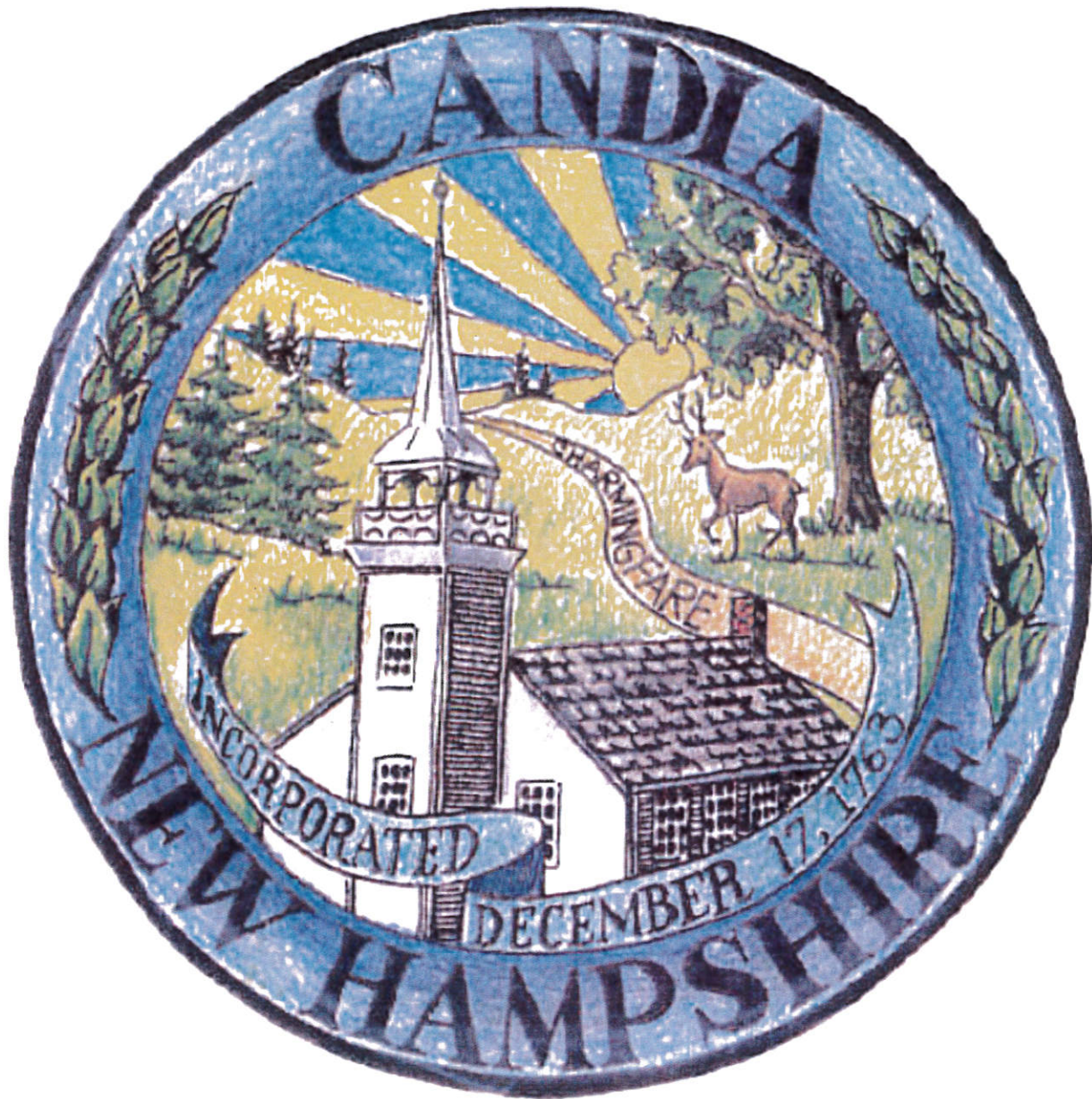


*Town of Candia, New Hampshire*



*Zoning Ordinance*

2020

ZONING ORDINANCE AND MAP  
FOR CANDIA, NH

2020 REVISION

*A True Copy of Record  
Attest  
Christine Keppner  
March 13, 2020*

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# ARTICLE I: TITLE, PURPOSE AND INTERPRETATION

## Preamble

Be it ordained, by Town Meeting of the Town of Candia, pursuant to Chapters 672 - 677, Revised Statutes Annotated of New Hampshire, as amended, the following Ordinance is hereby enacted:

An Ordinance regulating and restricting the height, number of stories and size of buildings and other structures, the size of yards, and other open spaces, the density of populations and the location and use of buildings, structures and land for trade, industry, residence or other purpose, and for any or all of said purposes dividing the town into districts.

### **Section 1.01: Short Title**

The Ordinance shall be known and may be cited as the “Zoning Ordinance of the Town of Candia, New Hampshire” referred to herein as “this Ordinance”.

### **Section 1.02: Purpose**

- This Ordinance is designed in accordance with a master plan for the following purposes:
- To provide for the orderly and planned growth of our town;
- To lessen congestion in the streets;
- To secure safety from fires, panic and other dangers;
- To promote health and the general welfare;
- To provide adequate light and air; to prevent the overcrowding of land;
- To avoid undue concentration of population;
- To facilitate the adequate provision of transportation, water, sewerage, schools, park and other public requirements;
- To prevent pollution of air and water; to conserve and protect land values and amenities, to encourage existing and proposed agricultural activities, recognizing that agricultural activities are a beneficial and worthwhile feature of Candia’s landscape and shall not be unreasonably limited by use of planning and zoning powers or the unreasonable interpretation of such powers;
- To provide architectural standards for development or renovation of commercial, industrial, and institutional structures that ensure an esthetically pleasing structure that compliments the traditional New England heritage of Candia.

### **Section 1.03: Interpretation**

In interpreting and applying this Ordinance, its provisions shall be held to the minimum requirements adopted for the purposes set forth above.

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## ARTICLE II: GENERAL PROVISIONS

### **Section 2.01: Required Conformance with Regulations:**

No building or other structure shall be constructed or altered, nor land used except in conformity with this Ordinance unless such building or structure or use is a valid non-conforming use as defined in this Ordinance.

### **Section 2.02: Non-Conforming Uses and Structures:**

#### **A. Right to Continue:**

Any legal use or structure or use of a structure or part thereof that existed on the effective date of this Ordinance or any amendments thereto, but which would not be permitted under the provisions herein may continue as a legal non-conforming use.

#### **B. Change and Expansion:**

No legal non-conforming use shall be changed to another non-conforming use and no non-conforming use shall be enlarged or extended.

#### **C. Destroyed:**

Any legal non-conforming use and/or structure that is damaged or destroyed by catastrophe may be rebuilt to its former extent of non-conformance. Reconstruction must begin within 2 years.

#### **D. Abandonment:**

Any legal non-conforming use or structure that is discontinued or abandoned for a period of one year or more cannot be resumed but can be replaced by a conforming use.

#### **E. Use of Non-conforming Lot:**

An existing non-conforming lot as defined by this Ordinance in Article III: Definitions may be used for the purposes provided in the District in which the property is located provided:

1. That the lot is not adjacent or contiguous to other property in the same ownership;
2. That the lot has at least 60' frontage as defined in Article III: Definitions of this Ordinance, as shown on a survey done by a New Hampshire licensed land surveyor and that the applicant has obtained a driveway permit;
3. That any proposed structure meets current yard and wetland setback requirements for the District in which it is located; and;
4. That the lot receives approval from the New Hampshire Department of Environmental Services by the Water Supply and Pollution Control of the Department of Environmental Services for a septic disposal system disposal system capable of supporting the proposed use. Use of septic holding tanks shall not be considered a septic disposal system for the purposes of this section as provided for under the New Hampshire Code of Administrative Rules, ENV-WS 1 - 'Subdivision and Individual Sewage Disposal System Design Rules';
5. A non-conforming lot may only be enlarged to become a conforming lot.

### **Section 2.03: Visibility at Intersections:**

In any District, no fence, planting, building, or structure shall be permitted that would substantially obstruct visibility at exits or entrances to a public street and the intersection of any two travel ways.

### **Section 2.04: Driveways:**

The entrance of driveways and other accesses to the public way shall be done in accordance with RSA 236:13 and shall be inspected by the Road Agent. Access to the public way shall be on the bound of the lot used for "lot width and frontage" (6:02). Access to public way from another bound other than that used for frontage may be allowed by the Planning Board only upon a showing of public safety concern.

