority to a "well-balanced land use pattern" and "to maintain the town's uncrowded rural and village character." This ordinance is designed by the people of Danbury to develop town-wide land use standards based on design principles, carrying capacity, equal treatment, and citizen participation. We value the town's beauty and spaciousness, and cherish our Yankee independence, and we seek to work out conflicts between those two values. We desire to plan a livable and sustainable community that meets both the needs and the responsibilities of the town. We want to build our town's future according to a shared vision that balances public needs and individual freedoms.

ARTICLE 1. TITLE

1.1. This ordinance shall be known as the "Danbury Land Use and Zoning Ordinance."

ARTICLE 2. PURPOSE, INTENT, & AUTHORITY

2.1. ***This ordinance is established to implement the Danbury Master Plan and all amendments thereto, and generally to achieve and further the purposes of RSA 672:1, RSA 674:16, and RSA 674:17, as they may be amended from time to time, and which are incorporated into this ordinance by reference.*** The Town of Danbury hereby determines that a Land Use and Zoning Ordinance is an appropriate land use planning and regulatory mechanism to promote the health, safety, and welfare of the town. This ordinance is intended to retain, protect and enhance the beauty and rural and historical atmosphere of the town; to protect property values; to conserve energy and natural resources; to provide adequate light and air and solar access; to prevent crowding, congestion, pollution, hazards, and sprawl; to preclude future costs of correcting unhealthy and overcrowded development; to allow for adequate provision of services to and for the town and its residents; and to encourage and promote historic preservation, conservation, sustainable economic development and a sound economic base.

2.2. This ordinance is adopted by official ballot at the Danbury Town Meeting on March 12, 2002, pursuant to the enabling statutes of the State of New Hampshire, RSA Title LXIV, Planning and Zoning.

2.3. The intent of this ordinance is to identify and enumerate the uses of land and property permitted in Danbury as a matter of right or as a special exception; to specify the conditions under which such uses are permitted, and the regulations applicable thereto; to facilitate appropriate uses of land, and to assure that land which is developed is suitable for the development; and to establish the minimum requirements necessary for the development and use of property in the town.

2.4. This ordinance is intended to affirm and to facilitate the use of conservation and historic preservation easements to protect and sustain the values, uses, productivity, and enjoyment of farm and forest properties and natural, built, and archaeological resources within the town.

2.5. It is the intent of the Town of Danbury that local governmental land uses shall be subject to this ordinance, notwithstanding any exemptions in state statutes or case law.

ARTICLE 3. VALIDITY & APPLICABILITY.

3.1. The provisions of this ordinance shall be the minimum regulation applicable to property in Danbury. If any provision of this ordinance conflicts with any other provision of it, or with any ordinance or regulation adopted by the town, or with any applicable state or federal law or regulation, the provision which establishes the higher standard shall take precedence. However, nothing in this ordinance shall require disturbance to, alteration of, or interference with historic or prehistoric sites or architectural or archaeological remains.

3.2. This ordinance shall apply to all land, uses, buildings, structures, and lots within the town.

3.2.1. ***Any existing use or structure legally in existence and in use at the time of adoption of this ordinance or of an amendment to it, which is rendered non-conforming by the ordinance or amendment, may continue to exist unchanged, subject to Article 9.***

3.2.2. ***A pre-existing, non-conforming lot as defined in this ordinance may continue to exist as a separate lot; its use or development shall be subject to Article 9.***

3.3. Unless otherwise stated, or unless otherwise required by the context, any reference to a statute, law, regulation or code in this ordinance shall be deemed to include any future amendments made to such statute, law, regulation or code.

3.4. All buildings, structures, manufactured housing, pre-site built housing, and mobile dwellings in the Town of Danbury shall be erected, altered, demolished, moved, relocated, or used, and property shall be used or occupied, in conformance with the provisions of this ordinance.

3.4.1. No person shall erect any permanent structure or building, or any membrane-and-rib structure, or locate any storage unit, manufactured housing, pre-site built housing, or mobile dwellings, or locate recreational vehicle (RV) in the Town of Danbury without obtaining a building permit as required by the Town of Danbury Building Ordinances. This requirement does not apply to the exemptions listed in 3.4.2.

3.4.1.1 An RV can be used as temporary housing on a lot <u>with</u> a dwelling for a period of no more than thirty (30) days in a twelve month period. An extension of up to 90 days total may be granted by the Board of Selectmen upon application and documentation of proper septic disposal.

3.4.1.2 The owner of a lot of record without a dwelling is permitted to use an RV as his or her seasonal residence on the property for up to one-hundred-eighty (180) days in a twelve month period. A state approved and installed septic system is required.

3.4.1.3 An RV can be used as a temporary residence for up to three-hundred-sixty (360) days by the property owner of record or employee of the property owner during construction of a dwelling on the lot of the property owner. An approved building permit for the permanent structure must ~~also~~ be obtained prior to the issuance of a building permit for the RV. An extension beyond the 360 days can be considered by the Board of Selectmen provided the property owner can demonstrate that actual construction of the permanent structure is underway.

3.4.1.4 A storage unit may be placed on a property to be used as a temporary structure for up to one-hundred-eighty (180) days, and must meet all setbacks.

3.4.1.5 A storage unit that is intended to be used as a permanent structure must meet all setbacks and requires a building permit.

3.4.**2**. Exemptions: the provisions of this ordinance shall not apply to dog houses, children's tree houses or playhouses, and individual campers or travel trailers not used for on-site habitation and incidentally parked at a residential property for the convenience of the owner, tenants, or guests.

3.4.**3.** Temporary non-dwelling structures, to house tools, equipment, or office space during construction for a principal structure or use of a property, shall obtain a building permit and meet the setback requirements of this ordinance, but do ***NOT*** require a special exception permit or site plan review approval as described in Article 10.

3.5. Temporary emergency dwellings: in response to emergencies resulting from casualty destruction or damage to a permanent dwelling, the Selectmen may issue a permit for placement of a temporary dwelling on the lot of, or a lot owned by the owner or tenant of, the destroyed or damaged dwelling, for a period of not more than twelve (12) months, subject to renewal for good cause for an additional period of twelve (12) months. The application for a temporary emergency dwelling permit is to be submitted to the Board of Selectmen, in a form as they may specify; and their approval may be made subject to such conditions as may be required to meet applicable local, state, and federal health and safety requirements. A fee scale for such permits may be established by the Selectmen pursuant to a public hearing.

3.6. Development and construction of any kind are subject to the ordinances and regulations as may be in effect in the town from time to time.

3.7. Land use activity may not alter the location of or remove any roadside stone wall which was made for the purpose of marking the boundary of, or which borders, any public road in the Town of Danbury, except upon written consent of the Board of Selectmen, or the Planning Board, or the New Hampshire Department of Transportation.

3.7.1. Exemptions: driveways and points of access approved by appropriate state or local authorities.

3.8. A public right of way which traverses a parcel, such as a road or a utility corridor or easement, shall not be considered to be a natural boundary dividing the underlying property.

ARTICLE 4. PROCEDURES FOR AMENDMENT OR REPEAL

4.1. This ordinance may be amended or repealed by approval of a majority of voters present and voting by ballot at any legal (annual or special) Town Meeting; the amendment or repeal may be proposed by the Planning Board or Board of Selectmen, or by petition of the necessary number of voters, in accordance with procedures set forth in RSA 675:3, as it may be amended from time to time.

ARTICLE 5. SEVERABILITY

5.1. The invalidity of any provision of this ordinance shall not affect the validity or enforceability of any other of its provisions.

5.2. Repeal or invalidation of this ordinance or any portion of it shall not abrogate or annul any lawful approval, permit, easement or covenant hereunder.

ARTICLE 6. EFFECTIVE DATE

6.1. This ordinance shall take effect upon its passage, effective March 12, 2002.

ARTICLE 7. OVERALL HEALTH & SAFETY CRITERIA

7.1. In exercising their decision-making authority under this ordinance, the respective land use boards, including the Board of Appeals and the Planning Board, the administrative officials charged with enforcement, and any other jurisdictional land use boards or bodies as may be established by state statutes or town ordinances, shall not approve or permit any proposal or activity if the Board having jurisdiction finds that the proposal or activity will cause hazard to health, safety, or the general welfare of abutters or of the general public.

7.2. In making decisions relating to this ordinance, the jurisdictional boards and officials shall be guided by and comply with the provisions of RSA 672:1, as it may be amended from time to time.

ARTICLE 8. GENERAL GUIDELINES

8.1. Premature subdivision of land that is of such character or location as to involve danger or injury to health, safety, or prosperity of the town, by reason of lack of water supply, drainage, transportation or other public services, or necessitate an excessive expenditure of public funds for the supply of such services, shall not be permitted.

ARTICLE 9. NON-CONFORMING USES, BUILDINGS, STRUCTURES, & LOTS

9.1. Protection of pre-existing uses: All non-conforming properties legally in existence and in use when this ordinance is adopted may continue indefinitely in their present use, so long as the continuation does not present a danger to health, safety, and welfare of persons or property or the Town of Danbury.

9.2. In determining whether a particular activity is a protected non-conforming use, the following tests must be considered:
(1) to what extent does the activity reflect the nature and purpose of the lawful pre-existing non-conforming use?
(2) is the activity merely a different manner of conducting the same use, or is it different in character, nature, and kind from the existing non-conforming use? (3) does the activity have a substantially different impact on the neighborhood?

9.3. A non-conforming property may be altered in conformance with the general provisions of this ordinance; the height resulting from alterations shall not exceed the existing limits as defined in Article 11; and the use of such property may be altered in purpose, if a special exception permit is granted by the Board of Appeals.

9.4. A pre-existing residential use or structure (including associated ells, connectors, sheds, and barns) that does not conform with dimensional requirements of this ordinance may be expanded, or may be rebuilt after a disaster or casualty, without a special exception permit, so long as the expansion or reconstruction does not increase the non-conformity.

9.5. Non-conforming property which is abandoned, discontinued, or partially or totally destroyed by reason of obsolescence, fire, or other disaster or casualty, may be restored, rehabilitated and operated if the use is reactivated or the work is substantially completed within twenty-four (24) months of the destruction or interruption in use, subject to the other provisions of this article and this ordinance. A longer period for restoration, rehabilitation, or reactivation may be approved by special exception permit, in accordance with Article 10.

9.6. A non-conforming lot of record, which was a legal lot at the time it was created, shall remain a buildable lot, subject to: 9.6.1. State approval of a septic design for the parcel, and the availability of a safe and adequate water supply that conforms to State standards;
9.6.2. Whether the proposed building can meet setback requirements as provided in Article 11.

ARTICLE 10. SPECIAL EXCEPTIONS, SITE PLAN REVIEW, & VARIANCES

10.1. **SPECIAL EXCEPTION CONDITIONS:** Exceptions to the terms and conditions of this ordinance may be granted special exception permits by the Board of Appeals, upon submission of application materials as determined by the board; provided, however, that the following regulations and restrictions shall be observed and complied with:

10.1.1. No ventures or uses shall be permitted which the Board of Appeals determines are likely to cause a hazard or nuisance, or to endanger health, safety, or property values, or to be offensive to abutters or to the public because of fire, noise, vibration, traffic, unsanitary or explosive or hazardous conditions, toxins, pollution, water quality degradation, noxious odor, smoke, dust, waste material, litter, or other emissions or nuisances.

10.1.2. In order to grant a special exception permit, the Board of Appeals must determine that the area proposed for the use is appropriate and capable of supporting the use, and it must also determine that the proposed use will be in harmony with the purposes and intent of the Danbury Land Use and Zoning Ordinance and the Danbury Master Plan; that it will be in the public interest; that it will not overburden municipal facilities serving the proposed use; and that it will not be or cause a detriment to abutters, to the neighborhood and to the surrounding environment.

