

# HEBRON ZONING ORDINANCE

**Amended March 11, 2014**

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I: PREAMBLE AND TITLE	ZN 1
ARTICLE II: DEFINITIONS	ZN 1
ARTICLE III: DISTRICTS	ZN 6
ARTICLE IV: GENERAL PROVISIONS	ZN 7
ARTICLE V: COMMON HISTORIC DISTRICT	ZN 12
ARTICLE VI: LAKE DISTRICT	ZN 13
ARTICLE VII: RURAL DISTRICT	ZN 15
ARTICLE VIII: FLOODPLAIN DISTRICT	ZN 17
ARTICLE IX: WETLANDS PROTECTION OVERLAY DISTRICT	ZN 25
ARTICLE X: BOARD OF ADJUSTMENT	ZN 32
ARTICLE XI: ENFORCEMENT AND PENALTIES	ZN 33
ARTICLE XII: SEPARABILITY	ZN 33
ARTICLE XIII: AMENDMENTS	ZN 34
ARTICLE XIV: EFFECTIVE DATE	ZN 34
APPENDIX A: HEBRON SMALL WIND ENERGY SYSTEMS ORDINANCE	ZN-35

## ZONING ORDINANCE

### FOR THE TOWN OF HEBRON, N.H.

#### ARTICLE I: PREAMBLE AND TITLE

- A. Preamble. In order to preserve the environment, to prevent undue or dangerous concentration of population, to insure good civic design and facilitate adequate provisions for public utilities, to promote safety, health and general welfare of the residents of and visitors to the Town of Hebron, to encourage the most appropriate use of land, and for all other purposes as set forth in Chapter 674, Sections 16 to 23, New Hampshire Planning and Land Use Regulations, as amended, and pursuant to the authority conferred by said Chapter, the following ordinance is hereby adopted by the voters of the Town of Hebron.
- B. Title. This ordinance shall be known and hereafter may be cited as "The Town of Hebron Zoning Ordinance of 1973", hereinafter referred to as "this Ordinance".

#### ARTICLE II: DEFINITIONS

"Accessory Uses" means the use of a structure on the same lot with and of a nature customarily incidental and subordinate to the principal use of the main structure.

"Boathouse" means any wharf, dock or pier designed for the docking and mooring of water borne craft over which a permanent structure has been erected for the sheltering of a boat or other water borne craft from sun and weather.

"Boat Slip" means any area of water immediately adjacent to a dock accommodating only one boat.

"Building Height" means the vertical distance from Grade Plane to the high point of the highest roof surface.

"Grade Plane" means a reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the Building and the Lot line or, where the Lot line is more than six (6) feet from the Building, between the Building and a point six (6) feet from the Building.

"Grade" means the finished ground level adjoining the building at all exterior walls.

Reference: *International Building Code*, or as amended.

“Cluster Development” means a form of residential Subdivision that permits Single Family Dwellings, and, where allowed, Multiple Family Dwellings, to be grouped on lots with dimensions reduced from conventional sizes in order to preserve natural topographic features, promote efficient use of land and facilities and to provide that the remaining undeveloped portion be permanently saved for conservation, recreation, and wildlife habitat in perpetuity, which space may not be further subdivided.

“Commercial vehicle” means any vehicle having a commercial license plate or used commercially. Private passenger autos and farm tractors and related farm equipment shall be exempted from this definition.

"Conforming Use" means the use of a building, structure or land in conformance with the terms of this Ordinance.

“Designated Brooks” means the following bodies of water: Cockermonth River, Cilley Brook, Fretts Brook, Wise Brook, Tannery Brook, Georges/Bog Brook, Favor Brook, Ross Brook, Trout Brook, Stoney Brook, Glines Brook, Whittemore Brook, Hardy Brook, Mowglis Brook, Onaway Brook, and Sleepy Hollow Brook (as shown on Water Resources Hebron, NH map dated January 2012).

"Dwelling" means any building or structure, or part thereof, designed or used for non-transient or permanent residential purposes, including mobile homes, when equipped with internal toilet and tub or shower facilities.

“Dwelling Unit” means one room, or rooms, which constitute a separate independent residence physically separate from any other dwelling unit that may exist in the same structure, which contains independent cooking, sanitary, and sleeping facilities. It shall include sectional homes, rental cottages, and modular units provided these units meet the standards of the local and state of New Hampshire building or structure codes, but shall not include camper or recreational vehicles, motels, hotels, bed and breakfasts, lodging houses or similar structures.

“Highly Erodible Soils” means any soil with an erodibility class (K factor) greater than or equal to 0.43 in any layer as found in Table 3-1 of the *Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire* (Reference: National Resources Conservation Service – NRCS).

"Home Occupation" means any business, professional or service occupation, including home crafts and gardening, which does not normally involve primarily the purchase and resale of goods, and which can normally be maintained in a

residence, including the storage of tools and equipment and the maintenance of books and records.

“Impervious Surface” means a surface that limits or does not allow water or other liquids to pass through. Examples include, but are not limited to, buildings, rooftops, decks, patios, and asphalt, concrete, and compacted gravel driveways, parking areas, and walkways.

"Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled, or wrecked automobiles, or parts thereof, or two or more unregistered motor vehicles, unfit for highway use, iron, steel, and other old or scrap ferrous or non ferrous material.

"Junk Yard" means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling Junk, or for the maintenance or operation of an automobile graveyard, and includes garbage dumps and sanitary fills and further means a non-concealed area where any unsightly quantity of Junk is deposited. The word does not include any motor vehicle dealers registered with the Director of Motor Vehicles under RSA 261:104 and controlled under RSA 236:127.

"Lot" means an area of land capable of being occupied by one principal structure or use and its accessory structures or uses for one particular purpose as shown and identified as such on a plat. A lot must be of sufficient size to meet minimum zoning requirements for use, Setbacks, Lot Coverage, and Usable Land.

“Lot Coverage” means the percentage of the Lot that has an Impervious Surface.

"Marina" means a commercial waterfront facility whose principal use is the provision of publicly available services such as the securing, launching, storing, fueling, servicing and repairing of watercraft.

"Multiple Family Dwelling" means a building or structure which contains more than one separate or offset portion used or intended to be used as a residence for one family only, whether such set off portion is leased, sold or otherwise made the subject of a conveyance and/or right to occupy.

"Municipality" or "Municipal" means the Town of Hebron.

"Non-Conforming Use" means a permitted use of a building, structure or land which in whole or in part does not conform to the regulations of the district in which it exists, but which is legally existing at the time of the adoption of this Ordinance, or which is allowed to exist pursuant to a special exception or variance of the Board of Adjustment.

"Parcel" means an area of land which is part of a tract and capable of division therefrom into one or more lots in accordance with subdivision regulations.

"Planning Board" means the duly appointed Planning Board of the Town of Hebron.

"Prohibited Use" means a use of a building, structure or land which in whole or in part does not conform to the regulations of the district in which it exists, and which is not a permitted non-conforming use.