### **Section 2.05: Buildings on One Lot:**

There shall be only one residential building on a lot unless otherwise approved under Innovative Land Use Controls. See Section 15.04 E.

**Section 2.06: Temporary Use of Manufactured Housing:**

The Building Inspector may issue a temporary Certificate of Occupancy for use of manufactured housing for dwelling or office use while rebuilding after an unforeseen disaster, such as fire. The temporary use shall be for no more than six (6) months but may be renewed for up to six (6) months as Long as construction is actively pursued. For temporary use while building a new dwelling application shall be made to the Board of Adjustment requesting a Special Exception. To be granted a Special Exception the applicant must have an approved driveway permit and building permit for the new structure and on-site water and septage disposal facilities to service the manufactured home. The Board of Adjustment may require other reasonable conditions and safeguards in order to minimize any injurious effect upon the neighborhood to protect contiguous property and to ensure that the use will be a temporary expedient. The temporary Certificate of Occupancy, to be issued by the Building Inspector, shall be for a period to be determined by the Board of Adjustment but shall not exceed six (6) months. On request to the Building Inspector and with good cause shown, the temporary use may be extended for up to six (6) more months.

**Section 2.07: Temporary Use of an Unfinished Structure:**

The Building Inspector may issue a temporary Certificate of Occupancy for the use of an unfinished structure for single family residential purposes only. The temporary use may be for a period of no more than 6 months but may be renewed once for up to 6 months provided construction is actively pursued subject to the following restriction to the area being occupied:

1. Water and septage facilities are installed and approved;
2. Electrical and plumbing facilities are installed and approved; and
3. All other safety and health standards are addressed.

**Section 2.08: Lots Recorded Prior to the Adoption of This Ordinance:**

Refer to section 2:02 E.

**Section 2.09: Contiguous or Attached Property:**

No lots of record adjacent or contiguous to other lots of record in the same ownership shall be required to be combined or attached for any purpose except that of the owner/s of said properties.

**Section 2.10: Impact Fee Ordinance:**

See Section 145.03:C: C

## ARTICLE III: DEFINITIONS

For the purpose of this Ordinance, words used in the present tense include the future; the singular number includes the plural, and the plural includes the singular. The word "lot" shall include "plat" or "parcel". The word "structure" shall include the word "building", where the context requires. The word "used" shall include "arranged, designed, rented, leased, intended to be used, and occupied". The word "shall" is mandatory; and the word "may" is permissive. Certain other terms or words shall be interpreted as follows:

**Accessory Dwelling Unit:** A second dwelling unit attached which is permitted by a land use control regulation to be located on the same lot, plat, site or other division of land as the principal dwelling unit. RSA 674.21. (2019)

**Agriculture and Farming:** Shall be that use delegated by NH RSA 21:34a. (2020)

**Arterial Street:** Reference in this ordinance to arterial street(s) shall mean: Route 27 from the Hooksett town line to the Raymond town line; Route 43 (Deerfield Road) from the intersection of Business Route 101 to the Deerfield town line; Business Route 101 from the intersection of Brown Road to the intersection of Route 27.

**Board of Adjustment:** The Zoning Board of Adjustment of the Town of Candia.

**Buildable:** As applied to land does not include very poorly drained soils, or standing water, steep slopes over 25%, or any part of the lot considered not buildable.

**Buildable Lot:** A lot, intended for placement of a dwelling which meets the acreage requirements for the district in which it is located, and which is capable of providing adequate septage and water supply systems for the intended use.

**Building:** Any independent structure having a roof with structural supports for the shelter or enclosure of persons, animals, or property.

**Building, Accessory:** A building subordinate to and located on the same lot with a main building, the use of which is clearly incidental to that of the main building, such as a detached garage or barn.

**Cellar:** An area partly underground having more than one half of its clear ceiling height below the average finished grade level at the foundation.

**Collector Street:** Reference in this ordinance to collector street(s) shall mean those streets which carry traffic directly to arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development.

**Common Area:** Common area shall be any parcel of land and/or water area set aside under a residential cluster subdivision plan which is not designated for individual ownership. The common area includes areas designated as open space. Common areas may contain accessory structures for education, recreation, social or other uses by the owners of the dwelling units within the residential cluster subdivision.

**Condominium:** Real property and any interests therein, lawfully submitted through the recordation of condominium instrument pursuant to the provisions of Chapter 356-B New Hampshire Revised Statutes Annotated. No project shall be deemed a condominium unless the undivided interests in the common area(s) [all portions of the condominium other than the units are vested in the unit owners].

**Condominium Unit:** A dwelling unit together with the undivided interest in the common area pertaining to that unit.

**Day Care Center:** A commercial or non-profit, non-resident center providing care for more than six (6) children. Such a center may include teachers and staff.

**Dwelling:** A building or portion thereof containing one or more dwelling units.

**Dwelling, Multi-Family:** A building or portion thereof containing 3 or more dwelling units.

**Dwelling, Single Family Attached, Duplex:** A single family dwelling superimposed or attached by a common wall or other means to one other single-family dwelling.

**Dwelling, Single Family Detached:** A structure designed for and occupied by not more than one family and which is not attached to any other dwelling unit by any means.

**Dwelling Unit:** A building or portion thereof providing complete living, cooking, sanitary, and sleeping facilities.

**Elderly Housing:** Housing intended for, and 100 percent of the dwelling units are occupied solely by, persons 55 years of age or older, featuring small single-family detached or attached dwelling units and apartments. In no event shall more than four (4) occupants live in any dwelling unit of an elderly housing development.

**Essential Services:** The erection, construction or major alteration by public or private utilities or municipal or other governmental agencies of underground or overhead gas, electrical, sewer, steam or water transmission or distribution systems, collection communication, supply or disposal systems; including poles, wires, mains, drains, sewers, pipes conduits, cables and similar equipment and accessories in connection therewith, and including buildings reasonably necessary for the furnishing of adequate service or for the public health, safety or general welfare. For the purpose of this Ordinance, essential services shall not include the replacement of facilities (other than buildings) or minor relocation or minor additions such as streetlights, hydrants, wires, alarm boxes, communications boxes, pipes.

**Family:** One or more persons living as a single house-keeping unit.

**Family Day Care Home:** A residence occupied by a day care provider in which a maximum of six (6) children are cared for on a full-time basis. The maximum includes any children under six (6) years old who live in the home and any children related to the provider who are received for childcare.

**Floor Area:** The internal heated living space area of a single dwelling unit. It shall not include any garage, shed, porch or similar structure or accessory use.

**Frontage:** The contiguous distance along the lot line dividing a lot from either **a)** a public highway, excepting limited access highways as defined by RSA 230:44 and Class VI highways; or **b)** a road shown on an approved and recorded subdivision plan.

**Gasoline Station:** Building and premises where gasoline, oil, grease, batteries, tires, automobile accessories and incidentals are sold at retail and where minor servicing and repairs take place. Major mechanical and body work, straightening condition, or other work involving noise, glare, fumes, or smoke are not included in this definition.

**Height:** The vertical distance between the average finished grade at the base of a building or structure and the highest point of the roof of a building or structure.

**Junkyard:** As defined in RSA 236:112.

**Lot:** A tract of land, in the same ownership throughout, as described by metes and bounds on a deed or plat properly registered with the Rockingham County Registrar of Deeds. Nothing in this ordinance shall be construed as requiring the selectmen to, or preventing the selectmen from, consolidating lots on the Candia, New Hampshire tax maps for the purpose of assessment or taxation.

**Lot, Corner:** A lot with frontage on two or more streets at their intersection, where the interior angle of the intersection is less than one hundred and thirty-five (135) degrees.

**Lot Area:** The area in square feet or acres enclosed by the lot lines of a single lot.

**Lot Depth:** The average distance from the front lot line to the rear lot line.

**Lot Width:** The average distance from between the side lot lines at right angles to the depth.

**Lot Line, Rear:** The lot line most distant from the front lot line, except that in the case of a corner lot, the owner shall have the option of choosing which of the lot lines shall be the rear lot line.

**Major Recreational Equipment:** Boat and boat trailers, travel trailers, pick-up campers or coaches, motorized dwelling, tent trailers, and similar devices.