10.1.3. The Board of Appeals may attach specific conditions and standards to its approval of special exception permits.

10.1.4. Provided all conditions and standards of approval are met, a special exception permit shall run with the land and shall be binding upon the property owner, and/or to the owner's tenants or lessees, and their successors and assigns.

10.1.5. Non-compliance with the terms and conditions of the special exception permit shall be a violation, as provided by Section 19.3.

10.2. **SITE PLAN REVIEW:** As provided by RSA 674:43, as it may be amended from time to time, the Planning Board is authorized to review and approve or disapprove site plans for the development or change or expansion of use of tracts for non-residential uses, or for any structures containing more than two dwelling units, or for multi-unit seasonal and transient accommodations, including campgrounds, whether or not such development includes a subdivision or resubdivision of the site. In conducting its site plan review authority, the Planning Board shall adopt site plan review regulations in accordance with RSA 674:44, as it may be amended from time to time.

10.2.1. In accordance with RSA 676:44, as it may be amended from time to time, the site plan review regulations shall provide for the safe and attractive development, and change and expansion of use of land, and guard against such conditions as would involve danger or injury to health, safety, or prosperity, including those which might prove harmful to persons, structures, or adjacent properties; and they shall provide for the harmonious and aesthetically pleasing development of the town and its environs.

10.3. **VARIANCES:** Any landowner who believes that the impact of this ordinance upon a particular piece of his or her property is so severe as to constitute an inverse condemnation, in violation of the state and federal constitutions, may apply for relief in the form of variance, using procedures established by the Board of Appeals.

10.3.1. In order to approve a variance, the Board of Appeals must find that all of the following conditions are met, according to RSA 674:33, I.(b), as it may be amended from time to time: (1) the variance would not be contrary to the public interest; (2) special conditions must exist so that literal enforcement of the provisions of the ordinance will result in unnecessary hardship; (3) granting the variance would be consistent with the spirit and intent of the Danbury Land Use and Zoning Ordinance; (4) by granting the variance substantial justice would be done; and (5) granting the variance would not diminish the values of surrounding properties.

10.3.2. Applicants for a variance may establish "unnecessary hardship" by proof that: (1) a zoning restriction as applied to the applicant's property interferes with its reasonable use of the property, considering the unique setting of the property in its environment; (2) no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property; and (3) the variance would not injure the public or private rights of others. The "hardship" must be unique to the property, and not attributable to any action of the owner, or to the owner's financial situation.

10.4. **REVIEWS AND APPROVALS BY LAND USE BOARDS:** In exercising their decision-making authority under this ordinance and acting upon applications for variances, special exception permits, site plan reviews, and other authorities conferred by this ordinance, the respective land use boards and officials, including the Board of Appeals and the Planning Board, the administrative officials charged with enforcement, and any other jurisdictional land use boards or bodies as may be established by state statutes or town ordinances, may:

10.4.1. Request reports and recommendations regarding the feasibility of the applicant's proposal from other town land use boards, the Board of Selectmen, the fire chief, the police chief, the building inspector, the health officer, the road agent, and other administrative officials who may possess information concerning the impact of the proposal on the town or the area or parcels affected; and,

10.4.2. Seek advice from governmental, technical, professional, educational, cultural, or other groups or persons as may be deemed necessary for the determination of a reasonable decision.

10.4.3. If the jurisdictional land use board deems it necessary, the applicant shall, at its own expense, provide an accurately documented environmental and economic impact statement as a requirement for a completed application. Such statement may require documentation on drainage, erosion, forest productivity, land use, ground and surface water quality, air quality, traffic safety, public services, and any other factors that could impact the short and long term well being of the people of Danbury.

10.4.4. When required by the jurisdictional land use board, the impact statement shall be independently reviewed by a separate party approved by the board, at the expense of the applicant.

10.4.5. When two or more local land use boards have jurisdiction or responsibility for actions or for approvals of applications or permits relating to this ordinance, they may hold joint meetings or hearings in conformance with RSA 676:2, as it may be amended from time to time.

10.4.6. The Board of Appeals and the Planning Board may establish expedited procedures for considering special exception permits and site plan reviews, respectively, for small-scale, minor, or uncomplicated projects, that are defined by regulations adopted by the appropriate board under RSA 675:6, as it may be amended from time to time.

10.4.7. In making decisions relating to this ordinance, the jurisdictional boards and officials shall be guided by and comply with the provisions of RSA 672:1, as it may be amended from time to time.

ARTICLE 11. SINGLE TOWNWIDE RURAL DISTRICT & VILLAGE OVERLAY AREAS

11.1. **PURPOSE**: For the purpose of regulating the use of land and the location, construction, and rehabilitation of buildings and structures, the Town of Danbury is a single rural district with the following regulations and restrictions.

11.1.1. The boundaries between overlay areas shall be, unless otherwise shown on the official land use map and/or described herein, parcel boundary lines and the centerlines of highways, roads, streets, alleys, and waterways, or such lines extended.

11.1.2. A building, structure, residence, manufactured housing or presite built housing shall meet all of the area and dimensional requirements of this ordinance, except as provided by variance, special exception permit, or site plan review approval.

11.2. **PRINCIPAL & ACCESSORY USES**:

11.2.1. Only one principal non-residential structure or use shall be located on a lot; it may have accessory structures and incidental uses, in conformance with this ordinance and applicable regulations.

11.2.1.1 No more than two separate single-family residential buildings (one primary and one secondary, such as a guest house or "in-law cottage") may be located on one lot, but both residences must meet state and town setback, water supply, waste disposal, and all other building requirements, and the shared parcel must be demonstrated to be capable of being subdivided into two separate lots. Either or both dwellings may have accessory structures and incidental uses, in conformance with this ordinance and applicable regulations.

11.2.2. Two dwelling units for permanent residents shall be the maximum allowable in any one given residential building. An exception may be made through the special exception permit procedure, in accordance with Article 10 of this ordinance, for the following institutional and multi-unit residential uses, which may have more than two dwelling units per building: congregate housing for elderly people, nursing and convalescent homes, community living dwellings for persons with disabilities, and multi-unit seasonal and transient accommodations. Site plans for all such institutional and multi-unit residential uses are subject to approval by the Planning Board, exercising its subdivision and/or site plan review authority.

11.2.2.1. The number of dwelling units or lots in a multi-unit development or subdivision, shall not be greater than the number of units or lots that would be lawful if the parent parcel were wholly subdivided in a conventional manner. The possible number of conceptual conventional lots shall be determined with the use of Site Specific Soil Mapping; each conceptual conventional lot must meet the requirements of a buildable lot as defined in the Danbury Land Use and Zoning Ordinance and meet all other applicable requirements of the Land Use and Zoning Ordinance and Danbury Subdivision Regulations.

11.2.2.2. As provided by Section 20.2. for active agricultural and forestry uses, on-premises housing units for owners and/or workers are allowed throughout the town, subject to Article 7. More than two units per

dwelling and more than two dwellings per parcel may be approved for active agricultural and forestry uses by special exception, as provided by Article 10.

11.3. **ALLOWABLE USES:**

11.3.1. One-family and two-family dwellings.
11.3.2. Accessory uses.
11.3.3. Seasonal and transient accommodations may be allowed by special exception, in accordance with Article 10.
11.3.4. Cemeteries, schools, museums, educational facilities.
11.3.5. Governmental uses and public utilities.
11 3.6. Parking facilities necessary to serve allowable uses.
11.3.7. Storage in existing buildings.
11.3.8. Agricultural and forestry uses, in conformance with Section 11.8.
11.3.9. Home occupations, home-based enterprises and cottage industry, in conformance with Section 11.9.
11.3.10. Home products and produce, and agricultural and forest products and services may be bought and sold and exposed for sale, so long as such activity conforms to the provisions of Section 7.1.
11.3.11. Home-based child care, as defined by RSA 672:1, V-a., as it may be amended from time to time, may be conducted in conformance with this ordinance and applicable local, state, and federal regulations.
11.3.12. Congregate housing for elderly people, nursing and convalescent homes, community living dwellings for persons with disabilities, and multi-unit seasonal and transient accommodations may be allowed by special exception permit, in accordance with Article 10, subject to the provisions of this ordinance and applicable local, state, and federal regulations.
11.3.13. Excavations may be permitted, subject to state law and local regulation.
11.3.14. Business, professional, technical, trades, arts and crafts, small-scale commercial, light industrial, and low-impact educational, recreational, lodging, institutional, health-care, religious uses, and tourist information centers, may be allowed by special exception permit, in accordance with Article 10., subject to the provisions of this ordinance and applicable regulations.
11.3.14.1. All such uses are subject to approval by the Planning Board, exercising its site plan review authority.
11.3.14.2. All such uses are to be located so that they will not encourage, cause, or intensify dispersed isolated or low-density development, also known as "sprawl," which is characterized by automobile dependency and may be expressed by strip shopping centers, or office or manufacturing parks.

11.4. **VILLAGE OVERLAY AREAS**: These areas are meant to be the town's centers of civic, commercial, social and religious activity, and its areas of higher-density residential use. The preferred location of new commercial uses is in the village areas; their design should be compatible with and supportive of the villages' historic scale and character.

11.4.1. Uses allowed without a special exception permit:
11.4.1.1. Uses listed in Section 11.3 that do not require a special exception permit.
11.4.2 Uses allowed with a special exception permit:
11.4.2.1. Seasonal and transient accommodations with fewer than twelve sleeping rooms.
11.4.2.2. Business, professional, personal service, technical, trades, arts and crafts, entertainment, recreation, food service, commercial, construction, and light industrial uses, if in structures having a footprint no greater than 10,000 square feet.
11.4.2.3. Religious buildings and community buildings, if in structures having a footprint no greater than 10,000 square feet.
11.4.2.4. Congregate housing for elderly people, nursing and convalescent homes, community living dwellings for persons with disabilities, and multi-unit workforce housing, multi-unit clustered residential developments, and multi-unit seasonal and transient accommodations may be allowed by special exception permit, in accordance with Article 10, subject to the provisions of this ordinance and applicable local, state, and federal regulations.
11.4.3. Other uses, of a scale and nature as may be found in small-scale, pedestrian-oriented traditional village centers, may be allowed by special exception permit, in accordance with Article 10.
11.4.4 All such uses are subject to approval by the Planning Board, exercising its site plan review authority.

11.4.5. All such uses are to be located so that they will not encourage, cause, or intensify dispersed isolated or low-density development, also known as "sprawl," which is characterized by automobile dependency and may be expressed by strip shopping centers, or office or manufacturing parks.

11.4.6. **VILLAGE AREA BOUNDARIES**:

11.4.6.1 **Danbury Village Area**

Beginning at the intersection of Bog Brook and the centerline of NH Route 104, traveling easterly along the centerline of NH Route 104 to the point at the intersection of the centerlines of NH Route 104 and Ragged Mountain Road; then turning southerly and running along the centerline of Ragged Mountain Road to a line parallel to the centerline of NH Route 104 and 500 feet southerly from it; then turning and running westerly along that line parallel to and 500 feet southerly of the centerline of NH Route 104, crossing US Route 4 and continuing to a point 500 feet west of the centerline of US Route 4; then turning and running northerly along a line parallel to the centerline of US Route 4 and 500 feet westerly from this centerline, to a point 500 feet south of the centerline of lower High Street then following a line parallel to and 500 feet southerly of the centerline of lower High Street, to the centerline of Old Turnpike Road; then turning northward along the centerline of Old Turnpike Road to the point at the intersection of the centerlines of Old Turnpike Road and High Street, then running northerly along the centerline of upper High Street as the street bends northerly of the intersection, and running to a point parallel to the centerline of lower High Street and 500 feet northerly of it, then turning easterly along that line 500 feet northerly of and parallel to the centerline of lower High Street, crossing US Route 4 and continuing to a point 500 feet east of the centerline of US Route 4; then turning southerly along a line parallel to the centerline of US Route 4 and 500 feet easterly from this centerline; then turning easterly and continuing easterly along a line parallel to and 500 feet northerly of NH Route 104 to Bog Brook, then turning and running southerly along the centerline of Bog Brook to the place of beginning. Meaning and intending to define a strip of land 1000 feet in width extending equally on both sides of the centerline, for 500 feet northerly and southerly of lower High Street and NH Route 104, and 500 feet easterly and westerly of US Route 4, between the Old Turnpike Road and upper High Street (at the west), Bog Brook (at the east, north of NH Route 104) and Ragged Mountain Road (at the east, south of NH Route 104).