"Protective Buffer" means a protective area adjacent to Newfound Lake, Spectacle Pond, or a Designated Brook; more specifically defined as the area within 50 feet of the high-water mark of Newfound Lake, Spectacle Pond, or a Designated Brook.

"Public Waters" means Newfound Lake and Spectacle Pond.

"Selectmen" means the Board of Selectmen of the Town of Hebron.

"Setback" means the distance between a legal boundary (right-of-way, lot line, or property line) and any part of a structure, including decks and roofs, as measured from the drip line.

"Single Family Dwelling" means a building used or intended to be used as a residence for one family only.

"Steep Slope" means land area where the inclination of the land's surface from the horizontal is greater than 15% and less than or equal to 25%, represented as a percent taking the rise in elevation divided by the run in distance.

"Structure" means anything built, erected, or placed for the support, shelter or enclosure of persons, animals, goods, or property of any kind. It also means anything built, erected, or placed with a fixed location on or in the ground or attached to something having a fixed location on or in the ground.

"Primary or Principal Structure" means a Structure that is central to the fundamental use of the property and is not accessory to the use of another Structure on the same premises.

"Temporary Structure" means any Structure erected or placed on site for less than 180 days per year from the date of installation. These Structures include, but are not limited to: camping tents, fabric-covered storage enclosures, wedding tents, screen houses, patio awnings and enclosures, and storage pods.

“Accessory Structure” means a Structure on the same Lot and customarily incidental and subordinate to the Primary Structure.

“Building” means any Structure having a roof.

"Tract" means any single area or contiguous area of land in which there is unity of ownership whether conveyed to the owner or owners by one or more deeds and which is not divided by a public highway and which is capable of division into two or more lots in accordance with these regulations.

“Usable Land” means the net area of a Tract, Parcel, or Lot excluding Wetlands, rights-of-ways, and areas with Very Steep Slopes, and fifty percent (50%) of areas with Steep Slopes.

“Very Steep Slope” means land area where the inclination of the land’s surface from the horizontal is greater than 25%, represented as a percent taking the rise in elevation divided by the run in distance.

“Wetlands” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

### ARTICLE III: DISTRICTS

For the purpose of this Ordinance, the Town of Hebron shall be divided into the following districts, as shown on the official zoning map to be filed with the office of the Town Clerk of Hebron upon the adoption hereof, and which is incorporated herein by reference.

- A. Common Historic District (shown on map as "C.H.D"). This district shall include all lots in their entirety encompassed by the following description as depicted on Tax Map 17, dated April 1, 2005 (Tannery Brook is not listed on Tax Map 17 by name, but it is depicted on the attached "Official Map of the Hebron Historic District), except for Lots 13 and 60 as these lots are bisected as described:

Beginning at the center line junction of the Hebron-Groton Road over Tannery Brook just westerly of Braley Road adjacent to Tax Map 17, Lots 34, 35, 56, & 57, thence running northeasterly along the center of said brook to the center line junction of the Cockermouth River, thence down the center of said river in a generally easterly direction to the northeast corner of Tax Map 17, Lot 23, thence proceeding southwesterly along the northeasterly line of said Lot 23 to the northwest corner of Tax Map 17, Lot 8, thence proceeding along the northerly line of Lot 8 in an easterly direction to the center of North Shore Road, thence running northeasterly along the center line of said road to the extension of Tax Map 17, Lot 9, thence running southerly on the easterly line of Lot 9 to the northwest corner of Tax Map 17, Lot 12, thence running southwesterly on the northwesterly line of Lot 12 to the southwest corner of Lot 12, thence running southeasterly on the southerly line until it strikes a line running due east (magnetic) from the extension of the southerly line of Tax Map 17, Lot 67 intersection with the center line of West Shore Road, thence running Due West (magnetic) crossing Tax Map 17, Lot 13 to the center line of West Shore Road on the extension of Tax Map 17, Lot 67, thence westerly along the south line of Lot 67 to an angle in said lot, thence running northwesterly along the southwesterly lines of Tax Map 17, Lots 67, SM-5, SM-4, SM-1 to the southeasterly corner of Tax Map 17, Lot 65, thence running westerly and northerly along lines of Lot 65 to the center line of Hobart Hill Road, thence running northeasterly along the center line of said road until it strikes the extension of the line of Tax Map 17, Lot 60, thence running northwesterly along the southwesterly line of Lot 60 to the center of Tannery Brook, thence running along the center of Tannery Brook to the point of beginning.

- B. Lake District (shown on map as "L.D."). This district shall include all land between the shore of Newfound Lake and a continuous line drawn parallel to and five hundred (500) feet from the edge of the traveled portion of the off-lake side of the circumferential roads around Newfound Lake, excluding that portion of this area included in the Common Historic District. These roads consist of the East Shore Road (Route 3-A) from the Bridgewater-Hebron Town line to the junction with the North Shore Road, at McClure's Corner, so-called, the North Shore Road to the easterly bound of the Common Historic District, and the West Shore Road from the southerly bound of the Common Historic District to the Hebron-Bristol town line. This district shall also include all land within

five hundred (500) feet of and perpendicular to the easterly edge of the traveled portion of Route 3-A for a distance of five hundred (500) feet along said easterly edge north from McClure's corner, so-called.

- C. Rural District (shown on map as "R.D".) This district shall include all the remaining land within the boundaries of the Town of Hebron.
- D. Floodplain District. This district shall be an overlay district and shall include those areas within the Town designated as special flood hazard areas by the Federal Emergency Management Agency in its "Flood Insurance Study for the County of Grafton, NH" dated February 20, 2008, as amended or hereinafter amended, are incorporated herein by reference and which are on file at the Selectmen's Office. Where the bounds as delineated therein are in doubt or dispute, the burden of proof shall be upon the owner(s) of the land in question to show where said boundary should properly be located.
- E. Wetlands Protection Overlay District (WPOD). The purpose of this overlay district is to protect the health, safety, and general welfare of the community by controlling and guiding the use of wetland areas and wetland buffers within the town.

All land within the Town shall be zoned pursuant to the above definitions. The uses of structures lying within 2 zones shall be governed by the more restrictive applicable provision. Disputes as to the boundaries of zones shall be decided in the first instance by the Selectmen, subject to the rights of appeal to the Board of Adjustment as hereinafter provided.

#### ARTICLE IV: GENERAL PROVISIONS

The following provisions shall apply to all the land in the Town of Hebron.

- A. Height. No building or structure, or part thereof, shall exceed thirty-five feet (35') in Height as measured from the average finished Grade at all exterior walls. This provision shall not apply to television and radio antennae, lightning rods, cupolas, steeples, chimneys or parts of buildings designed exclusively for agricultural, non-residential uses.
- B. Damaged Structures or Hazardous Conditions. Any structure suffering extensive or obvious damage by fire, wind or other casualty or any condition which constitutes a hazard shall be repaired or removed within one (1) year of such occurrence. All debris shall be removed and cellar holes, abandoned wells or similar excavations shall be filled to ground level or guarded by covers, fences or other means in a manner acceptable to the Selectmen.
- C. Conservation. Any non-residential use of land to promote conservation, the protection of the environment, or natural history or environmental education shall be allowed.