**Manufactured Housing:** The term manufactured housing shall mean "any structure transportable in one or more sections which, in the traveling mode is 8 body feet or more in width and 40 body feet or more in length or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein, excluding pre-site built housing as defined herein."

**Manufactured Housing Subdivision:** Any subdivision created for the placement of manufactured housing on individually owned lots.

**Manufactured Housing Parks:** A tract of land consisting of not less than 16 acres used to accommodate two (2) or more occupied manufactured homes each of which shall have its own lot space within the tract for which a rental fee is charged for such accommodation. The term "Manufactured Housing Park" shall not be construed to include a tract of land whereupon unoccupied manufactured homes are parked for display and sale as a commercial business. Travel trailers as defined in this Ordinance shall not be maintained as dwelling units within approved manufactured housing parks.

**Master Plan:** A document prepared and/or adopted by the Planning Board to guide the long-range development of the Town.

**Non-Conforming Lot:** A lot of record at the time this Ordinance becomes effective, but which does not conform with the regulations for the district in which it is located.

**Non-Conforming Use, Valid:** A use of land or a structure lawfully existing at the effective date of this Ordinance or any subsequent amendment thereto that is not in conformity with the current provisions of this Ordinance.

**Open Space:** Land required to be permanently left in its natural state. Acceptable conservation practices when used to maintain the natural qualities of this land are permitted and encouraged.

**Parking Spaces:** An off-street space, whether inside or outside of a structure, to be used primarily as parking area for a vehicle.

**Planning Board:** The Planning Board of the Town of Candia.

**Pre-Site Built Housing:** Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with HUD minimum property standards and local building codes, for installation or assembly and installation, on the building site. Pre-site built housing shall not include manufactured housing as defined herein.

**Set-Back:** A line beyond which the foundation wall and/or any covered porch or other portion of a building shall not project.

**Sign:** A structure, device or inscription that is arranged, intended, designed or used as an advertisement, announcement, or direction, but not including those structures, devices, or inscriptions erected and maintained by any public agency in exercising its duties.

**Sign, Area of:** The entire surface area of a sign within a single continuous perimeter enclosing the extreme limits of writing representation, emblem or figure but excluding the supports on which the sign is placed. The area of one side of a double-faced sign shall be regarded as the total area of the sign.

**Special Exception:** Permission to do something that the zoning ordinance permits only under certain specified circumstances. (2020)

**Special Exception Use:** A use which may be permitted in certain locations within certain specified districts by the Board of Adjustment in accordance with Articles XII and XIII of this Ordinance. Such uses shall be construed to be conforming uses under this Ordinance.

**Special Use Permit:** A permit issued by the Planning Board for development under Innovative Land Use Controls.

**Story:** That portion of a building included between the floor and floor or roof next above. A half-story is a partial story under a sloping roof, the wall plates of which on two exterior walls are not more than two (2) feet above the floor of such partial story.

**Structure:** Anything constructed or erected, the use of which demands its permanent location on the land, except minor installations such as fences, mailboxes, flagpoles, portable screen houses and the "like".

**Subdivision:** In accordance with Chapter 672:14 New Hampshire Revised Statutes Annotated, to mean the division of a lot, tract or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and, when appropriate to the context, relates to process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision.

**Travel Trailer:** A vehicular, portable structure designed to be used for temporary recreational housing.

**Use:** The principal purpose for which a lot or the principal building thereon is designed, occupied, maintained, or intended to be used.

**Use, Change or Expansion of Use of a Site:** Any multifamily or nonresidential use which substantially differs from the previous use of a building or land. Any activity which in the opinion of the Building Inspector, constitutes a change or expansion of the use of a site may be subject to Planning Board approval under the Candia Site Plan Review Regulations.

**Use, Accessory:** A use of land, building, or portion thereof, normally incidental to the permitted principal use of the premises.

**Variance:** Permission to do something the ordinance does not permit. (2020)

**Yard, Front:** Area is defined as the portion of the lot facing the Street or Road where the lot frontage is located.

## ARTICLE IV: ESTABLISHMENT OF DISTRICTS

### **Section 4.01: Division into Districts:**

The Town of Candia, New Hampshire, is hereby divided into six (6) Zoning Districts to be designated as follows:

<b><u>Full Name</u></b>	<b><u>Short Name</u></b>
Residential	R
Commercial	C
Light Industrial 1	LI-1
Light Industrial 2	LI-2
Mixed Use	MX
Wetlands Conservation	W
Groundwater Protection	GPD

The restrictions and regulations especially applicable to each of the above-mentioned Districts are shown in Article V and VI, which use the short name for each District and Article X (Wetlands Conservation). General restrictions and regulations applicable to all Districts are included throughout this Ordinance.

### **Section 4.02: Zoning Maps:**

The location and boundaries of the Districts are as shown on "The Zoning Map of the Town of Candia, New Hampshire" dated January 2006 as prepared by the Southern New Hampshire Planning Commission and "The Town of Candia Wetlands Conservation District Map" dated December 2005 as prepared by the Southern New Hampshire Planning Commission. Both the Zoning Map and the Wetlands Conservation District Map are a part of this Ordinance.

The Zoning Map and Wetlands Conservation District Map shall be kept on file with the Office of the Town Clerk. For purposes of identification, the date of adoption and the signature of the Planning Board Chair shall be placed on both maps. The Planning Board shall be responsible for maintaining and updating the maps as amended. All amendments shall be so noted and dated on each map.

### **Section 4.03: Zoning Districts:**

#### **A. Zone R - Residential District**

The Residential District is designed for the protection of areas that have been and are being developed predominantly for single-family detached dwellings.

#### **B. Zone C - Commercial District:**

The purpose of the Commercial District is to provide a centralized area for the provision of shopping facilities, offices, banking and other commercial and retail establishments where road systems can accommodate high traffic volumes. The Commercial district shall provide for convenient access, adequate parking and lighting, and good design to promote public safety. All residential dwellings that existed prior to the effective date and establishment of this District may continue as legal permitted uses in the District subject to the requirements of Section 2.02 of this Ordinance.

A vegetative buffer of trees and shrubs 100 feet wide shall be maintained along the eastern boundary of the Commercial District to separate commercial buildings from existing residential dwellings. A vegetative buffer of trees and shrubs 150 feet wide shall be maintained within the Commercial District to protect the adjacent Branch River.

#### **C. Zone L1 - Light Industrial:**

The purpose of this district is to provide a location for the establishment of light manufacturing and related small-scale light service industries that will not conflict with the uses of other areas. All residential dwellings that existed prior to the effective date and establishment of this District may continue as legal permitted uses in the District subject to the requirements of Section 2.02 of this Ordinance.

A vegetative buffer of trees and shrubs 150 feet wide shall be maintained within the L1- Light Industrial District to protect the adjacent Branch River.

**D. Zone L2 - Light Industrial:**

The purpose of this district is to foster the diversification of the Town's economic base by encouraging a variety of light manufacturing uses and light industries with good access to transportation facilities, thereby improving employment opportunities within the community and making a valuable contribution to the Town's tax base. All residential dwellings that existed prior to the effective date and establishment of this District may continue as legal permitted uses in the District subject to the requirements of Section 2.02 of this Ordinance.

A vegetative buffer of trees and shrubs 100 feet wide shall be maintained along the boundary of the district to separate light industrial use from existing residential dwellings.

**E. Zone MX - Mixed Use:**

The purpose of this district is to provide for a greater variety and mixture of land uses, the blending of which is not otherwise possible in the Town's other zoning districts. The intent is to provide for a mixture of land uses that can be designed and arranged in an efficient manner in keeping with the goal of making Candia an attractive town. Residential and commercial uses may combine within a principal structure on a lot within this district. All pre-existing uses in existence prior to the adoption of this ordinance shall be allowed to continue as a permitted use in this district even if they are not denoted as "Permitted By Right" in Section 5.02: Table of Use Regulations.

**F. Zone W - Wetlands Conservation:**

See Article X: Wetlands Protection for purpose and intent, definitions, district boundaries, relation to other districts, permitted uses, buffer provisions, filled and pre-existing uses - non-residential, exemption for residential structures, conditional uses and exceptions.

**G. Zone GPP- Groundwater Protection:**

See Article XI: Groundwater protection for authority, purpose, definitions, groundwater protection district, applicability, performance standards, permitted uses, prohibited uses, conditional uses, existing non-conforming uses, exemptions, relationship between State and Local regulations, maintenance and inspection, enforcement procedures and penalties, savings clause and effective date.