11.4.6.2. **South Danbury Village Area**: Beginning at the intersection of the centerline of US Route 4 and the Wilmot town line, then westerly along the town line to the centerline of Frazier Brook; then northerly along the centerline of Frazier Brook to the intersection with Beverly Brook; then easterly along the centerline of Beverly Brook to a point at a distance of two hundred (200) feet east of the centerline of US Route 4; then southerly along a line parallel to and two hundred (200) feet east of the centerline of US Route 4 to the Wilmot town line; and westerly along the town line to the point of beginning.

11.5. **LOT AREA:** Each lot hereinafter created by subdivision shall conform to and have a minimum contiguous parcel area, in order to assure such area as is needed for on-site sanitary facilities and water supply, and to minimize congestion, not less than the following minimum areas:

11.5.1. Single lot:

11.5.1.1. Village areas: Not less than one (1.0) acre minimum.

11.5.1.2. Rural district: Not less than two (2.0) acres minimum.

In a multi-unit or multi-parcel development or subdivision, smaller individual lot sizes may be permitted subject to the requirements of 11.2.2.1, which provides that the number of units or lots in a multi-unit development or subdivision shall not be greater than the number of units or lots that would be lawful if the parent parcel were wholly subdivided in a conventional manner.

11.5.2. Wetlands, surface waters, floodplain soils, very poorly drained soils, shallow to bedrock soils, rock outcrops, areas with slopes over twenty-five percent (25%), streets and roads, rights-of-way, utility easements and land dedicated to uses other than conservation or historic preservation may be included within lot boundaries, but shall not be included in calculating any part of the minimum lot size.

11.5.3. For lots served by on-site septic systems, the applicant must demonstrate that site conditions and land area are adequate for installation of a replacement sewage disposal system should the original sewage disposal system malfunction or fail.

11.5.4. An undersize lot may be built upon, if it was in existence on the date of adoption of this ordinance, subject to the requirements of Article 9.

11.5.5 Lots acquired by the Town of Danbury may be offered for sale after written notification to abutters and publication in a newspaper of general circulation.

11.6. **LOT FRONTAGE:** Each lot shall have the following minimum amounts of frontage on a public right-of-way, or on a private right-of-way, driveway, road or street meeting town standards and approved by the Planning Board:

11.6.1. Village areas: Not less than one hundred (100) feet.

11.6.2. Rural district: Not less than two hundred (200) feet.

11.6.3. Roads and streets shall be logically related to the topography so as to produce usable lots.

11.6.4. Lots with frontage solely on a Class VI roadway shall not be permitted.

11.6.5. Any proposed subdivision with a private right-of-way, road or street shall be subject to the following "Road Liability Disclaimer" statement, which is to appear on the subdivision plans: "The Town of Danbury neither assumes responsibility for maintenance nor liability for damages resulting from the use of any Class VI or Private Road, shown on any final plat as the access to the property."

11.6.6. All private rights-of-way, roads, or streets shall be built in conformance with Town of Danbury standards and requirements.

11.7. **SETBACKS & MAXIMUM HEIGHTS:** There shall be observed the following setbacks in the construction of new buildings or structures, or in the rehabilitation or relocation of existing ones, unless a greater or lesser setback is established by custom, by other ordinances, or in order to align with adjacent or nearby existing buildings; or, to preserve significant natural or historical or archaeological features, or to provide visual buffering from the public way and from abutting properties, if recommended by the Planning Board, and if the Board of Appeals finds no detriment or nuisance to abutters and to the neighborhood and to the surrounding environment, or to the attractiveness of the town:

11.7.1. Minimum distance between a street or road right-of-way and any building shall be 30 feet.

11.7.2. Minimum distance from a lot sideline to any building shall be 20 feet.

11.7.3. Minimum distance from a lot rear line to any building shall be 20 feet; providing, however, that a small detached accessory building may, as a special exception, be approved to within 15 feet of a lot rear line, upon a finding of no detriment to the neighborhood.

11.7.4. Maximum height of any building shall be 35 feet, with determination being the vertical distance from the average finished grade surrounding the building to a point at the highest point of the highest roof. Silos, barns, parts of buildings designed exclusively for agricultural uses, and religious uses are excepted, as are cupolas, weathervanes, lightning protection, chimneys, and utility poles, residential television, radio, or telecommunications antennas, and amateur radio antennas.

11.7.5. Accurate reconstruction on its original site of a historic building or structure damaged or destroyed by fire, weather, or other calamity is also exempt from the maximum height requirement of Section 11.7.4. Requirements relating to non-residential and non-amateur telecommunications facilities are included in Article 14., "Telecommunications."

11.7.6. In extenuating circumstances related to unique circumstances of the parcel, a deviation of 25 percent (25%) may be allowed for side and rear setbacks of principal structures; but only if recommended by the Planning Board, and if the Board of Appeals finds no detriment or nuisance to abutters and to the neighborhood and to the surrounding environment, or to the attractiveness of the town.

11.7.7. Setbacks in waterfront areas shall conform to the State of New Hampshire "Shoreland Protection" statutory requirements of RSA 483-B, and related rulemaking, as they may be amended from time to time.

11.7.8 Septic and well setbacks and cemetery setbacks shall conform to state and local standards, statutes and regulations. Dimensional requirements and setbacks may not extend onto abutting parcels, except in clustered residential developments when approved by the Planning Board, exercising its subdivision review and approval authority.

11.8 **AGRICULTURAL USE CONDITIONS**: "Agricultural use" shall be as defined by RSA 21:34-a, RSA 432, and RSA 672:1, as they may be amended from time to time. Any such uses are permitted, subject to applicable provisions of this ordinance, and so long as such activity conforms to the provisions of RSA 432 and Article 7. Agricultural activities in addition to the production, storage, and sale of food and fiber may be treated as "accessory uses" defined in Section 20.2., unless the provisions for a "home occupation, home-based enterprise or cottage industry" as delineated in Section 11.9. would be less restrictive for the agricultural activity or use.

11.8.1. In making decisions relating to agriculture and forestry, the jurisdictional boards and officials shall be guided by and comply with state "Right to Farm" and state forestry statutes.

11.9. **HOME OCCUPATIONS, HOME-BASED ENTERPRISE & COTTAGE INDUSTRY CONDITIONS**: Home occupations, home-based enterprises and cottage industries are allowed and encouraged, subject to the following provisions:

11.9.1. A home-based occupation is allowed in any district or overlay area, subject to the following requirements:

11.9.1.1. The activity must be conducted by owners or residents of the premises. Employment of persons other than household members shall be limited by compliance with the performance standards of this section.

11.9.1.2. The activity must be clearly incidental and subordinate to the primary use of the premises as a residence and must not change the residential character of the premises or the surrounding neighborhood.

11.9.1.3. On-site sewage disposal from the business, profession, or trade shall not exceed ten (10) gallons per day per 1,000 square feet of lot area, based on regulations of the NH Department of Environmental Services.

11.9.2. Any existing home occupation or home-based enterprise, or cottage industry legally in existence and in use at the time of adoption of this ordinance or of an amendment to it, which is rendered non-conforming by the ordinance or amendment, may continue to exist unchanged, subject to Article 9.

11.9.3. A new cottage industry or use established after the adoption of this ordinance shall be permitted if the Board of Appeals finds that it will meet the provisions of Article 10. and the following requirements:

11.9.3.1. The activity must be conducted by owners or residents of the premises. Employment of persons other than household members shall be limited by compliance with the performance standards of this section.

11.9.3.2. The activity must be clearly incidental and subordinate to the primary use of the premises as a residence and must not change the residential character of the premises or the surrounding neighborhood.

11.9.3.3. On-site sewage disposal from the business, profession, or trade shall not exceed ten (10) gallons per day per 1,000 square feet of lot area, based on regulations of the NH Department of Environmental Services.

11.9.3.4. The cottage industry may take place in part outside of an enclosed structure, as well as within the enclosed interior of the dwelling and/or within an accessory building on the premises.

11.9.3.5.The special exception permit shall authorize the use for an initial period not exceeding three years, with continuation beyond that period to require certification for each succeeding three-year period, by the officer or officials authorized to enforce this ordinance, that the use continues to comply with the criteria of this section.

11.9.4. The distinctive nature of a home occupation, home-based enterprise, or cottage industry (a more intensive use that a home occupation or home-based enterprise) is that it is incidental and subordinate to the principal use of a residence as a dwelling on a residential property. Other business-related uses are allowed or permitted as primary uses as provided in Sections 11.2, 11.3, and 11.4.

11.10. **CLUSTER RESIDENTIAL DEVELOPMENT** (*adopted by ballot on March 11, 2003)*

11.10.1. Statement of Purpose

11.10.1.1. The purpose of this article is to provide a flexible alternative to conventional development, which will discourage development sprawl and encourage keeping large parcels of open space. This permits greater flexibility in design and facilitates the economical and efficient provision of public services; provides a more efficient use of land in harmony with its natural characteristics; preserves more open space, agricultural and forest land, tree cover, recreation areas and scenic vistas.

11.10.1.2. In cluster developments, rather than subdividing the parcel into house lots which meet the minimum requirements, the dwelling units may be clustered on lots of reduced dimensions for the purpose of preserving a minimum of fifty percent (50%) of the tract as common land.

11.10.1.3. The remaining land in the parcel is not to be developed and is permanently reserved as common land. Common land is not to be developed, subdivided or have buildings placed upon it, and a permanent conservation easement deed describing these conditions shall be recorded at the Merrimack County Registry of deeds prior to Planning Board approval being given or construction beginning. Common land may be owned by a Homeowner's Association, an individual or other legal entity and will be open to all property owners in the development for recreational purposes.

11.10.1.4. Common land may also be described as "common area" or "common open space".

11.10.2. Definitions: The following definitions apply specifically to this Section of the Land Use and Zoning Ordinance:

11.10.2.1. Buffer: This means an area within a property or site, generally adjacent to and roughly parallel with the

property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, landscape features, and/or berms, designed to limit continuously the view of and/or sound or lighting from the site to adjacent sites or properties.

11.10.2.2. Cluster Subdivision: A residential subdivision of a tract of land where housing units are grouped on lots of reduced dimensions. The remaining land in the tract is reserved as permanently protected open space, referred to as common land.

11.10.2.3. Common Land: Land within or related to a cluster residential development, which is designed and intended for the common use or enjoyment of the residents of the development and/or the public, it may contain such improvements as are necessary and appropriate for recreational, agricultural or forestry purposes but may not be further subdivided or built upon. Common land shall not be eligible for current use assessment unless it is open to the public for recreational purposes.

11.10.2.4. Developable Land: The developable land area is that acreage of the tract remaining after deducting the wetlands and slopes in excess of twenty-five percent (25%).

11.10.2.5. Home Owners Association: A private nonprofit association which is organized by the developer of a cluster residential development in which individual owners share common interests in open space and/or facilities and are in charge of preserving, managing and maintaining the common property, and which enforces certain covenants and restrictions.

11.10.2.6. Non-contiguous Land: Land which is located in Danbury, but not a part of the tract which is the subject of the development proposal, which is being considered as a part of the Common land to fulfill the density requirements for the proposal.