D. Signs.

1. No sign for any business located outside of Hebron shall be permitted.
2. Any business shall be permitted either one (1) on-site two-faced sign which does not exceed ten (10) square feet in area per side or one (1) on-site single-faced sign which does not exceed ten (10) square feet in area, visible to traffic proceeding in any one direction on the highway and two (2) off-site directional signs, each nine (9) inches in width and forty-two (42) inches in length and displayed only at the junction of highways. Permanent signs are not permitted at the junction of any highway with Route 3A or any road junction within the Historic District.
3. Temporary on-site signs not exceeding four (4) square feet in area which advertise the premises for sale or rent and limited to two (2) signs per owner or agent, and temporary on-site signs not exceeding sixteen (16) square feet in area per side which advertise construction on the premises and limited to one (1) sign per contractor, shall be permitted, provided such signs are removed upon the sale or rental of the premises or completion of the construction.
4. Temporary signs which advertise fairs, auctions, private sales or special events in Hebron shall be permitted for one (1) month before the event and shall be removed within two (2) days after the event. Signs are not to be placed on Town property without the approval of the Selectboard.
5. No sign with animated, flashing, intermittent, internal or rear lighting or lighting that impairs the vision of vehicular traffic on any public highway shall be permitted.
6. No permanent sign which exceeds ten (10) square feet in area shall be permitted except pursuant to a special exception granted by the Board of Adjustment, provided the sign is essential to and typical of the business and is in harmony in size, design and location with the neighborhood.
7. Residential nameplate or name place signs and signs indicating private property, no trespassing, no hunting or similar signs, and all official Town of Hebron, State and Federal signs shall be exempt from these regulations.
8. The Selectmen shall notify the owner, in writing, to remove any sign which is in violation of this ordinance, or to repair or remove any sign which is in disrepair, within fifteen (15) days after date of notice. If the owner fails to comply, the Selectmen shall have the sign removed at the expense of the owner.

E. Renting of Premises for Residential Use. The renting of rooms and furnishing of meals in residences, or the renting of residences in whole or part shall be permitted within the entire Town of Hebron.

F. Compliance with Other Laws. All buildings or uses of land shall comply with all other existing Federal, State or Local laws, including, but not limited to, the regulations of the State Board of Fire Control, State Board of Health, and State Water Supply and Pollution Control Commission.

G. Junk Yards. Junk yards or places for the storage of discarded machines, motor vehicles, or other scrap materials shall not be permitted within the Town of Hebron, except for such public dumps as are owned or operated by the Town.

H.1 Setback. New structures and additions to existing structures shall not be erected within fifty (50) feet of the edge of the traveled portion of any highway, or within twenty-five (25) feet of any property boundary as measured in a horizontal plane. The minimum distance between residential buildings shall be fifty (50) feet. Cluster developments shall meet all setback requirements from the cluster lot lines. Fences, signs, septic systems, mailboxes, flagpoles, and outdoor lampposts shall be exempted from this requirement.

The minimum distance between the traveled portion of a driveway and a lot line shall be twenty-five (25) feet except when the driveway serves two abutting Lots, or by Special Exception.

For setbacks for Small Wind Energy Systems, see Appendix A.

H.2 Lot Coverage: The Lot Coverage of any residential lot shall not exceed thirty percent (30%) of the Lot, with the remaining area devoted to landscaping or natural vegetation. Cluster developments shall meet all Lot Coverage requirements.

I. Discontinuance of Non-Conforming Use. Any existing non-conforming use that has been discontinued for one (1) year shall thereafter be used in conformity with this Ordinance.

J. Non-Conforming Parcels or Usage

1. Non-Conforming Uses. Any existing non-conforming use shall not be changed to another non-conforming use.

2. Non-Conforming Lots. A non-conforming lot of record as of the effective date of this Ordinance, or amendment thereto, may be built upon, without the need for a variance, provided that all provisions of this Ordinance except lot size and/or frontage can be met.

K. Residential Use. Permanent detached single-family dwellings are permitted in all Districts. Mobile homes, multiple-family dwellings, organized summer camps, planned unit, and cluster housing developments may be constructed or installed only where allowed by the provisions of this Ordinance or pursuant to a special exception granted by the Board of Adjustment. Where multi-family dwellings, cluster housing, or any use

other than single-family dwellings are approved, the density of such use of the land shall be one family unit per two acres or larger according to the criteria listed in Article IV N.

L. Home Occupation. Home occupations in such residences or dwellings, including roadside stands in connection with such occupations, incidental to the primary use of the premises for residential purposes shall be permitted.

M. Accessory Uses. Accessory buildings and uses and essential services related to the primary use of the premises for a permitted use shall be allowed.

N. Areas of Lots.

1. The minimum area of any lot in the Historic District shall be one acre of Usable Land; in the Lake and Rural Districts two acres of Usable Land.
2. All Buildings or any parts thereof shall be outside of any Protective Buffer.
3. All Buildings or any parts thereof shall be sited within the Usable Land.
4. An area of Very Steep Slope totaling no more than 10,000 square feet may be altered for construction purposes (e.g. driveways, wells, septic systems) using best management practices for erosion control. No disturbance of areas of Very Steep Slope with Highly Erodible Soils (as determined by an Order 1 soil survey stamped by a licensed soil scientist), shall be allowed unless by Special Exception.

O. Frontage:

1. Any lot or tract of land shall have a minimum road frontage of one hundred fifty (150) consecutive feet on one road. Lots fronting a cul-de-sac must have a minimum frontage of 75 feet. The Planning Board shall determine the road frontage for lots in a Cluster Development, but such lots must each have some road frontage. The Planning Board may, however, require a minimum road frontage of greater than 150 feet for multiple dwelling units depending on the number of units and individual building or structure layout and configuration. Deviations from these standards may be permitted through a Special Exception from the Zoning Board of Adjustment.
2. Any lot or tract fronting on Newfound Lake, Spectacle Pond, or the Cockermouth River shall have a minimum frontage of 150 feet, said distance to be measured as the average of the distances of actual shoreline frontage and a straight line drawn between property lines at the high-water mark.

P. Shore Setback. No Building or any part thereof shall be constructed within fifty feet (50') measured in a horizontal plane from the average high water line of any public waters

within the Town, provided, however, that this provision shall not apply to boathouses or bathhouses used exclusively for non-residential purposes.

Accessory Structures are permitted as in accordance with the *Comprehensive Shoreland Protection Act* (RSA 483-B *Regulations* and *Chapter Env-Wq 1400 Shoreland Protection Rules*). These Structures include, but are not limited to: docks, decks, patios, gazebos, walkways and stairways.