**Section 4.04 Interpretation of District Boundaries:**

Where any uncertainty exists with respect to the boundary of any District as shown on the Zoning Map, the following rules shall apply:

- A. Where a boundary is indicated as a highway, street, alley, railroad, watercourse, or Town boundary, it shall be construed to be the center line thereof for such District Boundary.
- B. Where a boundary is indicated as approximately parallel to a highway, street, alley, railroad, watercourse, or Town boundary, it shall be construed as parallel thereto and at such distance from the center line thereof as shown on the Zoning Map.
- C. If no dimension is given on the Zoning Map, the location of any boundary shall be determined by use of the scale shown on the Zoning Map.
- D. Where a boundary coincides within 10 feet or less with a lot line, the boundary shall be construed to be the lot line.
- E. Where a boundary divides a lot of record, district regulations governing either portion of the severed lot may be extended not more than 100 feet into the adjoining district.
- F. All boundary questions not covered by A through E above shall be resolved by appeal to the Board of Adjustment as provided in Section 14.02A.



## ARTICLE V: USE REGULATIONS

### **Section 5.01: Use Regulations:**

In any District, uses of land and buildings shall be permitted as indicated in Section 5.02, the Table of Use Regulations which is part of this Ordinance, and as regulated below:

#### **A. Sand, Gravel and Borrow Excavating Operations:**

1. No excavation of earth shall be allowed in the R District or MX District except those uses specifically allowed in RSA 155-E:2 and RSA 155E:2a.
2. An excavation A permit from the Planning Board shall be required for excavating operations in the C, LI and L2 Districts. Said permit shall be subject to the permit process under RSA 155-E. and the Town of Candia's Earth Excavation Regulations, adopted in 1989, and as amended by the Planning Board.

#### **B. Junkyards:**

No junkyard shall be located in the R, C, MX or LI Districts. A license to operate, establish or maintain shall be obtained from the Board of Selectmen in the manner set forth in RSA 236:111-129.

#### **C. Performance Requirements for Industrial Uses and Utilities:**

Industrial uses and utilities permitted under Section 5.02 of this Ordinance shall be regulated such that noise, vibrations, electro-magnetic transmission, odor, air pollution, and all other emissions shall not be perceptible without instruments at the boundary of the District in which the use is permitted.

#### **D. Parking, Storage, or use of Major Recreational Equipment:**

No such equipment shall be parked or stored in the front yard area in the R district, nor shall not be used for living, sleeping, or housekeeping purposes in any district within the Town of Candia. (2019)

#### **E. Storage Trailers or Containers:**

No storage trailers or containers will be allowed to be parked in front yard areas in the R District (Front yard area is defined as the portion of the lot facing the Street or Road where lot frontage is located).

#### **F. Agriculture and Farming:**

All agriculture and farming activities shall be conducted in accordance with the NH Department of Agriculture "MANUAL OF BEST MANAGEMENT PRACTICES (BMPS) FOR AGRICULTURE IN NEW HAMPSHIRE". (2020)

**Section 5.02: Table of Use Regulations:**

In this table for each use and each District:

(P) Shall denote a use PERMITTED BY RIGHT

(S) Shall denote a use PERMITTED ONLY BY SPECIAL EXCEPTION granted by the Board of Adjustment

(C) Shall denote a use PERMITTED ONLY BY CONDITIONAL USE PERMIT granted by the Planning Board

(-) a dash shall denote a use that is EXPRESSLY PROHIBITED

<u>Type of Land Use</u>	<u>Zoning Districts</u>				
	<b>R</b>	<b>C</b>	<b>MX</b>	<b>LI-1</b>	<b>LI-2</b>
<b>A. Residential:</b>					
1. One-family dwelling	P	-	P	-	-
2. Accessory Units, subject to provisions of 15:04E	S	-	S	-	-
3. Two-family and multi-family dwellings subject to provisions of Section 15.04B	S	-	S	-	-
4. Dwelling in building used for commercial purposes subject to provisions of Section 15.04F	-	S	P	-	-
5. Boarding, rooming and short-term rental accommodations not to exceed 184 consecutive days subject to the provisions of Section 15.02 (2019)	S	P	P	-	-
6. Home Occupation	P	-	P	-	-
7. Home Offices	P	-	P	-	-
8. Seasonal Home	P	-	P	-	-
9. Residential Cluster Subdivision	-	-	-	-	-
10. Manufactured Housing Subdivision	P1	-	-	-	-
11. Manufactured Housing Park	P2	S	-	-	-
12. Elderly Housing subject to provisions of Sections 5.04, 5.05, and 5.06	C	-	C	-	-
13. Home Shop (2019)	S	-	S	-	-

P1 -Location of Manufactured Housing Subdivisions in the R District are designated as follows:

<u>Tax Map:</u>	<u>Lot #(s):</u>
406	186
406	191
413	028
408	060 & 066

\*Because of the lack of access on lot 66, these two parcels are designated as a single development unit. Any proposed development of the two lots must therefore be within the context of an overall Master Development Plan, which may be phased.

P2 -Locations for Manufactured Housing Parks in the R District are designated as follows:

<u>Tax Map:</u>	<u>Lot #(s):</u>
404	088
404	079

\*This is the presently existing Manufactured Housing Park -Country Lane Manor, Rt. 27

**Section 5.02: Table of Use Regulations:**

<b><u>Type of Land Use</u></b>	<b><u>Zoning Districts</u></b>				
	<b>R</b>	<b>C</b>	<b>MX</b>	<b>LI-1</b>	<b>LI-2</b>
<b>B. Commercial:</b>					
(b-1) Farm produce stand provided that display of goods shall be located at least twenty (20) feet from any street (right-of-way) line	P	P	P	-	-
(b-2) Tourist home, hotel and motel	-	P	P	P	-
(b-3) Service establishments and retail stores serving local neighborhood needs including barber and beauty shops, real estate office, drug stores and the sale of groceries, baked goods and the like. Where permitted as Special Exceptions in the R District the conditions set forth in Sections 15.03 and 15.04A shall apply	S	P	P	S	P
(b-4) General service and retail establishments, supermarkets, laundromat, florist, the sale of appliances, electrical parts and supplies, housewares, hardware, furniture, toys and novelties, sporting goods, apparel, office supplies and garden supplies	-	P	P	P	P
(b-5) Funeral home. Where permitted as Special Exception in the R District, the conditions set forth in Sections 15.03 and 15.04A shall apply	S	P	P	-	-
(b-6) Business and professional offices and banks. Where permitted as Special Exceptions in the R District, the conditions set forth in Sections 15.03 and 15.04A shall apply. Will now allow retail and professional offices, banks, beauty and barber shops in the LI-2 zone	S	P	P	-	P
(b-7) Restaurant for consumption indoors at the premises, indoor commercial recreation such as bowling	-	P	P	P	P
(b-8) Drive-in restaurant and refreshment stand	-	P	-	P	P
(b-9) Outdoor commercial recreation facility such as drive-in theatre, golf driving range and swim club	-	P	-	P	P
(b-10) Gasoline station	-	S	-	-	P
(b-11) Car wash, establishment for the sales and service of automobiles, trucks, mobile homes, travel trailers, and major recreational equipment, but excluding the repair of heavy motorized equipment, or the dismantling and storage of inoperative motor vehicles or other material or equipment held only for discard	-	P	-	P	P
(b-12) Boatyard and marina for the construction, warehousing, and storage of boats	-	-	-	P	P
(b-13) Animal hospital or commercial kennel provided that such use shall not be within 50 feet of any dwelling and within 200 feet of any residential district and the kennel area shall be completely enclosed within a wall or fence	-	P	-	P	-
(b-14) Sexually Oriented Business subject to provisions of Section 15:04D	-	S	-	-	-