11.10.2.7. Permanent Conservation Easement: A legal document recorded at the Merrimack County Registry of Deeds, which permanently prohibits the subdivision or development of a parcel of land and prohibits the placing of buildings upon it. This does not prohibit timber harvesting, recreational use or agricultural uses of the land.

11.10.2.8. Tract: An area, parcel, site, piece of land, or property which is the subject of a development proposal and applications.

11.10.3. Review Criteria: A cluster residential development proposal is subject to approval by the planning board, and subject to the provisions of the site plan review regulations, subdivision regulations and all other regulations, ordinances or statutes as appropriate. The planning board shall give particular consideration to the following criteria:

11.10.3.1. That the proposed development will be consistent with the general purpose, goals, objectives and standards of the town's master plan.

11.10.3.2. That the individual lots, buildings, streets, parking areas and utility infrastructures shall be designed and situated to minimize alteration of the natural site features

11.10.3.3. The suitability of all cluster open space intended for recreation use or other specified uses shall be determined by the size, shape, topography and location for the particular purpose proposed, and shall be accessible to all residents of the cluster development.

11.10.3.4. Tract Area: A cluster development tract shall be at least ten (10) acres in the rural district and five (5) acres in the village areas.

11.10.3.5. Permitted Uses: Cluster development shall be restricted to residential and home occupation uses. The Planning Board may allow commercial development by the issuance of a special permit.

11.10.3.6. Permitted Density: The permitted density in the development is one hundred and twenty five percent (125%)of the number of dwelling units and/or lots allowable using the net developable land available if developed using the conventional lot requirements for the zoning district in which the cluster development is proposed.

11.10.3.7. Common Area: The amount of common area in cluster developments shall be the amount saved by reduction in lot sizes but shall at a minimum equal fifty percent (50%) of the area of the tract. The acreage of the tract which is wetlands and/or steep slopes may be considered for up to twenty five percent (25%) credit per acre as common area but that total credit may not exceed twenty five percent (25%) of the common area acreage.

11.10.3.8. Non-contiguous Land: The Planning Board may consider the inclusion of non-contiguous land as common area in determining the density of the development. Non-contiguous land which is wetlands or

steep slopes (in excess of 25%) may be included but may not exceed twenty five percent (25%) of the total acreage of the non-contiguous land. The Planning Board may require as much as twenty five percent (25%) more acreage in the non-contiguous parcel if it is determined that the land is not of comparable value to the developed land because of location, topography, access, road frontage, soils, slopes or other economic values.

11.10.3.9. Buffer Zones: A buffer zone having a minimum depth of fifty (50) feet shall be provided between any structure and the perimeter of the tract. No structure will be permitted within the buffer zone. Primary roads are permitted to cross the buffer, but no collector or service roads or parking areas shall be permitted within the designated buffer area.

11.10.3.10. Lot Size: The minimum lot size for individual building lots within clusters shall be determined by the planning board and negotiated between the board and the developer in the interest of encouraging flexibility in site design, and the preservation of open space.

11.10.3.11. Frontages: The road frontage for individual building lots within clusters shall be as determined by the planning board and negotiated between the board and developer in the interest of encouraging flexibility in site design.

11.10.3.12. Roads: All roads shall be designed and constructed in accordance with town road standards, except that the planning board may approve reductions in the required right-of-way widths and roadbed widths. Roads within cluster developments may be privately owned and maintained by the homeowners association.

ARTICLE 12. SIGNAGE & OUTDOOR ADVERTISING

12.1. For the purpose of this ordinance, outdoor signage and advertising may be permitted subject to the following regulations:

12.1.1. Except as provided otherwise in 12.1.1. ("Exemptions"), no sign or advertising device shall be erected or placed in the public right of way.

12.1.2. Exemptions:

12.1.2.1. Signs located on private property, indicating the existence of private property, and/or forbidding trespass or other activities on the property.

12.1.2.2. Signs located on private property and intended to regulate or guide activities within the property, even though such signs may be incidentally visible from outside the property.

12.1.2.3. Temporary signs advertising seasonal agricultural and forestry products and produce, pick-your-own operations, community events, political campaigns, special sales promotions, auctions, related temporary enterprises, events, services, and activities and the like, which are allowed as exemptions.

12.1.2.4. Temporary real estate signs advertising sale of the property on which the sign is located, not exceeding three feet by four feet in size.

12.1.2.5. Non-illuminated permanent signs on private property for home occupations, home-based business, cottage industry, home products and produce, agricultural and forest products, which shall not exceed two per property, shall not be placed in the public right of way, and shall not have a surface area in excess of eight square feet per side per sign.

12.1.2.6. RFD numbers on mailboxes, and street number and E-911 identification numbers, subject to federal, state, and local specifications for letter and number size and placement.

12.1.2.7. Flags, bunting, and banners that do not have advertising content.

12.1.2.8. Official federal, state, county, or town signage.

12.1.3. Except as provided otherwise in 12.1.1. ("Exemptions"), no sign or advertising device shall be erected or placed on any property in the Town of Danbury, or be visible from outside any structure in the Town of Danbury, or be affixed to a vehicle and allowed to remain on the premises with intent to serve principally as a sign rather than as a vehicle, without a permit. A permit for erection of signage or outdoor advertising shall be procured from the Selectmen, at a fee scale established by the Selectmen pursuant to a public hearing. The application for a sign permit shall be submitted to the Board of Selectmen, in a form as they may specify, and shall include the proposed sign location, sign size, and content.

12.1.4. Sign locations shall conform to the minimum side and rear setbacks in Section 11.7, but need not meet the front setback requirements.

12.1.5. Flashing signs: no signs shall be intermittently illuminated nor be of such traveling light type, animated, or flashing, except such portions of the sign as consist solely of indicators of time or temperature or both.

12.1.6. For lighted signs, shielding fixtures shall be arranged to direct light away from the street or public right of way, and away from nearby structures. Illumination shall not cause light pollution or scattering, health or traffic hazards, or obstructions.

12.1.7. Mobile signs with changeable text are not allowed.

12.2. Owner liability: owners of signs and/or of property where signs are located are liable for any personal injury or property damage caused by the signs.

12.3. All signs shall be maintained in good condition and repair. Any business that closes its operation permanently shall remove any signs in connection with that business within 30 days of closing. The Board of Selectmen shall notify sign owners, in writing, to remove or repair any sign which is in violation of this ordinance or is in disrepair. If the owners fail to comply within 30 days after the date of notice, the Board of Selectmen shall have the sign removed at the expense of the owner.

12.3.1. All costs of removal of signs, including attorneys' fees, costs, and expenses related to the removal of an unlawful sign, shall be borne by the violator.

12.4. Each business at a commercial site is allowed two advertising signs on the property where the business is located, either two single-faced signs, each face not exceeding 36 square feet, or one double-faced sign with each face not exceeding 36 square feet. Each business may additionally display externally a business identification sign; such signs shall not exceed 16 square feet per side.

12.4.1. Directional signs may be allowed by permit on location off the business premises as follows:

12.4.1.1. Such signs shall indicate only the name and direction or location of the business and its general type of activity (for example, including but not limited to: building supplies, general store, antiques, arts and crafts, hunting or fishing and sporting equipment, bait, small engine repairs, etc.) and/or its logo.

12.4.1.2. Such off-premises directional signs shall contain no other advertising matter and shall not exceed 16 square feet in size per side per sign.

12.5. The height of any free-standing sign shall not exceed 15 feet above surrounding road grade, including supports, or two feet above the roof ridge of any building to which it is affixed.

12.6. A sign shall not be located so that it obstructs scenic views, as determined by the Board of Selectmen after consultation with the Planning Board at a public hearing; nor shall any sign be erected or maintained upon trees, or drawn upon rocks or other natural features.

12.7. Any sign which is damaged or destroyed may be replaced and/or restored to its former condition within forty-five (45) days of the date of damage or destruction.

ARTICLE 13. AIRPORTS.

13.1. Airports may be permitted by special exception permit, subject to provisions of RSA 424, "Airport Zoning," as it may be amended from time to time, when approved by the Board of Appeals, so long as such activity does not cause hazard to health, safety, or property values, and is not offensive to abutters or to the public because of fire, noise, vibration, traffic, unsanitary or explosive or hazardous conditions, toxins, pollution, water quality degradation, noxious odor, smoke, dust, waste material, litter, inappropriate light levels, or other emissions or nuisances.

13.2. The Board of Selectmen shall serve at the administrative agency for airport zoning regulations, in conformance with RSA 424:6 and RSA 424:7, as they may be amended from time to time.

13.3. The Board of Appeals shall serve as the Board of Appeals for airport zoning as specified in RSA 424:7, as it may be amended from time to time.

13.4. In addition to the special exception permit, the proposed airport must also be approved by the Planning Board, exercising its site plan review authority.

ARTICLE 14. TELECOMMUNICATIONS. *[Insert telecommunications ordinance adopted September 26, 2000, renumbering its provisions and RSA citations as necessary and removing any that conflict with State law or these requirements.]*

14.1. **Telecommunications Ordinance: Purpose and Intent**: This ordinance is adopted in accordance with the enabling statutes of the State of New Hampshire, Revised Statutes Annotated (RSA) Title LXIV, Planning and Zoning; and more particularly pursuant to RSA 674:21, "Innovative Land Use Controls." The purpose of this ordinance is to facilitate the provision of

personal wireless service facilities to the Town of Danbury and its government, residents, and businesses, while conforming with federal and state law and regulations, and the goals stated in the Danbury Master Plan; to minimize adverse visual effects of communications facilities, towers, and antennas through design and siting standards, and by use of alternative structures or systems; to minimize environmental, economic, audible and visual impacts on adjacent properties, historical and cultural resources, and on the Town of Danbury and neighboring communities; to preserve scenic views and vistas, including ridgelines; to encourage appropriate uses of historic and cultural properties; through setback requirements, to reduce land use conflicts and to avoid potential damage to adjacent properties from tower failure; to provide for the maintenance and ongoing inspection of personal wireless service facilities, and for their removal upon abandonment or discontinuance of use; and, to maximize the use of existing approved personal wireless service facilities, including buildings and structures, in order to consistently regulate personal wireless service facilities needed to serve the community and region.

14.1.1. Siting for personal wireless service facilities (PWSF) shall be treated as a use of land, and shall be subject to the Town of Danbury's other applicable ordinances and regulations. Personal wireless service facilities shall not be considered infrastructure, essential services, or public utilities, as defined and used elsewhere in the Town of Danbury's ordinances and regulations.

14.1.2. Personal wireless service facilities may be considered either a principal or a secondary use. A different existing use or an existing structure on the same lot shall not preclude the installation of a PWSF on such lot.

14.1.3. For purposes of determining whether the installation of a PWSF complies with this ordinance, the dimensions of the entire lot shall control, even though the facilities may be located on leased parcels within such lots.

14.1.4. Personal wireless service facilities that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance, shall not be deemed to constitute the expansion of a nonconforming use or structure; nor shall such facilities be deemed to be an "accessory use."

14.1.5. The applicant shall submit an evaluation report for the proposed site that satisfies the requirements of the National Environmental Protection Act (NEPA), the National Historic Preservation Act (NHPA), and rules of the Federal Communications Commission (FCC).

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

14.2.1. A building permit shall be required for the construction, alteration, expansion, or relocation of a PWSF, including the placement, addition, or relocation of related antennas, buildings, and structures.

14.2.2. A building permit for a PWSF shall not be issued until the Planning Board has approved a Special Use Permit for the PWSF.

14.2.3. The Planning Board shall specify the form, content, and timing of application materials to be submitted by the applicant for a Special Use Permit, and may establish a fee structure for receiving and acting upon applications.