Q. General Prohibition. Any use of land or buildings not specifically permitted herein is prohibited.

R. Building Permit. Any owner or lessee of real estate who plans to construct, structurally enlarge, move or locate a building or structure, including prefabricated and mobile homes, or increase the number of dwelling units in a building, or change the use thereof, shall file with the Board of Selectmen an Application for a Building Permit which shall clearly indicate the nature of the proposed plans. Ordinary maintenance and repairs to existing buildings and structures are exempt from filing. The Board of Selectmen will act on the application for a Building Permit within twenty-one (21) days of acceptance of a complete application. No construction shall commence until the Building Permit is issued.

A Building Permit shall automatically lapse and be null and void one (1) year from the date of issuance, unless the foundation and septic system are completed and accepted by the compliance officer, and two (2) years from date of issue unless the framing and exterior are completed and accepted by the compliance officer.

A Building Permit application shall be accompanied by a fee based on a fee schedule established by the Selectmen. Said application shall include, as a minimum, a scale drawing of all setbacks and locations of buildings, and a brief description of the proposal. It is the owners responsibility to accurately define the setbacks and other dimensions. A survey by a licensed surveyor may be required by the Selectmen if they have any reservations about the accuracy of the drawings or the location of property lines involved.

Specifically exempted from the building permit requirement in the Lake and Rural Districts are:

1. customary landscaping improvements;
2. stone walls and retaining walls not more than four (4) feet in height;
3. mailboxes;
4. residential-type lamp posts and flagpoles;
5. driveways, ground-level walkways, and in-ground stairways;
6. Temporary Structures;
7. doghouses;
8. bob houses;

9. storage and refuse enclosures not greater than thirty-two (32) square feet in area and five (5) feet in height;
10. decks or stairs not exceeding twenty-four (24) square feet in area.

S. Fences:

1. A fence no more than four (4) feet high, including height of posts, shall be permitted to be installed up to the property line. Any other fence may only be constructed pursuant to a special exception granted by the Board of Adjustment. Stock or animal fences in the rural zone excepted.
2. All fences must be constructed with the finished, or good side, away from the lot on which it is situated.
3. Fences along the shore of public waters shall conform to the shore setback requirements.

T. Commercial Vehicles. No commercial vehicles may be parked overnight on Town of Hebron property. Commercial vehicles may park overnight providing they are actively working on the site.

U. Septic System Replacement.

Existing non-conforming septic systems in failure may be replaced or repaired per NHDES Subsurface Rules as per RSA 485-A; 29-44, as amended.

V. Hotel, Motel, and “Bed & Breakfast” – Lodging Usage

Permitted uses are for transient lodging for guests, and residency for owners, managers, and staff.

W. Small Wind Energy Systems Ordinance

See Appendix A.

ARTICLE V: COMMON HISTORIC DISTRICT

- A. Purposes. For the purposes set out above, and more specifically to preserve elements of the cultural, social, economic, political, and architectural history of the Town of Hebron, and for the other purposes set out in Chapter 674, Section 45, of the New Hampshire Planning and Land Use Regulations, and in order to effectuate said purposes, it is hereby declared to be a public purpose of this Ordinance to regulate construction, alteration, repair, moving, demolition and uses of all structures within this district.

- B. Establishment of Historic District Commission. In order to carry out the purposes of this Article, an Historic District Commission is hereby created to be appointed and reappointed by the Selectmen and to have all the powers and duties conferred by RSA 674:45 through RSA 674:50, as amended.
- C. General Prohibition. Within this district, no construction, major alterations or repairs, moving or demolition of structures or non-residential uses shall be allowed without first obtaining a permit or certificate of approval from said Commission pursuant to RSA 676:9.
- D. Excepted Permitted Uses. Notwithstanding the above, churches, schools, cemeteries, civic and public buildings, museums and libraries shall be permitted uses within this district.
- E. Permitted Uses by Special Exception of the Board of Adjustment Retail Stores, Home Occupation, Renting of Rooms, and Post Office.
- F. Permitted Uses: No campers or other similar temporary living vehicles may be occupied or lived in within the Historic District. The Selectmen may issue a permit for not over fifteen (15) consecutive days upon written request by both the land owner and the occupant.

This does not apply to construction type trailers when used in conjunction with a construction project in progress and is limited to office, storage, and locker purposes. A permit not to exceed one year must be obtained from the Board of Selectmen prior to positioning or using a construction type trailer.

#### ARTICLE VI: LAKE DISTRICT

- A. Purpose. In keeping with the general purposes of this Ordinance, and more particularly in light of the scenic, recreational and environmental values naturally inherent in this district, the specific purposes of this Article are to limit the uses of this district so as to protect those values and encourage only such further developments as will not harm the environment or destroy this district or any part thereof as a natural and scenic resource of the Town.

- B. Uses Permitted.

Within this district the following additional uses may be allowed, subject to such conditions as may hereafter be stated.

- 1. Small hotels and motels (with no more than ten (10) rental units and sleeping facilities for no more than twenty (20) people), restaurants, small office buildings

(which cover not more than 3,000 square feet of area) and accessory buildings for these uses shall be allowed provided that:

- a) the minimum area of any lot for such use shall be two acres of Usable Land;
  - b) at least one-half of the total area of said lot shall be devoted to landscaping or natural growth rather than buildings, driveways or parking lots;
  - c) off-street parking space of at least 300 square feet per rental unit or restaurant table, and adequate parking for offices is provided.
2. Two, three or four dwelling unit multiple-family dwellings shall be allowed, provided that:
- a) off-street parking space of at least 400 square feet for each dwelling unit is provided and maintained;
  - b) all driveways and parking spaces are constructed in accordance with the prior approval of the Selectmen or their agent so that there is adequate space and access for emergency vehicles and safe entrance onto any public way.
3. **Waterfront Right-of-Way:** The purpose of this provision is to provide guidelines for property with access to Newfound Lake and Spectacle Pond, so as to prevent overcrowding and for the protection of the shoreline and quality of water. Right to gain access to a water body through or by means of any land in the Town of Hebron shall not be created or attached to any real estate, except in accordance with the standards set forth below, and subject to the Planning Board's subdivision approval authority. Any owner granting rights of use and access shall comply with the following standards:
- a) Waterfront Area:  
The minimum area of any waterfront lot shall not be less than two (2) acres of Usable Land.
  - b) Water Frontage:  
Said lot shall have not less than 150 feet frontage for each dwelling unit, individual campsite, or individual lodging unit granted rights of use or access.
4. Marinas shall be allowed provided that:
- a) Docks are constructed on the basis that each boat slip shall have a minimum of eight (8) feet of shoreline and each dock shall have a minimum perpendicular distance of sixteen (16) feet between docks.

- b) Parking shall be provided on the basis of three (3) spaces for every four (4) wet boat slips and additionally one (1) space for every live dry docking storage rack.
  - c) Space shall be provided for the parking of cars with trailers on marina property.
5. Cluster Development shall be a Permitted Use within the Lake District provided that:
- a) The number of Dwelling Units shall not exceed the number that would be permitted for a conventional single-family subdivision.
  - b) The size of lots in a Cluster Development shall be determined by the Planning Board based on the character of the land involved, the type of housing proposed, and other pertinent factors.
  - c) The extent of alteration of areas of Very Steep Slope in a Cluster Development shall be determined by the Planning Board based on the character of the land involved, the type of housing proposed, and other pertinent factors.