**Section 5.02: Table of Use Regulations:**

<b><u>Type of Land Use</u></b>	<b><u>Zoning Districts</u></b>				
	<b>R</b>	<b>C</b>	<b>MX</b>	<b>LI-1</b>	<b>LI-2</b>
<b>C. Industrial and Transportation:</b>					
(c-1) Manufacturing, assembly, processing, packaging, research and testing operations including the following uses, provided that such operations shall be conducted entirely within an enclosed building or structure	-	-	-	-	P
(c-1-a) Products developed from previously refined or similarly processed materials such as bone, ceramic, cloth, grass, leather, metals, plastics, paper, rubber (except tires)	-	-	-	P	P
(c-1-b) Electrical and mechanical instruments and appliances, optical goods	-	-	-	P	P
(c-1-c) Cosmetics, toiletries, and pharmaceutical products	-	-	-	P	P
(c-1-d) Administrative offices, data processing centers and laboratories for scientific and industrial research including testing and product development. Where permitted by Special Exceptions in the R District, the conditions set forth in Section 15.04A shall apply	S	P	P	P	P
(c-2) Craftsman's or contractor's shop including a carpenter's shop, welding shop, ornamental iron works electrical and machine shop excavating and heavy equipment operation	-	P	-	P	P
(c-3) Open storage of lumber and building materials	-	P	P	P	P
(c-4) Warehouse including self-storage facilities, bottling plant, establishment, and similar distribution center	-	P	-	P	P
(c-5) Planning mill, sawmill and similar uses	-	-	-	-	P
(c-6) Metal working, but not reduction, smelting, and refining; manufacture and assembly of metal products but not including heavy structural steel operation; paint manufacture not employing a boiling or rendering process	-	-	-	S	P
(c-7) Storage for coal, fuel oil, bottled gas, and similar materials, provided that such use shall not be located nearer than 300 feet to any existing or permitted dwelling and that such use shall be subject to any state or local laws relating to the storage of such materials. Fuel storage tanks shall be surrounded by a dyked area sufficient to contain stored fuels	-	-	-	S	P

**Section 5.02: Table of Use Regulations:**

<b><u>Type of Land Use</u></b>	<b><u>Zoning Districts</u></b>				
<b>D. Communications and Utilities:</b>	<b>R</b>	<b>C</b>	<b>MX</b>	<b>LI-1</b>	<b>LI-2</b>
(d-1) Essential Services	S	P	P	P	P
(d-2) Radio or televisions tower, provided that any portion of the structure shall be at least 200 feet away from any residential district	-	P	-	P	P
(d-3) Telecommunications/Personal Wireless Services Facilities	S	P	S	P	P
<b>E. Public and Institutional:</b>	<b>R</b>	<b>C</b>	<b>MX</b>	<b>LI-1</b>	<b>LI-2</b>
(e-1) Church or other place of worship, parsonage	-	S	P	-	-
(e-2) Cemetery	S	S	-	-	-
(e-3) Hospital, nursing home	-	P	P	P	P
(e-4) Golf course, country club, tennis club and the like	P	P	-	P	P
(e-5) Social clubs of non-profit organizations	-	P	P	P	P
(e-6) Public or private schools including recreational facilities connected therewith, but not including dormitories	S	S	S	S	-
(e-7) Library, museum and the like	-	P	P	P	-
(e-8) Day Care Center	-	S	P	S	-
<b>F. Rural and Agricultural:</b>					
(f-1) Small scale part-time agricultural operations whether commercial or not, including the keeping of livestock and poultry	P	P	-	-	-
(f-2) Primary agricultural operations including animal Husbandry (2020)	S	S	-	P	-
(f-3) Growth and harvesting of forest products, tree nursery, orchards, and similar uses including the sale of produce grown on the premises	P	P	P	-	-
(f-4) Commercial greenhouses	S	P	P	P	P
(f-5) Farmers markets (non-residential use shall be subject to Site Plan Review approval under provisions of Article 15.03)	S	P	P	-	-

**Section 5.03: Accessory Uses:**

The following accessory uses may be allowed subject to the requirements herein. All accessory uses require a Residential Use Permit issued by the Building Inspector. (2020)

**A. Home Occupation:**

Customary home occupations such as barber and beauty shops, limited to one chair; dressmaking; photography; teaching; art studio; home cooking; Justice of the Peace; Family Day Care Home; crafts; and the like, operated and staffed solely by a person or persons resident on the premises and no more than one outside employee, are allowed in the R District provided such use is not carried on in a detached accessory building and does not occupy more than one-third the area of the dwelling unit in which it is located. The use shall not cause any additional vehicular traffic between the hours of 9:00p.m. and 6:00a.m.

**B. Home Office:**

Offices within a single-family detached dwelling for an office occupation of a resident therein shall be allowed provided that not more than one person not resident on the premises shall be employed therein. The use must not cause any additional vehicular traffic between the hours of 9:00p.m. and 6:00a.m. Such use shall not have an enclosed floor area in excess of 600 square feet and must conform to Section 9:06M regarding parking.

**C. Home Shop:**

Customary home shops for the repair of electrical appliances, clocks, firearms, furniture and the like are subject to the following: (2020)

1. Use is clearly an accessory use;
2. Use does not change the character of the dwelling;
3. Use is carried out within the dwelling;
4. Use shall not utilize outdoor storage or display visible to surrounding properties;
5. Use employs not more than one person who is not resident in the dwelling;
6. Use does not cause undue nuisance to neighbors by reason of noise, dust, glare, traffic, vibration or other disruptive influence;
7. Retail sale of new products shall not be considered a home shop;
8. Use does not cause any additional vehicular traffic between the hours of 9:00p.m. and 6:00a.m.

**D. Home Services Contractor:**

Customary occupations such as carpenters, plumbers, electricians, landscape and excavation contractors, arborists, machinists and related trades operated by the person or persons residing in the premises subject to being issued a Residential Use Permit, which is subject to the following criteria: (2020)

1. Use is clearly an accessory use to the primary use of the property;
2. The use does not change the character of the building or site;
3. The use does not employ more than 2 people who are not the owner(s) of the property;
4. The use does not cause undue nuisance to neighbors by reason of noise, dust, glare, traffic, vibration or other disruptive influences including, but not limited to, the outdoor processing of materials;
5. Outdoor storage of materials shall not be visible from the road;
6. On site manufacturing activities and retail sales are prohibited;
7. The use does not cause additional non-emergency vehicular traffic between the hours of 9:00p.m. and 6:00a.m.

**\*Home Service Contractor is subject to provisions of Article V Sections 5.03 & 5.03D in the R and MX districts.**

**Section 5.04 Conditional Use Permit:**

1. **Authority** -Conditional Use Permits may be granted by the Planning Board as authorized by RSA 674:21 II, Innovative Land Use Controls for the uses identified in Section 5.02, Table of Use Regulations.
2. **Conditions** -In granting a Conditional Use Permit, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed use on adjoining properties, and preserve the intent of the Board's Site Plan and Subdivision Regulations as well as the Town of Candia's Zoning Ordinance and Master Plan.
3. **Procedure** -The Planning Board shall act upon the application for a Conditional Use Permit in accordance with the submission and the procedural requirements of the Board's Site Plan Regulations and the Board's Subdivision Regulations, as applicable.

4. **Decisions** -All applications for Conditional Use Permits must comply with the Town of Candia Zoning Ordinance including the Planning Board's Site Plan and Subdivision Regulations, as continuation of article v: use regulations applicable. Possible decisions rendered by the Board include Approval, Approval with Conditions, or Denial. All decisions shall be in writing and shall be based upon substantial evidence contained in the written record.
5. **Standards Considered in Granting Conditional Use Permits** -In the review of Conditional Use Permit applications, the applicant and the Planning Board shall address all applicable Standards in the Board's Site Plan and Subdivision Regulations, including the Conditional Use Permit Review Criteria and Conditional Use Permit Standards as provided in Sections 5.05 and 5.06 below.
6. **Modification of Conditional Use Permits** -All alterations or modifications of the plans shall be in accordance with Section 18.05 of the Subdivision Regulations.
7. **Fees** -The Planning Board has established and from time to time may amend a schedule of fees. The Planning Board shall not accept a site plan or subdivision application for a Conditional Use Permit, unless it includes the appropriate fees as established by the Board's formal fee schedule.
8. **Special Investigative Studies** -In the review of a Conditional Use Permit application, the Planning Board may also assess the applicant reasonable fees to cover the Board's administrative expenses and costs of special investigative studies and the review of documents and other matters which may be required in the review of particular applications. All fees shall be paid prior to final approval.
9. **Performance Security** -Prior to the granting of a Conditional Use Permit, the applicant shall execute and deliver a performance security to the Board of Selectmen in accordance with Section IV: Standards for Subdivision Construction, Article 18. Administrative Provisions, Section 18.04 Performance Bond.
10. **Waivers** -Compliance with the individual provisions of this ordinance shall constitute the conditions required for the issuance of a Conditional Use Permit. Any provision of this ordinance may be waived, when, upon the application by the applicant to the Planning Board, the Board shall determine in its sole discretion 1) that requiring compliance with the particular provision for the granting of a Conditional Use Permit would create an unreasonable hardship and 2) that the application would be consistent with the spirit and intent of this ordinance. Requests for waivers must be written and the Planning Board must vote on each waiver request at a properly noticed public hearing.