14.2.4. The Planning Board may grant a waiver to the specific terms and conditions of this ordinance only if (a) it will not contradict or contravene any other ordinance adopted by the legislative body of the town (Town Meeting); and (b) clear and convincing evidence demonstrates that the waiver would accomplish <u>all</u> of the following conditions: (1) no lessening in value will be suffered by surrounding properties if the waiver is granted; (2) granting the waiver would be of benefit to the public interest; (3) denial of the waiver would result in unnecessary hardship to the owner seeking it; (4) by granting the waiver, substantial justice will be done; and, (5) the use is not contrary to the spirit of this and other Danbury land use ordinances. The "hardship" in item 3 must be unique to the property, and not attributable to any action of the owner, or to the owner's financial situation.

14.2.5. Exemptions: The following devices and sources of non-ionizing electromagnetic radiation are exempt from the provisions of this ordinance and shall be considered permitted uses:

14.2.5.1. Machines and equipment designed and marketed as consumer products, such as walkie talkies and remote control toys;

14.2.5.2. Radar systems for military and civilian communication and navigation;

14.2.5.3. Hand-held, mobile, marine and portable radio transmitters and/or receivers; and,

14.2.5.4. Two-way radio utilized for temporary or emergency service communications.

14.3. Payment of Costs: In the event that the Planning Board deems it necessary, the applicant shall reimburse the town for expenses incurred to:

14.3.1. Hire experts to provide technical understanding of the proposed new or modified facility and alternatives;

14.3.2. Hire experts to interpret test results for radio frequency emissions, at the time of completion of the facility and annually thereafter**;**

14.3.3. Hire experts to estimate the costs of structure removal and site remediation**;**

14.3.4. Hire legal counsel to review and/or enforce the applicants**'** compliance with the ordinance; and,

14.3.5. Hire experts to conduct environmental and/or cultural resources surveys and assessments to identify affected resources and to evaluate proposed mitigation measures.

14.4. Planning Board Approval and Town Building Permit Required: Non-residential and non-amateur personal wireless service facilities may be located within the Town of Danbury, subject to Planning Board approval of a Special Use Permit and issuance of a building permit.. Modifications to an existing installation shall also be subject to Planning Board approval. Construction or modification of an approved facility may not begin or continue without a valid building permit issued by the Board of Selectmen.

14.5. Criteria for Location: In considering requests for a Special Use Permit for placement of a personal wireless service facility or antenna/s, the Planning Board, shall determine that all of the criteria specified below are met:

14.5.1. All personal wireless service facilities, including equipment compounds, utility buildings, structures, towers, and antennas must meet the minimum setback requirements of the Danbury Building Ordinance, and in addition freestanding towers must be located at a distance which is at least twice the tower's height, or two hundred (200) feet from all lot lines and public rights-of-way, whichever distance is greater.

14.5.1.1. Such facilities shall be located no closer than five (5) times the height of the facility from dwellings and residential buildings, except that this requirement shall not apply to locations that are concealed or camouflaged on or within existing buildings or structures; that are on or within other existing structures; or that are on new structures less than thirty-five feet in height from surrounding grades, as itemized in 14.5.2.1, 14.5.2.2, and 14.5.2.3.

14.5.2. Personal wireless service facilities and antennas shall be located according to the following priorities:

14.5.2.1. Concealed or camouflaged on or within existing buildings, including historic buildings;

14.5.2.2. On or within other existing structures, including but not limited to agricultural buildings and structures, water tanks and utility transmission poles, outdoor lighting structures, church steeples, and historic structures;

14.5.2.3. On new structures less than thirty-five (35) feet in height from surrounding grades;

14.5.2.4. On or within alternative or camouflage structures;

14.5.2.5. On existing communications towers (also known as co-location);

14.5.2.6. On new communications towers.

14.5.2.7. New lattice, guyed, and monopole towers are not allowed, except for stealth flagpoles or masts and similar designs that are visually compatible and in scale with the rural character of the town and its villages.

14.5.2.8. Existing Structures: Burden of Proof – The applicant shall have the burden of proving that there are no existing buildings or structures which are suitable to locate its personal wireless service facility and/or transmit or receive radio signals. To meet that burden, the applicant shall take all the following actions to the extent possible.

14.5.2.8.1. The applicant shall submit a list of all contacts made with owners of potential sites regarding the availability of potential space for a personal wireless service facility. If the Planning Board informs the applicant that additional existing buildings or structures may be satisfactory, the applicant shall contact the property owner(s) of those buildings or structures.

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

14.5.2.8.3. If the applicant claims that a structure is not capable of physically supporting a personal wireless service facility, this claim must be certified by a licensed professional civil engineer. The certification shall, at a minimum, explain the structural issues and

demonstrate that the structure cannot be modified to support the personal wireless service facility without unreasonable costs**,** which shall be enumerated.

14.5.3. Priority Assessments: The Planning Board shall be satisfied that a complete assessment of locations in order of priority has been undertaken and completed by the applicant, and that higher priority locations are exhausted or unfeasible.

14.5.4. Height Limitations**: Personal wireless service facilities shall not project higher than (20) twenty feet above the average tree canopy height within a one hundred and fifty (150) foot radius of the mount, security barrier, or designated clear area for access to equipment, whichever is greater. Within the 150 foot radius, the natural buffer and tree canopy shall be preserved. In addition to this requirement**, **no personal wireless service facilities shall exceed one hundred (100) feet in height, measured as the vertical distance from the average finished grade surrounding the facility, to its highest point, including all attachments. If mounted upon another structure, the combined height of the structure and PWSF shall be used to determine compliance with the requirements of this section, and shall not exceed one hundred (100) feet in height as described above.**

14.5.5. Viewshed Analysis: As part of the review process the applicant shall conduct a viewshed analysis to include, at a minimum, (1) a mapped viewshed delineation; and (2) a test balloon or crane extension moored at the site, to indicate the visibility of proposed towers and/or antennas. Photographs or video footage of the balloon or crane test shall be provided to the Planning Board, and shall include context views from the tower site and other vantage points. Notice to the public of the time and place of the balloon or crane test shall be provided in accordance with RSA 675:7, I., as it may be amended from time to time.

14.5.6. Environmental Compatibility: All proposed or modified personal wireless service facilities, antennas, and utility or service lines shall be designed to blend into the surrounding environment. In considering proposals and approving or denying and conditioning Special Use Permits, the Planning Board shall consider the following criteria:

14.5.6.1. The impact of the personal wireless service facility on the community scale, as determined by the height, mass and proportion of the facility relative to the surrounding buildings;

14.5.6.2. The extent to which the facility changes the visual elements of the setting by contrasting with the existing background;

14.5.6.3. The extent to which the colors, textures, and materials used in the facility blend with those in the existing background; and

14.5.6.4. The extent to which the facility will adversely impact scenic vistas, historical places, and cultural sites.

14.5.7. Compliance and Certification Requirements: All personal wireless service facilities, antennas, and accessory facilities shall be designed and certified by a qualified and licensed professional engineer to conform to the latest state and national structural, electrical, wind loading, ice loading, and other applicable codes, standards, and requirements. In addition, before the personal wireless service facilities, towers, or antennas are placed in service, and annually thereafter within two weeks of the anniversary date of the Special Use Permit, the owner shall provide to the Planning Board:

14.5.7.1. A certificate from a qualified independent licensed professional engineer, to certify structural integrity and compliance with applicable local, state, and federal codes, standards, and requirements, including those of the Federal Communications Commission (FCC).

14.5.7.2. A certificate documenting that all equipment for the personal wireless service facility is fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation (FCC Guidelines), under Report and Order, FCC 96-326, published on August 1, 1996, and all subsequent amendments.

14.5.7.3. Failure to provide the required documentation shall be a violation, as provided by Section 14.12.3.

14.5.8. Signs: Personal wireless service facility signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Danbury Sign Ordinance.

14.5.9. Lights and Noise: No communications tower or antenna, except during installation or repair, shall have lights, reflectors, flashers, or other illuminating devices attached to it, unless required by state or federal authorities. Secondary lighting for towers shall be installed so that it cannot be seen beyond the property line. However, light fixtures used to illuminate recreation fields, parking areas, street lighting, or similar uses for the benefit of the public

may be incorporated into the design of personal wireless service facilities, subject to approval by the Planning Board. Noise emanating from the facility shall not be noticeable at the boundary of the site or beyond.

14.5.10. Security: Every personal wireless service facility shall be protected and secured to prohibit access to the PWSF by unauthorized persons.

14.5.11. Screening and Access: All utility buildings and structures accessory to a PWSF shall be architecturally designed to blend in with the surrounding environment and buildings or structures. Equipment shall be screened from view of abutters and the public by suitable native vegetation, except where non-vegetative screening better reflects and complements the architectural or visual character of the surrounding area. Tree cutting and disruption of natural habitats shall be avoided or minimized. Existing entrances and access drives to serve a personal wireless service facility shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic, and environmental impact. New access drives to serve a personal wireless service facility shall not exceed (12) twelve feet in width, and shall conform to the Town of Danbury driveway ordinance.

14.5.11.1. Grades of all access drives shall conform in general to the terrain.

14.5.11.2. A gravel or crushed stone surface is encouraged, and design and construction of the access drive shall follow best management practices for erosion control.

14.5.12. Hazardous Waste: No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred and ten percent (110%) of the volume of the hazardous materials stored or used on the site.

14.5.13. Discontinuation and Removal: Abandoned or unused personal wireless service facilities and components, including but not limited to portions of towers, antennas, waste materials, and associated facilities, including foundations and supports, shall be removed within twelve (12) months of the cessation of operations at the site, and the site shall be restored to a natural condition, unless a time extension is approved by the Planning Board. In the event that a PWSF and/or associated facilities are not removed within twelve (12) months of the cessation of operations at a site, they may be removed by the Town of Danbury and the costs of removal assessed against the personal wireless service facility owner or the property owner.

14.5.13.1. Notification: At such time that a carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier shall notify the Planning Board by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.

14.5.14. Bonding: All owners of personal wireless service facilities shall obtain and maintain a bond or other approved form of security, in an amount estimated at not less than 1½ times the cost of removal and remediation, to cover the costs of removal or disposal of abandoned or unused towers and associated facilities or portions thereof**,** and of site restoration.

14.5.14.3. The bond or other approved form of security shall be reviewed by the Planning Board every year, at the anniversary of the date of final approval of the Special Use Permit, in order to monitor performance and to increase the amount of the bond or other approved form of security, if necessary, to provide adequate protection.

14.6. Expedited Review: The Planning Board may establish expedited procedures for considering approval for co-locations of personal wireless service facilities and antennas on existing approved installations, within existing equipment compounds, and for installations within or upon existing buildings and structures.

14.7. Insurance: The party responsible for the construction of personal wireless service facilities, towers, and antennas shall provide the Planning Board with proof of liability insurance coverage, in an amount established by the Planning Board.

14.8. Non-compliance: Non-compliance with the terms and conditions of the Special Use Permit shall be a violation, as provided by Section 14.12.3.

14.9. Procedures for Amendment or Repeal: This ordinance may be amended or repealed by approval of a majority of voters present and voting by ballot at any legal (annual or special) Town Meeting. The amendment or repeal may be proposed by the Planning Board or Board of Selectmen, or by a petition of the necessary number of voters, in accordance with procedures set forth in the New Hampshire Revised Statutes Annotated.

14.10. Severability: The invalidity of any provision of this ordinance shall not affect the validity or enforceability of any other of its provisions.

14.10.1. Repeal or invalidation of this ordinance or any portion of it shall not abrogate or annul any lawful approval, permit, easement or covenant hereunder.

14.11. Effective Date: This ordinance shall take effect upon its passage, effective September 26, 2000.

14.12. Enforcement

14.12.1. The Board of Selectmen is hereby given the authority and the duty to enforce this ordinance.

14.12.2. The Board of Selectmen, if no building inspector exists, shall act jointly as the building inspector and administrative officer charged with enforcement; it may issue building or use permits in the first instance, and issue cease and desist orders, seek injunctive relief, and take other appropriate actions for violations, if clearly permitted by law.