ARTICLE VII: RURAL DISTRICT

- A. Purposes. This district is established to conserve, as much as possible, the open space and natural and scenic values of this district and encourage such development as will not destroy those values.
- B. Uses Permitted. Within this district the following additional uses shall be allowed, subject to such conditions as may hereafter be stated:
- 1. Agricultural uses, including storage and sale of produce and livestock.
  - 2. Forestry and forest management.
  - 3. Mobile homes shall be allowed provided that:
    - a) all such mobile homes are installed on permanent enclosed foundations;
    - b) all oil, gas and other accessory tanks to said mobile homes are covered or otherwise concealed from the public view;

- c) after installation of said mobile homes all areas except for driveways, walkways and parking areas where natural ground cover was disturbed shall be restored or landscaped so as to prevent erosion or any unsightly or detrimental condition.
4. Multiple-family dwellings of up to 8 dwelling units, provided that:
- a) off-street parking space of at least 400 square feet for each dwelling unit is provided and maintained;
  - b) all driveways and parking spaces are constructed in accordance with the prior approval of the Selectmen or their agent so that there is adequate space and access for emergency vehicles and safe entrance onto any public way.
5. Retail stores, including filling stations and garages and office buildings shall be allowed, provided that:
- a) adequate off-street parking shall be provided for whatever business is proposed to be undertaken thereon;
  - b) in any such commercial use at least one-half (1/2) of the total lot owned shall be devoted to landscaping or natural growth rather than buildings, driveways or parking lots;
  - c) all driveways and parking spaces are constructed in accordance with the prior approval of the Selectmen or their agent so that there is adequate space and access for emergency vehicles, and safe entrance onto any public way.
  - d) all driveways and parking spaces are constructed in accordance with the prior approval of the Selectmen or their agent so that there is adequate space and access for emergency vehicles, and safe entrance onto any public way.
6. Campgrounds, transient trailer or camper parks shall be allowed provided that adequate and approved waste disposal is provided by the owner of said park, and each rental space for any tent, camper, travel trailer or other transient unit shall contain a minimum of 20,000 square feet.
7. Light industry which causes no noise, air or water pollution, and when no activity in connection with such industry causes odors, dust, smoke, refuse, vibration or such similar condition as may, in any way, be a danger or nuisance to the comfort of the community or abutting property.

The minimum area of lot for any single light industry shall be two (2) acres of Usable Land and not more than fifty (50) percent of the total area of lot shall be used for buildings, parking spaces and driveways. Adequate off-street parking space with ample access for emergency vehicles, approved by the Selectmen, shall be provided. No off-street parking space shall be located within the required frontage setback.

8. Sand and gravel excavations for commercial purposes shall be allowed and governed in accordance with New Hampshire RSA Chapter 155-E. All grading, slopes and embankments shall be maintained against ordinary erosion which might otherwise occur as a result of the construction of roads, driveways or structures. All construction operations shall be controlled by the owner to prevent erosion debris and other loose materials from washing into any drainage courses, street or abutting property. Permits shall be obtained from the Planning Board.
9. Cluster Development shall be a Permitted Use within the Rural District provided that:
  - a) The number of Dwelling Units shall not exceed the number that would be permitted for a conventional single-family subdivision.
  - b) The size of lots in a Cluster Development shall be determined by the Planning Board based on the character of the land involved, the type of housing proposed, and other pertinent factors.
  - c) The extent of alteration of areas of Very Steep Slope in a Cluster Development shall be determined by the Planning Board based on the character of the land involved, the type of housing proposed, and other pertinent factors.
10. Small Wind Energy Systems shall be a Permitted Use within the Rural District in accordance with the Small Wind Energy System Ordinance (see Appendix A).
11. Workforce and Multifamily Housing shall be a Permitted Use within the Rural District in accordance with RSA 674:58-61.

ARTICLE VIII: FLOODPLAIN DISTRICT

- S. Floodplain District Ordinance. This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Hebron Floodplain District 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.

Pursuant to RSA 674:57, by resolution of the Board of Selectmen, all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Grafton, NH" dated February 20, 2008, together with the associated Flood Insurance Rate Maps dated February 20, 2008, including any future revisions there to, which are declared to be part of the Town of Hebron, NH Zoning Ordinance and are hereby incorporated by references. Said lands are further defined by Article III D.

Item I 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 Hebron.

"Areas of Special Flood Hazard" is the land in the floodplain within the Town of Hebron subject to a one-percent or greater possibility of flooding in any given year. The area is designated as Zones A or AE on the Flood Insurance Rate Map.

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

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

"Building" - see "structure".

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

"FEMA" means the Federal Emergency Management Agency.

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

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

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

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

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

"Floodway" - see "Regulatory Floodway".

"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 but does not include long-term storage or related manufacturing facilities.

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

"Historic Structure" means any structure that is:

- (a) Listed individually in a 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;
- (b) 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;
- (c) 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
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior, or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

"100-year flood" - see "base flood".

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

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

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

"Special flood hazard area" means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, VO, VI-30, VE, V, M, or E. (See "Areas of Special Flood Hazard").

"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.

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

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

"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 fifty (50) percent of the market value of the structure before the damage occurred.

"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 an "historic structure", provided that the alteration will not preclude the structure's continued designation as an "historic structure".

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or evidence of compliance required in 44CFR 60.3(b)(5), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

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

## Item II.

All proposed development in any special flood hazard areas shall require a permit. The form of said permit shall be determined by the Selectmen and shall be available from the Selectmen's Office.

## Item III.

The Selectmen or their designee 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:

- (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- (ii) be constructed with material resistant to flood damage,
- (iii) be constructed by methods and practices that minimize flood damages,
- (iv) 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.

#### Item IV.

Where new or replacement water and sewer systems (including onsite systems) are proposed in a special flood hazard area the applicant shall provide the Selectmen 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 onsite waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

#### Item V.

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

- (a) the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- (b) If the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.
- (c) any certification of floodproofing.

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

#### Item VI.

The Selectmen 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.

Item VII.

1. Wetlands: In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the compliance officer, 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 Selectmen, including notice of all scheduled hearings before the Wetlands Bureau.

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

3. The Selectmen 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."

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

5. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Item VIII.

1. In unnumbered A zones the Selectmen 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).

2. The Selectmen's 100 year flood elevation determination will be used as criteria for requiring in Zone A and AE that:

- a. all new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood elevation;
- b. that all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:
  - (i) be floodproofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads of the effects of buoyancy; and
  - (iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;
- c. All manufactured homes to be 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 flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
- d. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted 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.

- e. Recreational vehicles placed on sites within Zones A and AE shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirement for "manufactured homes" in Paragraph (c) (6) of Section 60.3

Item IX. Variances and Appeals:

1. Any order, requirement, decision or determination of the Selectmen made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
  - (a) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
  - (b) that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
  - (c) that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
4. The community shall (i) maintain a record of all variance actions, including their justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE IX: WETLANDS PROTECTION OVERLAY DISTRICT (WPOD)

A. TITLE

This portion of the Hebron Zoning Ordinance shall be known as the "Wetlands Protection Overlay District" of the Town of Hebron, New Hampshire.