**Section 5.05: Conditional Use Permit Review Criteria:**

**Elderly Housing:** A Conditional Use Permit for Elderly Housing may be issued by the Planning Board provided all of the following review criteria are met:

1. The proposed development shall be consistent with the general purpose, goals and objectives of the Town of Candia Master Plan.
2. The proposed development shall be consistent with all applicable provisions of the Town's Zoning Ordinance and the Planning Board's Site Plan and Subdivision Regulations.
3. The proposed development shall be designed to provide facilities and services to meet the social or physical needs of older persons such as services designed to assist residents with the maintenance and upkeep of buildings and grounds, programs designed to provide a social and recreational life for residents, an accessible physical environment, access to common lands and open space, access to public or private transportation services, if available, and other similar services, facilities and considerations.
4. The design and site layout of the proposed development shall compliment and harmonize with the rural character of the Town of Candia and shall maximize the privacy of dwelling units and preserve the natural character of the land.
5. The size and scale of the proposed development shall not have an adverse impact upon adjacent property nor diminish the capacity and safety of adjacent streets in terms of, traffic conditions, utility placement, and other areas related to public health, safety and general welfare.
6. No portion of the proposed development that is altered, cleared or within 50 feet of the outside face of a building or edge of road shall be located within an identified floodplain or area designated as having a 1% annual chance of flooding as provided on the FEMA flood insurance maps prepared for the Town of Candia.

**Section 5.06 Conditional Use Permit Standards:**

**Elderly Housing:** A Conditional Use Permit for Elderly Housing may be issued by the Planning Board provided all of the following general standards are met:

1. **Residency Restrictions** -The applicant/developer shall provide deed restrictions, use limitations, covenants, or some other legally enforceable instrument, which shall permanently restrict occupancy of all the elderly dwelling units to persons who meet all applicable restrictions regarding age. All deed restrictions and instruments shall be subject to review of Town Counsel and shall be recorded at the Rockingham County Registry of Deeds prior to issuance of the Conditional Use Permit. The applicant/owner of the development shall also incorporate a written enforcement mechanism satisfactory to the Planning Board and Town Counsel whereby on an annual basis, a written age-based census of the existing Occupants shall be provided to the Board of Selectmen. Upon any change in ownership or tenancy, the age of any new Occupants shall be given to the Board of Selectmen within thirty (30) days of tenancy/occupancy changes.
2. **Maximum Amount of Elderly Dwelling Units** -The total number of dedicated elderly dwelling units in the Town of Candia shall not exceed ten (10) percent of the total number of existing dwelling units in the Town at the time of application acceptance by the Planning Board. The total number of existing dwelling units shall not include those dwelling units already set aside for elderly housing. Elderly housing shall be those dwelling units which meet the definition of elderly housing and are subject to permanent deed restrictions requiring the maintenance of the dwelling unit for exclusive occupancy by individuals 55 years of age or older. The Planning Board will determine whether the number of dwelling units in an elderly housing project exceeds the maximum percentage described above.
3. **Architectural Design** -Architectural renderings showing the exterior facades of all sides of the proposed buildings shall be submitted and approved by the Planning Board. Building design and style shall be distinctly residential in character, drawing on historical design elements that are consistent with rural New England architecture such as pitched roofs, clapboard or shingle style siding, raised panel exterior doors and divided light windows.
4. **Landscaping** -All elderly housing developments shall be landscaped to enhance their compatibility with surrounding areas, with emphasis given to the utilization of natural features wherever possible. A detailed landscape plan with a planting schedule (identifying all landscaping quantities, sizes and locations) shall be prepared by a landscape architect and submitted for approval by the Planning Board. This plan may include typical unit landscape plan options for individual lots within the development. Prior to granting of a Conditional Use Permit, a performance security for all landscaping shall be submitted to the Board of Selectmen in a form acceptable to Town Counsel in accordance with Subdivision Regulations, Section IV: Standards for Subdivision Construction, Article 18. Administrative Provisions, Section 18.04 Performance Bond.
5. **Minimum Tract Area** -The minimum tract area or parcel for an Elderly Housing development shall be at least twenty (20) acres in size.
6. **Frontage** -All elderly housing developments shall maintain a minimum of two hundred (200) feet of frontage on an Arterial Street as defined by the Town of Candia’s Zoning Ordinance.
7. **a. Maximum Density for Multi-Family** -The maximum number of dwelling units within an elderly housing development containing 3 or more dwelling units per building shall be based on the distance the further extent of the property is from the commonly known “Four Corners” intersection of NH 27 and NH 43 as follows:

One mile or less	1 dwelling unit per 1 buildable acre
Greater than one mile but less than two miles	1 dwelling unit per 2 buildable acres
Greater than two miles	1 dwelling unit per 3 buildable acres

Buildable shall be as defined in Article III, Definitions of this Zoning Ordinance.

**b. Maximum Density for Detached Single-Family and Attached Duplex Single-Family Dwellings** -The maximum number of detached single-family dwellings or attached duplex single-family dwellings containing 1 or 2 dwelling units per building shall be based on the distance the further extent of the property is from the commonly known “Four Corners” intersection of NH 27 and NH 43 as follows:

One mile or less	1 dwelling unit per 1 buildable acre
Greater than one mile but less than two miles	1 dwelling unit per 2 buildable acres
Greater than two miles	1 dwelling unit per 3 buildable acres

Buildable shall be as defined in Article III, Definitions of this Zoning Ordinance.



8. **Maximum Number of Units per Building** -There shall be no more than six dwelling units per structure.
9. **Minimum Lot Frontage** -In the case of Elderly Housing not under a condominium form of ownership, minimum lot frontage shall be 100 feet
10. **Minimum Setbacks** -Minimum front, side and rear setbacks for buildings, internal roads, and parking lots from all external property lines shall be fifty (50) feet.
11. **Lot Coverage** -Lot coverage, including roofs, roadways, sidewalks and parking areas shall not exceed 50% of the total lot area.
12. **Maximum Number of Bedrooms** -No dwelling unit shall contain more than two (2) bedrooms.
13. **Minimum Dwelling Unit Size** -Each dwelling unit shall contain at least eight hundred (800) square feet of living space.
14. **Maximum Building Height** -All buildings shall be single story above grade in height.
15. **Minimum Building Separation** -A minimum horizontal separation of one hundred (100) feet shall be maintained between all multi-family buildings.
16. **Buffer** -A fifty (50) foot wide no cut buffer zone consisting in whole or in part of existing natural vegetation shall be provided and maintained along all sides of the proposed development abutting adjoining properties.
17. **Parking** -Adequate on-site space shall be provided to allow one- and one-half off-street parking spaces for each dwelling unit.
18. **Roads, Access Drives, Parking Lots and Walkways** -All roads, access drives, parking lots and walkways shall be built according to Town standards and maintained by the Homeowners' Association (as described in Section 5.06 28.). All parking areas, including driveways, shall be paved in accordance with Town regulations. Roads are encouraged to be curvilinear in design and looped as opposed to being dead ended at a cul-de-sac.
19. **Pedestrian Access** -Provisions for pedestrian access (including amenities such as benches, street and path lighting) shall be provided within the development and, to the extent possible, to off-site community facilities.
20. **Lighting** -Lighting shall be provided along access roads, parking areas, and walking paths that shall be appropriately sized and shielded for the residents of the development.
21. **Signage** -All elderly housing developments shall comply in all respects with Article VIII: Sign Regulations of the Town's Zoning Ordinance.
22. **Community Facility** -One common community facility to be used for Homeowners' Association meetings or general community activities shall be provided as part of one of the housing structures or as a stand-alone building.
23. **Drainage and Snow Removal** -Adequate provisions for drainage and snow removal shall be provided in accordance with Town standards.
24. **Water Supply and Wastewater Disposal** -The water supply and wastewater disposal systems, serving the residential dwelling units shall be owned, operated and maintained by a Homeowners' Association (as described in Section 5.06 28.). All residential dwelling units shall be sprinkled and shall be installed with a monitored fire alarm system. The applicant shall prove that adequate water supply and water capacity is available prior to Planning Board approval of an Elderly Housing development. Water supply and wastewater disposal systems shall be approved by the New Hampshire Department of Environmental Services.
25. **Building Codes** -All dwelling units shall be built in accordance with applicable federal, state and local codes. Within any elderly housing development, a minimum of ten (10) percent of the dwelling units shall be compliant with current edition of International Building Code Type B dwelling.