14.12.3. A violation of this ordinance shall be construed as a violation pursuant to RSA 676:17, as it may be amended from time to time.

14.12.4. The Board of Selectmen shall give notice and prosecute violations in accordance with the procedures set forth in RSA 676:17, as it may be amended from time to time.

14.12.5. Any civil penalties collected shall be used to reimburse the expenditures of costs associated with the discovery, investigation, and prosecution of the violation, with any remainder to be committed to the Town of Danbury treasury.

14.13. Definitions: These definitions shall be identical to definitions for the same terms that are or may be included in a Danbury Land Use & Zoning Ordinance.

14.13.1. "Antenna" means the equipment from which wireless radio signals are sent and received by a Personal Wireless Service Facility (PWSF). [RSA 12-J:2, I.]

14.13.2. "Buffer" means an area within a property or site, generally adjacent to and roughly parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, landscape features, and/or berms, designed to limit continuously the view of and/or sound or lighting from the site to adjacent sites or properties.

14.13.3. "Carrier" means an entity that provides wireless services.

14.13.4. "Co-location" means the use of a single mount on the ground by more than one carrier and/or several mounts on an existing building or structure by more than one carrier.

14.13.5. "Equipment Shelter" means an enclosed structure, cabinet, shed, vault, or box near the base of a mount within which are housed equipment for PWSFs, such as batteries and electrical equipment. [RSA 12-J:2, VII.]

14.13.6. "Fall Zone" means the area on the ground within a prescribed radius from the base of a PWSF. The fall zone is the area within which there is a potential hazard from falling debris or collapsing material.

14.13.7. "Mount" means the structure or surface upon which antennas are mounted and includes roof-mounted, sidemounted, ground-mounted, and structure-mounted types. [RSA 12-J:2, IX.]

14.13.8. "Personal Wireless Service Facility" or "PWSF" or "Facility" means any "PWSF" as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(C)(ii), including facilities used or to be used by a licensed provider of personal wireless services. [RSA 12-J:2, XI.]

14.13.9. "Personal Wireless Services" means any wireless telecommunications services, and commercial mobile services including cellular telephone services, personal communications services, and mobile and radio paging services as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(C)(i). [RSA 12-J:2, XII.]

14.13.10. "Radio Frequency Radiation" means the emissions from personal wireless service facilities. [RSA 12-J:2, XIII.]

14.13.11. "Scenic Vistas" means areas of high visual quality designated in the Danbury Master Plan, as it may be amended from time to time; in the 1998 "Regional Environmental Planning Program" (REPP) inventory prepared by citizens and the Danbury Planning Board; and in community-planning inventories conducted and/or adopted by the Danbury Planning Board.

14.13.12. "Special Use Permit" means a written and dated approval by the Danbury Planning Board for construction, alteration, expansion, or relocation of a PWSF, including the placement, addition, or relocation of related antennas, buildings, and structures. A Special Use Permit may be conditioned by the Planning Board to insure that the proposed undertaking will meet applicable local standards and the spirit and intent of this ordinance, and of other Danbury land use ordinances and regulations.

14.13.13. "Tower" means any structure that is designed and constructed primarily to support one or more antennas. The term includes self-supporting lattice and monopole structures, and guyed structures; it also includes alternative, camouflaged, and stealth structures which are designed to be imperceptible or to be visually compatible and in scale with their surroundings.

ARTICLE 15. FLOODPLAIN DEVELOPMENT. [*Insert flood protection ordinance adopted September 26, 2000, renumbering its provisions and RSA citations as necessary and removing any that conflict with State law or these requirements.*]

15.1 **Town of Danbury, NH / Floodplain Development Ordinance:** This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Danbury Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Danbury Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling. This ordinance does not preempt the requirements of the NH Comprehensive Shoreland Protection Act (RSA 483-B).

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

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

15.3.1. "Area of Special Flood Hazard" is the land in the floodplain within the Town of Danbury subject to a one-percent or greater possibility of flooding in any given year. The area is designated as zone A on the FHBM.

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

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

15.3.4. "Building" - see "structure."

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

15.3.6. "FEMA " means the Federal Emergency Management Agency.

15.3.7. "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, and (2) the unusual and rapid accumulation or runoff of surface waters from any source.

15.3.8. "Flood Hazard Boundary Map" (FHBM) means an official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Danbury.

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

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

15.3.11. "Floodway" - see "Regulatory Floodway."

15.3.12. "Functionally 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 and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

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

15.3.14. "Historic Structure" means any structure that is:

15.3.14.1. 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;

15.3.14.2. 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;

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

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

15.3.14.4.1. By an approved state program as determined by the Secretary of the Interior, or

15.3.14.4.2. Directly by the Secretary of the Interior in states without approved programs.

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

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

15.3.17. "Mean sea level" means 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.

15.3.18. "l00-year flood" - see "base flood." 15.3.19.

"Recreational Vehicle" is defined as:

15.3.19.1. Built on a single chassis;

15.3.19.2. 400 square feet or less when measured at the largest horizontal projection;

15.3.19.3. Designed to be self-propelled or permanently towable by a light duty truck; and

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

15.3.20. "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 increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.

15.3.21. "Special flood hazard area" means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on an FHBM as zone A. (See - "Area of Special Flood Hazard")

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

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

15.3.24. "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.

15.3.25. "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: (1) the appraised value prior to the start of the initial repair or improvement, or (2) 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".

15.3.26. "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 floodplains.

15.4. All proposed development in any special flood hazard areas shall require a permit. **(*Note: This ordinance should be administered by whatever official in the community administers the local permit requirements and has the function of initially reviewing proposed development, whether that is a building inspector, code enforcement officer, zoning administrator, town planner, Board of Selectmen, or other official. The title of that administrative official or body should be substituted wherever the words "Building Inspector" appear in this model ordinance.*)**

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

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

15.5.2. Be constructed with materials resistant to flood damage,

15.5.3. Be constructed by methods and practices that minimize flood damages,

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

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

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

15.7.1. The as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.

15.7.2. If the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.

15.7.3. Any certification of floodproofing.

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

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

15.9. **(*Note: If the community has a local wetlands ordinance, Item VII should be integrated with it, and the name of the board or title of the official who makes decisions on local wetlands permits should be inserted for "Building Inspector.")***

15.9.1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Board **(*add here notice of local wetlands hearings if the community has a local wetlands ordinance*)**.

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

15.9.3. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located Zone A meet the following floodway requirement: **"No encroachments, including fill, new construction, substantial improvements, and other**

development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

15.10. In unnumbered A zones the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).

15.11. The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in zone A that:

15.11.1. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation;

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

15.11.2.1. Be floodproofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

15.11.2.2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

15.11.2.3. 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;

15.11.2.4. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100 year flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;

(*THE ABOVE MANUFACTURED HOME REQUIREMENT EXCEEDS THE MINIMUM NFIP REQUIREMENTS - THE COMMUNITY MAY CHOOSE A LESS RESTRICTIVE REQUIREMENT THAT ALLOWS MANUFACTURED HOMES LOCATED IN EXISTING, UNIMPROVED, UNDAMAGED PORTIONS OF MOBILE HOME PARKS TO BE ELEVATED ONLY THREE FEET ABOVE GRADE. SEE SEPTEMBER 29, 1989 FEDERAL REGISTER FOR REGULATION CHANGE.*)

15.11.2.5. All recreational vehicles placed on sites within Zones A shall either:

15.11.2.5.1. Be on the site for fewer than 180 consecutive days;

15.11.2.5.2. Be fully licensed and ready for highway use; or

15.11.2.5.3. meet all standards of Section 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.

15.11.2.5.4. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: (1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

15.12. Variances and Appeals

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

15.12.2. 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:
15.12.2.1. That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
15.12.2.2. 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.
15.12.2.3. That the variance is the minimum necessary, considering the flood hazard, to afford relief.
15.12.3. The Zoning Board of Adjustment shall notify the applicant in writing that:
15.12.3.1. 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
15.12.3.2. 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.
15.12.4. The community shall:
15.12.4.1. Maintain a record of all variance actions, including their justification for their issuance, and
15.12.4.2. Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE 16. LIGHTING

16.1. In the interest of maintaining the historic character of the Town of Danbury, and preventing further reduction of visibility of the night sky, insuring efficient use of lighting, and reducing unsafe or annoying lighting conditions, any new non-residential outside lighting whether for area illumination, sign illumination, building illumination, or other purpose, will project no more than three percent (3 %) of its light rays above the horizon from the lamp, its lens structure, or any associated reflector.

16.2. Exceptions:
16.2.1. All temporary lighting required for construction projects, related to road construction and repair, installation of sewer and water facilities, and other public infrastructure;
16.2.2. All temporary emergency lighting needed by the police or fire departments or other emergency services, as well as all vehicular luminaires;
16.2.3. All hazard warning luminaires required by federal and state regulatory and safety agencies, except that all luminaires used must be red, orange, yellow, green, or blue, and must be as close as possible to the federally required minimum lumen output requirement for the specific task;
16.2.4. Seasonal and/or decorative lighting displays using multiple low wattage bulbs.

16.3. New signs or newly lit signs may be illuminated only by continuous indirect white light, with illumination from above, and with light sources shielded so that they will not constitute a nuisance or hazard caused by glare to neighbors, pedestrians, or drivers. An exception for overhead sign lighting may be made if the illumination is confined to the area of the sign.

ARTICLE 17. IMPACT FEES

17.1. As used in this section "impact fee" means a fee or assessment imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town of Danbury, as defined by this ordinance and in RSA 674:21, V., as it may be amended from time to time.

17.2. The amount of any such fee shall be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

17.3. Any impact fee shall be accounted for separately, shall be segregated from the Town of Danbury's general fund, may be spent upon order of the municipal governing body, shall be exempt from all provisions of RSA 32 relative to limitation and expenditure of town moneys, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fee was collected to meet.

17.4. All impact fees imposed pursuant to this section shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. In the interim between assessment and collection,

municipalities may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of assessed impact fees. Impact fees shall normally be collected as a condition for the issuance of a certificate of occupancy. The above notwithstanding, in projects where off-site improvements are to be constructed simultaneously with a project's development, and where the Town of Danbury has appropriated the necessary funds to cover such portions of the work for which it will be responsible, the Town of Danbury may advance the time of collection of the impact fee to the issuance of a building permit. Nothing in this subparagraph shall prevent the Town of Danbury and the assessed party from establishing an alternate, mutually acceptable schedule of payment.

17.5. Within six years after completion and occupancy of the project for which the fee was assessed, any portion of an impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected shall be refunded, with any accrued interest. Whenever the calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the Town of Danbury, a refund shall be made upon the failure of the legislative body to appropriate the Town of Danbury's share of the capital improvement costs within a reasonable time

17.6. Unless otherwise specified in the ordinance, any decision under an impact fee ordinance may be appealed in the same manner provided by statute for appeals from the officer or board making that decision, as set forth in RSA 676:5, RSA 677:2-14, or RSA 677:15, respectively, as they may be amended from time to time.

17.7. The adoption of a growth management limitation or moratorium by the Town of Danbury shall not affect any development with respect to which an impact fee has been paid or assessed as part of the approval for that development.

17.8. Neither the adoption of an impact fee ordinance, nor the failure to adopt such an ordinance, shall be deemed to affect existing authority of a planning board over subdivision or site plan review, except to the extent expressly stated in such an ordinance.

ARTICLE 18. BOARD OF APPEALS & ADMINISTRATIVE PROVISIONS

18.1. There shall be established a Zoning Board of Adjustment, to be known as the Board of Appeals, to hear and act on appeals for variances and special exceptions from the terms and provisions of this ordinance, in accordance with RSA 676:5.

18.2. The Board of Appeals shall consist of five members, each one a resident of the Town of Danbury, having terms of three years each. The initial terms of the members first appointed shall be staggered so that no more than two appointments or elections occur annually, except when required to fill vacancies.