B. AUTHORITY

By the enabling authority granted in NH RSA 674:16 and 674:21, and as enacted by the Hebron Town Meeting on March 11, 2008 pursuant to RSA 675:3, the Wetlands Protection Overlay District is hereby established. This ordinance represents the premise as stated in the Hebron Master Plan that “wetlands are a critical resource,” and in its directive to protect wetlands, and their buffers in the town.

### C. PURPOSE AND INTENT

The purpose of the Wetlands Protection Overlay District is to protect the health, safety and general welfare of the community by controlling and guiding the use of wetland areas and wetland buffers within the town. The adoption and implementation of this district shall:

1. Prevent the degradation of surface water and ground water quality;
2. Preserve the ability of wetlands, areas adjacent to wetlands commonly known as buffers, and streams to provide treatment for water quality purposes, to filter pollutants, trap sediments or retain and absorb chemicals and nutrients;
3. Prevent the destruction of, or significant changes to natural wetlands which provide flood storage;
4. Prevent the destruction of habitats for rare, unique, threatened or endangered species of flora and fauna;
5. Prevent the development of structures and land uses on naturally occurring wetlands and areas adjacent to wetlands which will contribute to the degradation of surface and/or groundwater quality including but not limited to wastewater, toxic substances, excessive nutrient release, accelerated runoff, erosion and sedimentation;
6. Preserve and enhance the aesthetic and recreational values associated with wetlands;
7. Protect fish and wildlife habitat, and maintain ecological balances;
8. Prevent expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.

### D. APPLICABILITY

1. The Wetlands Protection Overlay District shall include all areas within the Town of Hebron that are defined in Section E as wetlands, designated prime wetlands, designated wetlands, non-designated wetlands, or vernal pools, as well as the wetland buffer areas established under Section H and Table 3.
2. All land use permits shall be subject to the provisions of this ordinance.

3. Any applicant seeking a land use permit(s) will be responsible for providing all required information before the proposal will be considered.
4. Standards and requirements established in this Ordinance shall be superimposed over all other zoning districts, or portions thereof, within the Town of Hebron.
5. Wherever this overlay district is in conflict with another district, the more stringent regulation shall apply.

#### E. DEFINITIONS

1. Certified Wetland Scientist: An individual certified by the N.H. Joint Board of Natural Scientists Pursuant to RSA 310-A (as amended) or an individual qualified to perform wetland function and value assessments and prepare wetland mitigation plans by reason of multi-disciplinary expertise in wetland science acquired by education and practical experience.
2. Pollution: Any human-caused contamination or alteration of the physical, chemical, or biological properties of any wetlands and/or waterbodies that will render them harmful or detrimental to: (a) public health, safety or welfare; (b) domestic, agricultural, recreational or other legitimate beneficial uses; (c) flora or fauna.
3. Water Storage or Impoundment: Man-made resource for a specific purpose or combination of purposes including storm water management, fire safety, irrigation and wildlife habitat (not including Newfound Lake or Spectacle Pond).
4. Wetlands: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support a prevalence of vegetation typically adapted for life in saturated soil conditions.
  - a. Designated Prime Wetlands: Any wetlands to be designated in the future as prime wetlands and falling within the jurisdictional definitions of RSA 482-A (as amended), that possess one or more of the values set forth in RSA-482-A:1 (as amended), and that, because of their size, unspoiled character, fragile condition, uniqueness or other relevant factors, make them of substantial significance.
  - b. Designated Wetlands: Seventeen areas of wetlands (Numbers 2 through 18) as documented in the *Wetlands of Hebron Inventory 1997* by Amanda Stone.
  - c. Non-designated Wetlands: Includes all other wetlands which have not been inventoried or evaluated by the Town of Hebron.
  - d. Vernal Pool: A body of water, typically seasonal, that provides essential breeding habitat for certain amphibians and invertebrates, does not support viable fish population, and meets the criteria established by the New Hampshire Fish and Game Department, Nongame and Endangered Wildlife Program, Identification and Documentation of Vernal Pools in New Hampshire, rev 2004, or as updated. Vernal pools are recognized for their functional and biological values as high quality wetland habitats.

5. Protective Wetland Buffer: A vegetated upland area bordering a wetland, more specifically defined as the area within a specified distance from the edge of the wetland, which adds important habitat, ground water recharge, nutrient removal, and erosion control value to the wetland. A vegetated area includes uncut or undisturbed forest, minimally disturbed or managed forest, and abandoned pasture or fields.

6. Wetland Delineation: The location of a wetland boundary in any particular case must be determined by on-site inspection of all three characteristics of wetlands, namely, hydrology, hydric soils, and hydrophytic plants, in accordance with the current New Hampshire Department of Environmental Services Wetlands Bureau Code of Administrative Rules, as amended. This shall be undertaken by a Certified Wetland Scientist, or other licensed or permitted professional acceptable to NH DES.

**F. PERMITTED USES FOR WETLANDS AND WETLAND BUFFERS**

1. Permitted uses in those areas determined to be wetlands and their buffers are those which:
  - (a) Do not include the erection or construction of a structure of any size;
  - (b) Do not alter the natural surface configuration by the addition of fill, dredging or grading; and
  - (c) Are compatible with the specified Purpose and Intent of the ordinance.

Such uses may include, and are limited to, the uses permitted, or permitted by special exception, in Table 1.

2. Any wetland or wetland buffer altered in violation of this ordinance shall be restored at the expense of the owner and/or offender.

**TABLE 1  
USES AND ACTIVITIES FOR THE WETLANDS PROTECTION OVERLAY DISTRICT**

a. Outdoor passive recreational activities including hunting, skiing, hiking, fishing, swimming, non-motorized boating;	Permitted
b. Snowmobile use (utilizing BMPs following NH and local club guidelines);	Permitted
c. Educational activities and scientific research consistent with Section C;	Permitted
d. Pre-existing activities and minor maintenance incidental to ordinary residential use, such as: removing diseased vegetation, maintaining walking trails, and limited mowing. Mowing or cutting of vegetation in a wet meadow, swamp, or forest woodland is allowed provided roots of vegetation are not disturbed, and the ground is frozen or sufficiently dry to avoid making ruts, and the area is stabilized once thawed so as not to impact the functions and values of the wetlands and wetland buffers, and the project is not located in a bog or adjacent to a prime wetland, but not regrading or re-contouring land or clearing vegetation;	Permitted
e. Agricultural activities as defined in NH RSA 21:34-a (as amended) and as	Permitted