**26. Common Land/Open Space** -Common land/open space shall be set aside and covenanted to be maintained permanently as open space. The required amount of open space for all elderly housing developments shall be calculated as no less than forty (40%) of the gross area of development. In calculating open space, the following shall not be included: public rights-of-way, parking lots, the footprints of all structures and the area within fifty feet of the structures. In addition, no more than twenty (25%) of the open space, shall consist of very poorly drained soils, wetlands, water bodies, and slopes greater than 20%. Sixty (60%) of the common land/open space should be contiguous throughout the development

Use of common land shall be restricted to recreational uses such as parks, swimming pools, tennis courts, a common meeting facility, or conservation. If the buffer zone is considered part of the common land, none of the above uses shall be allowed within the buffer zone nor any other uses that would disturb the natural vegetation within this zone. These restrictions of the use of open space (including the buffer zone) shall be stated in the covenants running with the land. Access to common land/open space shall be provided by a suitable trail or pathway within the development.

Open space, common areas, common facilities, private roadways, and other features within the elderly housing development shall be protected by covenants running with the land and shall be conveyed by the property owner(s) to a homeowners association, or each owner within the subdivision is to own an undivided interest in the common property so as to guarantee the following:

- a. The continued use of the land for the intended purposes.
- b. Continuity of proper maintenance for those portions of the development requiring maintenance.
- c. The availability of funds required for such maintenance.
- d. Recovery for loss sustained as a result of casualty, condemnation or otherwise.
- e. Creation of a homeowner's association with automatic membership and obligation of the residents of the elderly housing development upon conveyance of title or lease to single dwelling units. Homeowners association shall include lien provisions and shall be subject to review of Town Counsel and approval by the Planning Board.

**27. Homeowners' Association** -It shall be the responsibility of the developer/builder of each elderly housing development to establish a Homeowners' Association and to prepare and adopt appropriate Articles and By-Laws, which are to be submitted in advance to the Planning Board and Town Counsel for their review and approval. In preparing the Articles and By-Laws, particular consideration shall be given to accommodating the unique needs of the elderly citizens and to ensuring that residents of such developments are guaranteed adequate and appropriate services. The creation of the Homeowners' Association and the Articles and By-Laws shall be at the sole expense of the developer/builder and the costs for the review by the Planning Board and Town Counsel shall also be borne by the developer/builder. Any association formed for the purpose of elderly housing must have stipulated in the By-Laws and Declaration of Covenants, that the Association will at all times be in compliance with current ordinances of the Town governing elderly housing.

**28. Limitations on Approval** -All requirements of conditional approval of Conditional Use Permits shall be met within one year. If all conditions are not met within one year of approval a new application may be required.

## ARTICLE VI: DIMENSIONAL REQUIREMENTS

**Section 6.01: Areas Included In Table Of Dimensional Requirements:**

Lot area; front, side and rear yard areas; and height restrictions shall be as specified in Section 6.02 of this Ordinance with the following special provisions:

- A. Building Set-back:** On streets with less than 50-foot rights-of-way, the set-back requirement shall be 75 feet from the center line of the right-of-way.
- B. Location of Accessory Buildings:** In any district, no permanent or temporary accessory building or structure shall be permitted in any required setback area.
- C. Frontage Requirements for Lots on Cul-de-Sac:** In the case of lots fronting on the ends of cul- de-sacs, the required lot frontage shall be applied 100 feet from the street line, provided that in no case shall the frontage along the cul-de-sac be less than 100 feet.
- D. Structures Excluded from Height Requirement:** Height restrictions shall not apply to necessary appurtenant structures such as church spires, belfries, cupolas, domes, smokestacks, flagpoles, antennae, or similar structures.
- E. Lot Width:** Lot widths must be maintained for at least a depth of 100 feet from the lot lines.
- F. Lot Shape:** Lots shall be compact and regular in shape. No irregularly shaped portion of a lot narrower than 50 feet shall be used to satisfy the minimum lot size.
- G. Tower Setbacks:** No buildings, roads or driveways that are not part of the tower site shall be built within 150% of the height of any tower that is located in any zone. Towers must be set back a distance equal to 150% of the height of the tower from any unaffiliated structure, parking areas or lots, driveways, roads, developed areas or property lines.

**Section 6.02: Table of Dimensional Requirements:** -Minimum Setbacks and Dimensions, Maximum Heights Allowed

<u>District</u>	<u>Lot Area</u> (acres)	<u>Lot Width &amp; Frontage</u> (feet)	<u>Front</u> (feet)	<u>Side</u> (feet)	<u>Rear</u> (feet)	<u>Height</u> (feet)	<u>Stories</u>
R	3	200	50	25	25	35	2.5
C/L1/L2	2	200	50	25	25	35	2.5
MX	2	200	50	25	25	35	2.5

**Section 6.03: Floor Area:**

A single family detached, or single family attached, duplex dwelling shall contain 800 square feet of floor area per dwelling unit if one story or 672 square feet on the first floor if two stories.

## ARTICLE VII:

### MANUFACTURED HOUSING, MOBILE HOME SUBDIVISION, AND MOBILE HOME PARKS

#### **Section 7.01: General Provisions for Manufactured Housing:**

In subdivisions, where Manufactured Housing or Mobile Homes are to be located on individually owned lots, said Manufactured Housing or Mobile Homes shall comply with lot size, frontage requirements, space limitations and other reasonable controls that conventional single-family housing in the same area must meet.

#### **Section 7.02: Mobile Home Subdivision and Mobile Home Parks:**

##### **A. Definitions:**

1. A trailer or trailer coach means any vehicle or similar portable structure having no foundation other than wheels, jacks, or skirting, and having none of the following: running water, sanitary water, sanitary facilities, bath facilities and toilet.
2. A trailer park means a plot of ground upon which two or more trailer coaches, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations.
3. A mobile home is a home which is mobile, a unit similar to a trailer, it is equipped with running water and sanitary facilities, bath facilities and toilet.
4. A semi-dependent mobile home is a unit similar to a trailer which is equipped with some but not all of the following: running water, sanitary facilities bath facilities and toilet.
5. A mobile home park is land upon which two or more mobile homes are parked and occupied for living purposes regardless of whether or not a charge is made for such accommodations

##### **B. Sanitation:**

All specifications as stated within the Sanitary Laws and Regulations of N.H. State Department of Health for Mobile Homes and Trailer Parks must be met.

##### **C. Use of Land:**

The use of land for the accommodations of a trailer or trailers and/or a mobile home or mobile homes is prohibited except by permit and as provided in Section 2.06 of this Ordinance.

##### **D. Application:**

The above applies only to trailers and/or mobile homes utilized for residential purposes, and is not intended to cover, single trailers owned by residents and stored or parked during periods of non-use on the premises of the owner.

##### **E. Special Exception:**

Mobile Home Parks may be permitted as a Special Exception in a "C" District (see 5.02) by the Board of Adjustment, after two public hearings, upon compliance with the procedure specified in Section F hereof and meeting the requirements of Sections G through L hereof.

##### **F. Procedure:**

1. Any person or legal entity desiring to establish and/or operate a mobile home park shall apply to the Selectmen for a renewable license therefore as hereinafter provided.
2. The application form for the establishment of a mobile home park must be obtained from the Selectmen of the Town of Candia and must be accompanied by a fee of not less than \$25.00 per proposed mobile home. This fee will be in lieu of any inspection and other fees but not in lieu of local taxes. The annual renewal fee for a license to operate a mobile home shall not be less than \$5.00 per original proposed mobile home in the original application.
3. The application form must also include a plot plan approved by the Planning Board showing the size of the mobile home park, roads, streets, location, size and shape and identification numbers of mobile home lots or spaces, locations of sanitary provision and the name of abutting property owners according to the Register of Deeds of the County of Rockingham, New Hampshire.
4. Any mobile home lots or sites in addition to those now existing in parks heretofore approved, or in addition to those now showing in the initial application for a mobile home park shall require a new application and be subject to all of the provisions governing mobile home parks.