18.3. The Board of Selectmen shall be the initial appointing authority for the Board of Appeals and shall appoint the first such board forthwith, upon the adoption of this ordinance. Members shall subsequently be elected pursuant to RSA 669 and RSA 673, as said statutes may be amended from time to time, after the initial terms expire.

18.4. The Board of Appeals shall appoint not more than five alternate members for terms of three years each, with staggered terms so that not more than two appointments occur annually except when required to fill vacancies.

18.5. Such board shall have all the powers and jurisdiction and be subject to all the duties, requirements and other provisions, including code of conduct and conflict of interest standards, applicable to zoning boards of adjustment under RSA 673 and RSA 674, as those laws may be amended from time to time.

18.6. The applicable provisions of RSA 677, as it may be amended from time to time, shall govern motions for rehearing, appeals, enforcement, and interpretation.

ARTICLE 19. ENFORCEMENT & PENALTIES

19.1. The Board of Selectmen is hereby given the authority and the duty to enforce this ordinance.

19.2 If no building inspector exists, the Board of Selectmen, shall act jointly as the building inspector and administrative officer charged with enforcement. In that capacity, the Board of Selectmen may issue building or use permits in the first instance, and issue cease and desist orders, seek injunctive relief, and take other appropriate actions for violations, if clearly permitted by law. These functions shall be conducted by the building inspector and administrative officer should such a position be established.

19.3. A violation of this ordinance shall be construed as a violation pursuant to RSA 676:17, as it may be amended from time to time.

19.4. The Board of Selectmen shall give notice and prosecute violations in accordance with the procedures set forth in RSA 676:17, as it may be amended from time to time.

19.5. Any civil penalties collected shall be used to reimburse the expenditures of costs associated with the discovery, investigation, and prosecution of the violation, with any remainder to be committed to the Town of Danbury treasury.

ARTICLE 20. DEFINITIONS.

*20.1 "**Abutter**" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his or her land will be directly affected by the proposal under consideration. For purposes of notification of hearings, all parties owning land within two hundred (200) feet of the land in question shall be notified by certified mail. In the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective of association, as defined in RSA 356-B:3, XXIII, as it may be amended from time to time.*

*20.2. "**Accessory Use**" means a use that is clearly incidental to the principal use, that is subordinate in area, extent, or purpose to the principal use being served, and that contributes to the comfort, convenience, or necessity of the principal use, and that is located on the same lot with such principal building or use. For agricultural and forestry operations, "accessory use" includes on-premises housing units for owners and/or workers; production and sales of horticultural, food and fiber items, including wood products, textiles, baked and processed or prepared foods; it also incorporates related educational, recreational, interpretive and tourism-related activities, including but not limited to animal rides, hay rides, sleigh rides, ice harvesting, maple sugar production, seasonal observances, "open barn" events, petting zoos, pick-your-own facilities, school or volunteer programs, and similar or related activities, which may take place on one or more parcels of the property. Specifically excluded from the definition of "accessory use" are private take-off and landing fields and facilities.*

*20.3. "**Agricultural Use**" means activities defined by RSA 21:34-a, RSA 432, and RSA 672:1, as they may be amended from time to time.*

*20.4. "**Antenna**" means the equipment from which wireless radio signals are sent and received by a Personal Wireless Service Facility (PWSF). [RSA 12-K:2, I.]*

*20.5. "**Applicant**" means the owner of record, or his or her agent duly authorized in writing at the time of the application.*

*20.6. "**Buffer**" means an area within a property or site, generally adjacent to and roughly parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, landscape features, and/or berms, designed to limit continuously the view of and/or sound or lighting from the site to adjacent sites or properties.*

*20.7. "**Campground**" or "**Camping Ground**" means any land area, other than a residential lot for a one or two-family dwelling, that is occupied or designed for occupancy by two or more travel trailers, pickup campers, motorized homes, tents, tent campers, or similar mobile recreational vehicles, used for temporary, seasonal, or transient occupation, but not as permanent residences.*

*20.8. "**Carrier**" means an entity that provides wireless services.*

*20.9. "**Class VI Road**" means a public right-of-way which has been either discontinued and made subject to gates and bars by a Town Meeting vote; or is not maintained by the town for a period of five (5) years of more, as described in RSA 229:5, VII., as it may be amended from time to time.*

*20.10. "**Cluster**" means a residential subdivision of a tract of land where housing units are grouped on lots of reduced dimensions. The remaining land in the tract which is not built upon is reserved as permanently protected open space.*

*20.11. "**Co-location**" means the use of a single mount on the ground by more than one carrier and/or several mounts on an existing building or structure by more than one carrier.*

*20.12. "**Commercial Development**" means use of land or buildings for the primary purpose of manufacturing or selling at retail or wholesale a product, goods, or services.*

*20.13. "**Community Living Dwelling**" means a state-approved, authorized, certified, or licensed group home, or intermediate care facility, for eight or fewer mentally or developmentally or physically disabled persons.*

*20.14. "**Condominium**" means multi-family, group, or clustered housing, wherein housing units are individually owned, but wherein open space and group facilities are held in common ownership. Condominium and condominium conversions shall be considered a subdivision of land as outlined in RSA 356-B and RSA 479-A, as they may be amended from time to time, and reviewed accordingly.*

*20.15. "**Congregate Housing for Elderly People**" means a type of multi-family dwelling, including multiple individual rooms or dwelling units, to be occupied by elderly persons as a residential shared living environment. Such construction normally includes small individual apartments, combined with shared community space, shared dining facilities, housekeeping services, personal care and assistance, transportation assistance, and specialized shared services such as medical support services and physical therapy.*

*20.16. "**Convalescent Home**" (or "**Nursing Home**") means a facility in which nursing care and medical services are performed under the general direction of persons licensed to practice medicine in the State of New Hampshire, for the accommodation of convalescent or other persons who are not in need of acute or hospital care, but who do require, on a 24-hour basis, nursing care and related medical services.*

*20.17. "**Cottage Industry**" means a business, profession, trade, or arts or crafts enterprise, which may not qualify as a home occupation, but is conducted by special exception permit as incidental and subordinate to a residential use**. The distinctive nature of a cottage industry (a more intensive use than a home occupation or home-based enterprise) is that it is incidental and subordinate to the principal use of a residence as a dwelling on a residential property.***

*20.18. "**Driveway**" (refer to "**Private Way**").*

*20.19. "**Dwelling**" means a structure, or part thereof; a vehicle, stationary or mobile, with living and sleeping accommodations intended for use and/or occupancy by a single family or household. The term shall include, but not be limited to: house, condominium unit, apartment, cottage, tourist cottage, hotel, motel, inn, camp, tent, mobile home, trailer, travel trailer, pickup camper, and other recreational vehicles.*

*20.20. "**Easement**" means an acquired privilege or right-of-use which one party may have in the land of another, including easements to insure the conservation and preservation of lands, buildings, historical properties and archaeological sites.*

*20.21. "**Equipment Shelter**" means an enclosed structure, cabinet, shed, vault, or box near the base of a mount within which are housed equipment for PWSFs, such as batteries and electrical equipment. [RSA 12-K:2, VII.]*

*20.22. "**Fall Zone**" means the area on the ground within a prescribed radius from the base of a PWSF. The fall zone is the area within which there is a potential hazard from falling debris or collapsing material.*

*20.23. "**Farm**" means any land, buildings, or structures as defined in RSA 21:34-a, as it may be amended from time to time.*

*20.24. "**Frontage**" means a linear distance of a property bordering on a highway, street, right-of-way, river or lake.*

*20.25. "**Group Development**" means camping grounds; clubs, including recreational clubs and fraternal lodges; or organizations which are intended for use generally on an individual or family basis.*

*20.26. "**Home Occupation**" or "**Home-based Enterprise**" means a business, profession, trade, or arts or crafts enterprise which is conducted entirely inside a dwelling or accessory structure as an incidental and subordinate use. **The distinctive nature of a home occupation or home-based enterprise is that it is incidental and subordinate to the principal use of a residence as a dwelling on a residential property.***

*20.27. "**Impact Fee**" means a fee or assessment imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town of Danbury, as defined in this ordinance and in RSA 674:21, V., as it may be amended from time to time, including and not limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-ofway; municipal office facilities; public school facilities; the Town of Danbury's proportional share of capital facilities of a cooperative or regional school district of which the Town of Danbury is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space.*

*20.28. "**Light Manufacturing**" means a use, building, or structure engaged in the manufacture of finished products or parts, predominately from previously prepared materials or natural resource products, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products. It does not include heavy industrial processing from raw materials.*

*20.29. "**Local Governing Body**" means the Board of Selectmen, as defined by RSA 672:6.*

*20.30. "**Local Legislative Body**" means the Town Meeting, as defined by RSA 672:8.*

*20.31. "**Lot**" means a parcel of land at least sufficient in size to meet the minimum requirements for use, coverage and area and to provide required yards and other open spaces.*

*20.32. "**Lot Line Adjustment**" (or "**Boundary Line Adjustment**") means the exchange of abutting land among two or more owners which does not increase the number of owners or the number of lots; or the re-delineation of a lot line dividing two parcels in common ownership.*

*20.33. "**Lot of Record**" means a lot or parcel or tract in the Town of Danbury described by metes and bounds, which existed as shown or described on a plat or deed in the records of the Merrimack County Registry of Deeds (or, in the Grafton County*

Registry of Deeds, in 1874 or earlier) on or before the effective date of the first Danbury Land Use & Zoning Ordinance adopted by the Town of Danbury on March 12, 2002].

20.34. *"**Lot Size**" means the total land area within the boundaries of a lot, exclusive of any land areas designated for road/street and/or right-of-way purposes; and also exclusive of utility easements, wetlands, floodplain soils, very poorly drained soils, shallow to bedrock soils, rock outcrops, and areas with slopes over twenty-five percent (25%).*

20.35. *"**Low-Impact**" means an educational, recreational, lodging, institutional, health-care, or religious use designed for a capacity of not more than 50 students, guests, residents, or congregants, and which will not have a disproportionate impact on the natural resources or the tax-supported services of the Town of Danbury. The number 50 represents approximately 5% of the resident population of Danbury as recorded by the U.S. Census in the year 2000.*

20.36. *"**Manufactured Housing**" means manufactured housing as defined in RSA 674:31, as it may be amended from time to time.*

20.37. *"**Mount**" means the structure or surface upon which antennas are mounted and includes roof-mounted, side-mounted, ground-mounted, and structure-mounted types. [RSA 12-K:2, IX.]*

20.38. *"**Nonconforming Lot**" means any legal pre-existing lot of record which does not conform to the requirements of this ordinance, which existed as an individual legal lot prior to the effective date of this ordinance. A non-conforming lot shall be a buildable lot, subject to the requirements of Article 9 of this ordinance.*

20.39. *"**Nonconforming Use**" means any legal pre-existing use of land, buildings, structures, or premises which was in existence at the time of the adoption of this ordinance, but which does not conform to the provisions of this ordinance, or to the general requirements of this ordinance. Non-conforming uses may be continued or altered subject to the requirements of Article 9 of this ordinance.*

20.40. *"**Open Space**" in the context of a subdivision or development proposal means the area of a lot unoccupied by building or structures; unobstructed to the sky by objects made by person/s; not devoted to roads/streets, driveways, off-road/street parking or loading, or constructed recreational facilities such as swimming pools or tennis courts; and suitable for lowimpact and non-structurally dependent recreation, or gardens, or household service activities, or for preservation of the natural or pastoral or historical environment.*

20.41. *"**Permanent Building**" means any building resting upon a foundation or otherwise legally defined as "real estate."*

20.42. *"**Permanent Resident**" means an individual or family using any building continuously as a residence for a period of ~~6~~ **six** months or more.*