governed by RSA 430 (as amended), provided that such activities and operations are in conformance with the most recent Best Management Practices determined by the USDA Natural Resources Conservation Service, NH Department of Agriculture, and UNH Cooperative Extension;	
f. Forestry, tree farming and logging operations. Logging operations must (1) utilize Best Management Practices as described in Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire: and (2) Comply with all applicable state laws including obtaining and filing an Intent to Cut form according to RSA 79:10 (as amended), and filing a complete Notification of Forest Management Activities Having Minimum Wetlands Impact according to RSA 482-A:3 (as amended), or obtaining a State Wetlands Bureau permit according to RSA 482-A (as amended). Forestry, tree farming and logging shall attempt to avoid wetlands as a priority in all cases, in order to protect streams from damage and to prevent sedimentation;	Permitted
g. Control and removal of invasive species. (Invasive species as defined by NH Department of Agriculture and NH Invasive Species Committee, and in consultation with NH DES.);	Permitted
h. Wildlife or fisheries management activities; Wildlife refuges;	Permitted
i. Parks and recreation uses consistent with the Purpose and Intent of this ordinance;	Permitted
j. Conservation area and nature trails;	Permitted
k. Open spaces as permitted or required by the Subdivision Regulations;	Permitted
l. Snowplowing, brush removal and other maintenance along town roads and driveways;	Permitted
m. Uses NOT permitted in the Wetlands Protection Overlay District but permitted within underlying districts;	Permitted by Special Exception
n. New construction of essential access ways and utility right of way easements, including power lines and pipelines, if located and constructed as to minimize any detrimental impact to wetlands and wetland buffers;	Permitted by Special Exception
o. Small structures consistent with Section C (Purpose and Intent) for the public good including but not limited to: footbridges, walkways, boardwalks, nesting platforms and fences;	Permitted by Special Exception
p. Remedial activities to correct erosion;	Permitted by Special Exception
q. Water impoundments for the purpose of creating a water body for wildlife, fire ponds, on-site detention of storm water runoff, or for recreational uses.	Permitted by Special Exception

Uses prohibited within the Wetlands Protection Overlay District include, but are not limited to, items in Table 2.

Table 2  
PROHIBITED USES IN THE WETLAND PROTECTION OVERLAY DISTRICT

a. Dumping and/or disposal of snow and ice from roadways and parking.
b. Erection and/or construction of dwellings and accessory structures.
c. Pollution of wetlands, surface or ground waters; application of herbicides, pesticides, and/or fertilizers.
d. Use of ATVs, OHRVs, motorcycles, “dirt bikes”, and/or other wheeled and motorized recreational vehicles.
e. Draining, dredging, filling or changing the flow of water.
f. Regrading or re-contouring of land.
g. Salt storage, junkyards, resource recovery facilities, transfer stations, landfills, solid or hazardous waste facilities.
h. Storage of chemicals, petroleum products, toxic and hazardous materials.

**G. REQUIREMENTS AND STANDARDS FOR SPECIAL EXCEPTIONS IN THE WETLANDS PROTECTION OVERLAY DISTRICT**

The requirements for review of Special Exceptions under the WPOD are in addition to the “normal” special exception criteria found in Article VIII of the Hebron Zoning Ordinance.

1. In granting a Special Exception, the Zoning Board of Adjustment must determine that each of the following conditions have been met:

- a. The proposal is consistent with Section C (Purpose and Intent); and
- b. Alternative proposals have been considered, and the submitted proposal represents the minimum amount of reasonable, unavoidable environmental impact to wetlands, streams and/or associated buffer areas; and
- c. Environmental impacts to abutting or downstream properties and natural resources have been considered and minimized.
- d. The proposed construction is essential to the productive use of land not within the Wetlands Protection Overlay District.
- e. Design and construction methods will be such as to minimize impact upon the wetland resource and will include restoration of the site consistent with the permitted use.
- f. Drainage work shall be in accordance with the most current Best Management Practices for Stormwater Management, Erosion and Sedimentation Control recommended by NHDES.
- g. Economic advantage is not the sole reason for the proposed location of the construction.

2. Notification shall be given to all abutters and the general public and a Public Hearing **with** the Zoning Board of Adjustment held in accordance with RSA 676:7 (as amended).

3. Applications for Special Exception under the Wetlands Protection Overlay District shall be made to the ZBA and be accompanied by a wetland assessment report. The report shall include a map, an assessment of the functions and values of the wetland and/or stream, and an assessment of the anticipated impacts upon the wetland and/or stream resulting directly or indirectly from the proposed activities. The report shall address the criteria set forth in Section 1 above. Reports required pursuant to this section shall be prepared by a Certified Wetland Scientist or any licensed or permitted professional acceptable to NHDES. The report shall include the credentials of the individual preparing the report.

4. Copies of all application materials for Special Exceptions to the ZBA in the Wetlands Protection Overlay District shall also be sent to the Conservation Commission at the same time as they are submitted to the ZBA, and prior to the public hearing for written comments and/or recommendations.

5. The applicant shall demonstrate compliance with the conditions set forth in Section G1.

#### H. WETLAND BUFFER REQUIREMENTS

1. Protective Wetland Buffer setbacks shall be established as specified in Table 3.
2. In the event two buffer requirements are in conflict with each other, the more restrictive shall apply.
3. Nothing in this ordinance shall relieve any person of the obligation to comply with all applicable vegetative buffer provisions of the Shoreland Protection Act, RSA 483-B, as the same may be amended from time to time.
4. The setback for wetlands shall be measured from the outermost limit of that wetland.
5. Non-designated exempt wetlands shall be subject to all applicable NH DES requirements.

#### I. SUBSURFACE WASTEWATER DISPOSAL SYSTEMS

1. Minimum leach bed setbacks shall be established as specified in Table 3.
2. In the event that two setbacks are in conflict with each other, the more restrictive shall apply.

TABLE 3 Setback Requirements

	Water Resource	Buffer Setback	Leach Bed Setback
a.	Designated Prime Wetlands	100' *	150'
b.	Designated Wetlands	100'	100'
c.	Non-designated Wetlands	N/A	50' - 75' **

\* As per RSA\_482-A:11,IV (as amended).

\*\* As per NH DES rules relative to soils.

#### J. VERIFICATION OF WETLAND BOUNDARIES

1. Where maps or field investigation indicate that a wetland may be present on a proposed development site, the Town of Hebron shall require the applicant to provide a professional wetland determination and delineation. The method of delineation shall be as defined in this ordinance.

2. Where the presence of a wetland has been identified, the boundaries of the wetland shall be clearly marked on the site with flagging along the wetland perimeter.

3. In the event the town official or land use board with the authority to review and approve or disapprove a development application has a reasonable basis to question the accuracy of a wetland determination or delineation submitted by the applicant, that official or board may require an independent investigation to be undertaken for the town by a Certified Wetland Scientist or qualified professional selected by the Town at the expense of the applicant.

#### K. SAVINGS CLAUSE

The invalidation of any provision of the Wetlands Protection Overlay Ordinance shall not affect the validity of any other provision of the Hebron Zoning Ordinance.

#### ARTICLE X: BOARD OF ADJUSTMENT

A. Within thirty (30) days after the adoption of this ordinance the Town Moderator shall nominate to the Board of Selectmen a list of nominees consisting of two (2) or more nominees for each vacancy from which the Board of Selectmen shall make appointments to a Board of Adjustment of five (5) members conforming in duties to the provisions of Chapter 674:33 of the New Hampshire Planning and Land Use Regulations. Thereafter, as terms expire or vacancies occur, the appointing authority shall be responsible for filling vacancies and maintaining full membership and term of office to the provisions of Chapter 673:6, New Hampshire Planning and Land Use Regulations. In addition to the general powers granted said Board of Adjustment by said Chapter 674, it may, in harmony with its general purposes and intent, make special exceptions to the terms of the ordinance if the Board finds:

1. That the granting of such special exception is not contrary to promoting the public interest and convenience of the citizens of Hebron.
2. That the granting of such special exception will not result in diminution of the values of surrounding properties.
3. That for any uses involving vehicles, the special exception will be granted only if adequate provisions for off-street parking is provided.
4. That the granting of such special exception will not be contrary to the spirit of this Ordinance.

B. The Board of Adjustment shall have the following additional powers.

1. To hear and decide appeals where it is alleged there is error in order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance.
2. To authorize upon appeal in specific cases such variance from the terms of the Ordinance and as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.
3. The concurring vote of three members of the Board shall be necessary to reverse any action of such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such Ordinance, or to effect any variation in such Ordinance.
4. The Board of Adjustment is, for all other powers, set forth in New Hampshire Revised Statutes Annotated, Chapter 31, as amended.

C. Any variance approving a use, which use has not commenced within one year from the granting of said variance, shall lapse.

ARTICLE XI: ENFORCEMENT AND PENALTIES

- A. Authority. It shall be the duty of the Board of Selectmen, and they are hereby empowered to administer and enforce the provisions of this Ordinance.
- B. Penalties. Penalties shall be as set forth in the Town Subdivision Regulations Appendix. Reference 676:17 (Fines and Penalties).
- C. The Selectmen shall be authorized to seek enforcement, conviction and injunction in the appropriate court and the violator shall, in addition to the fines, be liable for the Town's expenses in seeking said conviction and/or injunction.

ARTICLE XII: SEPARABILITY

If any section, subsection, paragraph, sentence, clause, provision, word or phrase of this Ordinance is held to be invalid or unconstitutional by any court or any competent authority, such holding shall not effect, impair or invalidate any other section, subsection, paragraph, sentence, clause, provision, word or phrase of this Ordinance.

ARTICLE XIII: AMENDMENTS

This Ordinance may be amended in the manner provided in New Hampshire Planning and Land Use Regulations, Chapter 674, as amended.

ARTICLE XIV: EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days from the date of adoption by the voters of the Town of Hebron.

Zoning Ordinance adopted October 15, 1973  
Zoning Ordinance amended March 14, 1978  
Zoning Ordinance amended March 13, 1979  
Zoning Ordinance amended March 12, 1985  
Zoning Ordinance amended March, 1986  
Zoning Ordinance amended March 14, 1990  
Zoning Ordinance amended March 10, 1992  
Zoning Ordinance amended March 8, 1993  
Zoning Ordinance amended March 8, 1994  
Zoning Ordinance amended March 9, 1999  
Zoning Ordinance amended March 12, 2002  
Zoning Ordinance amended June 20, 2006  
Zoning Ordinance amended March 13, 2007  
Floodplain District Ordinance amended February 7, 2008  
Zoning Ordinance amended March 11, 2008  
Zoning Ordinance amended March 10, 2009  
Zoning Ordinance amended March 8, 2011  
Zoning Ordinance amended March 13, 2012  
Zoning Ordinance amended March 11, 2014

# Hebron Small Wind Energy Systems Ordinance

## Appendix A to Hebron Zoning Ordinance

### A. Purpose:

This small wind energy systems ordinance is enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to accommodate small wind energy systems in appropriate locations **within the Rural District**, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

### B. Definitions:

**Meteorological tower (met tower).** Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this ordinance, met towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

**Modification.** Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

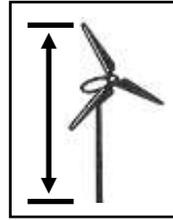
**Net metering.** The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

**Power grid.** The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

**Shadow flicker.** The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

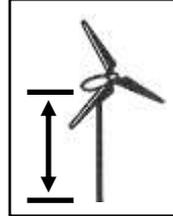
**Small wind energy system.** A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

**System height.** The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.



**Tower.** The monopole, guyed monopole or lattice structure that supports a wind generator.

**Tower height.** The height above grade of the fixed portion of the tower, excluding the wind generator.



**Wind generator.** The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

### C. Procedure for Review:

1. **Site Plan Review and Building Permit:** Small wind energy systems and met towers are an accessory use permitted **in the Rural District, but not in the Common Historic District or Lake District**. No small wind energy system shall be erected, constructed, or installed without first **Site Plan Review by the Planning Board and then** receiving a building permit. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.
2. Application: Applications submitted **to the Planning Board for Site Plan Review** shall contain a site plan with the following information:
  - i) Property lines and physical dimensions of the applicant's property.
  - ii) Location, dimensions, and types of existing major structures on the property.
  - iii) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
  - iv) Tower foundation blueprints or drawings.
  - v) Tower blueprints or drawings.
  - vi) Setback requirements as outlined in this ordinance.
  - vii) The right-of-way of any public road that is contiguous with the property.
  - viii) Any overhead utility lines.
  - ix) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.

- x) Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
- xi) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
- xii) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
- xiii) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
- xiv) List of abutters to the applicant's property.

**D. Standards:**

- 1. The Planning Board shall evaluate the application for compliance with the following standards;
  - a. Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.

Minimum Setback Requirements			
Occupied Buildings on Participating Landowner Property	Occupied Buildings on Abutting Property	Property Lines of Abutting Property and Utility Lines	Public Roads
0	1.5	1.1	1.5

- i) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
- ii) Guy wires used to support the tower are exempt from the small wind energy system setback requirements.
- b. Tower: The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 150 feet.
- c. Sound Level: The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
- d. Shadow Flicker: Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
- e. Signs: All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.

- f. Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
- g. Aviation: The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.
- h. Visual Impacts: It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.
  - i) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.
  - ii) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
  - iii) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.
- i) Approved Wind Generators: The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.
- j) Utility Connection: If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.
- k) Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- l) Clearing: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.

## E. Abandonment:

1. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the **Board of Selectmen** by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
2. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the **Board of Selectmen**. “Physically remove” shall include, but not be limited to:
  - a. Removal of the wind generator and tower and related above-grade structures.
  - b. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.
3. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the **Board of Selectmen** may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the **Board of Selectmen** shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the **Board of Selectmen** shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
4. If the owner fails to respond to the Notice of Abandonment or if, after review by the **Board of Selectmen**, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner’s sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the **Board of Selectmen** may pursue legal action to have the small wind energy system removed at the owner’s expense.

## F. Violation:

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt from this ordinance except when modifications are proposed to the small wind energy system.

## G. Penalties:

Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676:17.