20.43. *"**Personal Service Establishment**" means a commercial use primarily concerned with providing a service to persons or individuals, rather than a sale of products. Such establishments include but are not limited to barber and beauty shops; shoe repair; repair of small equipment, office machines, or computer hardware; picture framing; pickup and delivery only of laundry and dry cleaning; and tailoring or dressmaking.*

20.44. *"**Personal Wireless Service Facility**" or "**PWSF**" or "**Facility**" means any "PWSF" as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(C)(ii), including facilities used or to be used by a licensed provider of personal wireless services. [RSA 12-K:2, XI.]*

20.45. *"**Personal Wireless Services**" means any wireless telecommunications services, and commercial mobile services including cellular telephone services, personal communications services, and mobile and radio paging services as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(C)(i). [RSA 12-K:2, XII.]*

20.46. *"**Presite Built Housing**" means 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 federal minimum property standards and local building codes, for installation, or assembly and installation, on the building site, as defined in RSA 674:31-a, as it may be amended from time to time; but not including manufactured housing ,as defined in RSA 674:31.*

20.47. *"**Private Way**" (or "**Private Road**" or "**Driveway**") means a deeded private right-of-way serving as access to adjacent lots, with a roadway constructed to be adequate for fire and other emergency vehicles, conforming to applicable state and local standards, and conditioned by and subject to the "Road Liability Disclaimer" statement.*

20.48. *"**Radio Frequency Radiation**" means the emissions from personal wireless service facilities. [RSA 12-K:2, XIII.]*

20.49. ***"Recreational Vehicle"** (RV) means any RV as defined in RSA 216-I:1*

20.50. *"**Residential Unit**" means a single dwelling unit for a family, with common access to, and common use of, all living and eating areas and facilities for the preparation and storage of food within the dwelling unit.*

20.51. *"**Right-of-Way**" means and includes all present and proposed federal, state and town highways and the land on either side of same as defined by statutes and laws to determine the widths of the public way. It also means a strip of land used for a*

road/street, private way, driveway, crosswalk, water main, sanitary or storm sewer drain, or for any other special use including public uses, utility easements, and private easements. Rights-of-way are to be clearly delineated so as to be separate and distinct from the lots and parcels adjoining or traversed by such right-of-way. They may be included within lot boundaries, but may not be included in any part of the minimum lot size.

*20.52. "**Road Liability Disclaimer Statement**" means the statement, "The Town of Danbury neither assumes responsibility for maintenance nor liability for damages resulting from the use of any Class VI or Private Road, shown on any final plat as the access to the property."*

*20.53. "**Road/Street**" means a federal or state highway, town highway, road, street, avenue, boulevard, lane, alley, viaduct, and/or any other way which exists for vehicular traffic, exclusive of a driveway or private way. The term "road/street" shall include the entire width of its right-of-way.*

*20.54. "**Scenic Vistas**" means areas of high visual and/or historical quality designated in the Danbury Master Plan, as it may be amended from time to time; in the 1998 "Regional Environmental Planning Program" (REPP) inventory prepared by citizens and the Danbury Planning Board; and in community-planning inventories conducted and/or adopted by the Danbury Planning Board.*

*20.55. "**Setback**" means the distance between the nearest portion of a building and a lot or right-of-way line, whichever is closer.*

*20.56. "**Small-Scale Commercial**" means an occupation, employment, or enterprise carried on for profit in buildings or structures having a footprint no greater than 10,000 square feet.*

*20.57. "**Special Exception**" means a use of a building or lot which may be permitted under this ordinance upon application to the Board of Appeals, and subject to approval of that Board, under such conditions as the Board may require, but only in cases where the words "special exception" and "special exception permit" appear in this ordinance.*

*20.58. "**Special Use Permit**" means a written and dated approval by the Danbury Planning Board for construction, alteration, expansion, or relocation of a PWSF, including the placement, addition, or relocation of related antennas, buildings, and structures. A Special Use Permit may be conditioned by the Planning Board to insure that the proposed undertaking will meet applicable local standards and the spirit and intent of this ordinance, and of other Danbury land use ordinances and regulations.*

*20.59 "**Storage Unit**" means any portable units which are constructed for the principal purpose of shipping and/or temporary storage, including but not limited to shipping containers or CONEX boxes. Trailers which are intended for transporting goods and products over the roadways/highways, as defined in RSA 259:113, are not storage units.*

*20.60. "**Structure**" means anything constructed or erected, the use of which requires location on or in the ground, or attachment to something having location on the ground. It includes signs permanently affixed to the ground, tennis courts, swimming pools, bridges, dams, and utility facilities, but does not include ponds or pools exclusively used for landscaping, rural fire protection, agriculture, or forestry.*

*20.61. "**Subdivision**" means the division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites or other divisions of land for the purposes, whether immediate or future, of sale, rent, lease, condominium conveyance, or building or structure development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing, or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision, as defined in RSA 672:14, as it may be amended from time to time. As provided by RSA 672:14, the grant of an easement in gross to a public utility for the purpose of placing and maintaining overhead and underground facilities necessary for its transmission or distribution network shall not be construed as a subdivision, and shall not be deemed to create any new division of land for any other purpose.*

*20.62. "**Utility Easement**" (refer to "**Easement**" and "**Right of Way**").*

*20.63. "**Variance**" means a departure from the terms of this ordinance as the Board of Appeals, upon appeal in specific cases, is empowered to authorize under the provisions of this ordinance and of applicable state statutes and law.*

*20.64. [**Reserved** for other definitions as needed.]*

LAND USE AND ZONING ORDINANCE

Town of Danbury, New Hampshire

□ □ □ □ □

Adapted from Chapter 447:1, Laws of 1983, effective January 1, 1984, from RSA 672-677, and from other sources, including other communities, technical assistance by the Lakes Region Planning Commission, the NH Division of Historical Resources, the NH Municipal Association, and the Office of State Planning; and, in addition, the NH Association of Conservation Commissions, the NH Coalition for Sustaining Agriculture, the NH Department of Agriculture, Markets & Food, the NH Farm Bureau, the NH Wildlife Federation, the Society for the Protection of NH Forests, and the UNH Cooperative Extension Service. Based on the Town of Danbury Master Plan (1985), the Danbury Housing and Community Development Plan (1994), on Community Land Use Forums held on September 10, 1996 and June 17, 1997, on public work sessions held May 19, 1998, September 22, 1998, January 5, 1999; and each week between March and August, 2000; on public hearings held January 19, 1998 and February 2, 1998; December 15, 1998, December 29, 1998, January 12, 1999, and January 26, 1999; June 27, 2000, July 25, 2000, August 8, 2000, and August 22, 2000; November 20, 2001, January 15, 2002, and January 30, 2002; and on public participation by property owners and by seasonal and permanent residents.

January 24, 2006
MOVED by James Phelps
To ADOPT the final form of proposed changes to the Land Use and Zoning Ordinances as presented at the public hearing of January 24, 2006,
and to present it to the voters at the ballot portion of the Town Meeting on March 14, 2006, SECONDED by Albert Epperly
Five votes in the affirmative:
Linda Wilson, Ruby Hill, Deb Phelps, Al Epperly, James Phelps;
No votes in the negative;
and the motion passed by UNANIMOUS VOTE of all those present and voting.
CERTIFIED by:
Linda Wilson, Ruby Hill, Deb Phelps, Al Epperly, James Phelps

January 30, 2002
MOVED by Debbie Phelps
to APPROVE the proposed ordinance as amended during the public hearing (in response to recommendations from those attending) to be the final form of the ordinance
and to present it to the voters at the ballot portion of the Town Meeting on March 12, 2002.
SECONDED by Albert Epperly
Five votes in the affirmative:
Albert Epperly, Marion Moulton, Debbie Phelps, Jon Schurger, and Linda Wilson;
No votes in the negative;
and the motion passed by UNANIMOUS VOTE of all those present and voting.

CERTIFIED by:
Albert Epperly, Marion Moulton, Debbie Phelps, Jon Schurger, and Linda Wilson.

January 22, 2008
MOVED by Bernie Golden
To APPROVE the proposed ordinance as amended during the public hearing
To be the final form of the ordinance
And to present it to the voters at the ballot portion of the Town Meeting on March 11, 2008, SECONDED by Charlotte McIver
Six votes in the affirmative:
Gary Donoghue, Bernie Golden, Charlotte McIver, Deb Phelps, James Phelps, Phyllis Taylor

January 8, 2019
MOVED by Jim Phelps
To APPROVE the proposed ordinance and the changes, in regards to recreational vehicles and storage units.
As amended during the public hearing
To be the final form of the ordinance
And to present it to the voters at the ballot portion of the Town Meeting on March 12, 2019, SECONDED by Will Cowen
Seven votes in the affirmative:
Roxanne Winslow, Jim Phelps, John Taylor, Gary Donoghue, Will Cowen, Rick Swift, Bernie Golden
No votes in the negative;
and the motion passed by UNANIMOUS VOTE of all those present and voting.

CERTIFIED by:
Roxanne Winslow, Jim Phelps, John Taylor, Gary Donoghue, Will Cowen, Rick Swift, Bernie Golden

Adopted by vote of the Town Meeting on March 12, 2019

□ □ □ □ □

Floodplain Development Ordinance & Telecommunications Ordinance

Adapted from Chapter 447:1, Laws of 1983, effective January 1, 1984, from RSA 672-677, and from other sources, including other communities, technical assistance by the Lakes Region Planning Commission, the NH Division of Historical Resources, the NH Municipal Association, and the Office of State Planning; and, in addition, the Appalachian Mountain Club and the Society for the Protection of NH Forests.
Based on the Town of Danbury Master Plan (1985), the
Danbury Housing and Community Development Plan (1994),
on Community Land Use Forums held on September 10, 1996 and June 17, 1997, on
public work sessions held May 19, 1998, September 22, 1998, January 5, 1999; and
each week between March and August, 2000;
on public hearings held January 19, 1998 and February 2, 1998;
December 15, 1998, December 29, 1998, January 12, 1999, and January 26, 1999;
June 27, 2000, July 25, 2000, August 8, 2000, and August 22, 2000;
and on public participation by property owners and by seasonal and permanent residents.

Second meeting January 22, 2008
Article 15 Amended per request of New Hampshire Office of Energy and Planning,
Public Hearing held on February 17, 2010 by Selectmen
3 votes in the affirmative
By Chet Martin, James Phelps and Bernard Golden
Certified by
Gary Donoghue, Bernard Golden, Denis Dubuque, Peter Parady ,William Wallace, Ed Sowa, and Rick Swift On April 13, 2010

□ □ □ □ □

Cluster Residential Development Amendments

January 30, 2003
MOVED by Jim Phelps
to ADOPT the final form of the proposed Cluster Residential Development amendments to the Danbury Land Use and Zoning Ordinance
as presented at the public hearing of January 30, 2003;
SECONDED by Barry Tisbert;
there were six votes in the affirmative

by Gary Donoghue, Albert Epperly, Wayne Maviki (Alternate appointed to voting status), Jim Phelps, Barry Tisbert, and Linda Wilson, and no votes in the negative; then,

MOVED by Jim Phelps
to place the Cluster Residential Development amendments as adopted on the Town Warrant and to present them to the voters at the ballot portion of the March 2003 Town meeting;
SECONDED by Barry Tisbert;
there were six votes in the affirmative
by Gary Donoghue, Albert Epperly, Wayne Maviki (Alternate appointed to voting status), Jim Phelps, Barry Tisbert, and Linda Wilson, and no votes in the negative;

and both motions were adopted by UNANIMOUS VOTE of all those present and voting.

CERTIFIED by:
Gary Donoghue, Albert Epperly, Wayne Maviki, Jim Phelps, Barry Tisbert, and Linda Wilson.
Copies provided to the Town Clerk and the Board of Selectmen on January 30, 2003.

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