5. The above fees may be changed from time to time at the discretion of the Selectmen.
6. The initial license and fee shall be effective until the next March 31st, thereafter a renewal license and fee shall be required on each April 1st.
7. Revocation of License: The Town of Candia licensing authority may revoke or suspend any license to maintain a mobile home park when the licensee has been found guilty by a court of competent jurisdiction, of violating any provisions of this Ordinance. After such revocation, the license shall be reissued if the circumstances leading to conviction have been remedied and the park is being maintained and operated in compliance with this Ordinance.

**G. Sanitary Requirements:**

1. In any mobile home park where there are two or more single family units per acre, a central sanitary sewage treatment facility must be provided. This facility must be approved by the State Water Supply and Pollution Control Board. Individual septic tanks and leaching fields will not be allowed in any mobile home parks where there are two or more single units per acre. In any event, all systems must be approved by the State Water Supply and Pollution Control Board.
2. Sewage-treatment plant effluents shall not be discharged into any waters of the state except with prior approval of the State Water Pollution Commission. The disposal plant shall be located where it will not create a nuisance or health hazard to the mobile home park or to the owner or occupants of any adjacent property. The approval of the State Board of Health shall be obtained on the type of treatment proposed and on the design of the disposal plant prior to construction.
3. Each mobile home space shall be provided with at least a 3-inch diameter sewer connection. The sewer connection shall be provided with suitable fittings, so that a watertight connection can be made between the mobile home drain and the sewer connection. Such individual mobile home connections shall be constructed so that they can be closed when not linked to a space and shall be trapped in such a manner as to maintain them in an odor-free condition.
4. Where the sewer lines of a mobile home or trailer park are not connected to a public sewer, the means of disposal of all sewage must be approved by the State Board of Health.
5. All mobile home park operators must provide suitable refuse containers conveniently located throughout the park providing easy accessibility by all tenants. These refuse containers must be of such design to be rodent free and not to create a health hazard. Refuse must be picked up not less than twice weekly by the park operator.

**H. Water Supply:**

1. Public water supply is that water which is supplied to the residents as a municipal service of the Town.
2. Private water supply is that water which is supplied to the residents of a mobile home park by a private concern or operator or by an individual for his own use.
3. In the absence of a public water supply and when water must be provided by a mobile home park operator, a well must be driven and the water must be tested pure for human consumption. This well must be capable of supplying 425 gallons per day per single family unit in any development or mobile home park at a minimum pressure of 30 psi.
4. In any mobile home park where there will be more than 10 housing units confined in an area of less than 5 acres, one fire hydrant will be installed for each 10 housing units or fraction thereof.

**I. Facilities:**

1. Each mobile home space shall have water and sewage connections.
2. An electrical entrance supplying at least 230 volts, 100 amps shall be provided for each mobile home and trailer space. The installation shall comply with all National electrical codes. Such electrical outlets shall be weatherproof.
3. Liquefied petroleum gas shall not be used at individual mobile home or trailer spaces unless the containers are properly connected by copper or other suitable metallic tubing. Liquefied petroleum gas cylinders, connecting tubing and regulating devices shall be securely fastened in place.
4. Fuel oil containers shall be properly connected. Racks to hold such containers shall be of a design which will prevent tipping or accidental overturning.
5. Space under each trailer unit shall be adequately enclosed.

**J. Roads and Streets:**

1. All roads within a mobile home park shall have a base of not less than 12 inches of bank gravel with 2 inches of compacted asphalt as finished surface. The minimum surface shall be 20 feet in width where off-street parking is provided and 30 feet in width with street parking. Main entrances and exits to a mobile home park will have a paved surface of not less than 30 feet in width.
2. All streets will be well graded and proper drainage will be installed.
3. Streetlights shall be provided for each five mobile home sites exclusive of park entrances and exits.
4. Electric, telephone and other transmission or utility lines shall be installed underground per specifications of public utility companies involved.
5. Plans for roads and streets must be approved by the Planning Board before a license can be issued.

**K. Additional Specifications:**

1. Mobile home parks must be compatible with the character of the surrounding and existing traffic considerations
2. Design plans for the park layout must be submitted for approval by the Board of Adjustment.
3. Total area of park site must not be less than 16 acres.
4. A minimum of 10,000 square feet shall be provided for each mobile home space.
5. A minimum of 300 feet must be provided between park boundaries and nearest permanent residential buildings outside the park.
6. Each mobile home space shall be at least 70 feet wide and shall abut on a roadway of not less than 40 feet, if off-street parking is provided; otherwise 50 feet. Such spaces shall be clearly defined and mobile homes shall be parked in such spaces so that there will be a minimum of 40 feet between mobile homes and so that no mobile home will be less than 30 feet from the edge of the roadway and less than 25 feet from the exterior boundary of the park nor less than 300 feet from a public road.
7. A suitable fence will be installed along the outside boundary lines of the mobile home park so as not to offend any abutters.

**L. Mobile Home Park Operator/Owner Shall Provide Performance Guaranty:**

1. As a condition precedent to final approval of any mobile home park application, the owner/operator shall file with the Planning Board at the time of submission of the application, a certificate by the Town Clerk that the mobile home park owner/operator has complied with one of the following alternatives: to assure his faithful performance in constructing all utilities and improvements as are specified in the applications.
  - a. Has posted a certified check payable to the Town of Candia, or;
  - b. Has posted a faithful performance bond running to the Town of Candia and issued by a Surety Company acceptable to the Selectmen. In either alternative, the posted surety guaranty shall be in an amount of money to be determined by the Selectmen with the advice of the various Town Departments concerned, to be equal to the total of the costs of construction of all streets and construction and installation of such other utilities and improvements as specified in the applications. The surety bond shall be approved as for form and surety by the Town Attorney, and conditioned upon the satisfactory completion by the Mobile Home Park Owner/Operator of such streets and improvements within such period, not exceeding 5 years from the date of such bond, as may be prescribed by the Board.

**M. Repeal of Inconsistent Ordinances:**

All ordinances inconsistent with or contrary to the provisions of this Ordinance are hereby repealed and nothing in this Ordinance shall be interpreted so as to conflict with state legislation regulating mobile home or trailer parks.

**N. Violation of Ordinance:**

Penalty: Any person found guilty of violating this Ordinance or any provision thereof shall be deemed guilty of a misdemeanor and shall be fined not less than \$25.00, nor more than \$50.00, and each day such violation exists shall be construed as a separate offense and shall be punishable as such hereunder.

## ARTICLE VIII: SIGN REGULATIONS

### **Section 8.01: Sign Permits:**

Signs are not permitted in any district except pursuant to the regulations contained in this article and no sign may be erected without a permit from the Building Inspector.

### **Section 8.02: Signs Not Advertising Use of Lot on Which Located:**

Signs shall refer only to a use or activity carried out on the lot upon which they are located except that the Board of Adjustment may grant a Special Exception for erection off the premises of a limited number of signs providing the following conditions are met:

1. Each sign shall not exceed 2 square feet in area on each of two sides.
2. The sign is intended solely to give local directional information.
3. Multiple signs shall share a common post.

### **Section 8.03: Temporary Signs:**

A temporary sign not exceeding 20 square feet in area advertising the sale of or construction on the premises on which it is located shall be permitted in any District until such time as the sale or construction is completed.

### **Section 8.04: Flashing or Animated Signs:**

No flashing or animated signs shall be allowed in any District.

### **Section 8.05: Size Restrictions - Residential District:**

In the "R" District, one sign shall be allowed not exceeding two square feet in area for each residence, not exceeding four square feet in area for each home occupation, not exceeding twenty square feet in area for any public or institutional or other permitted uses. Signs for such uses permitted only as Special Exceptions shall be subject to such conditions as the Board of Adjustment may impose.

### **Section 8.06: Size Restrictions - Commercial, Light Industrial:**

In Commercial and Light Industrial Districts signs totaling not greater than forty square feet in overall area may be permitted, or of greater area by Special Exception and may have continuous, non-flashing illumination, provided that no such light is visible on the boundary of any residential property located in the "R" District after 11:00 P.M.

### **Section 8.07: Signs with Legal Non-Conforming Use:**

Any sign advertising and located on the same premises with a legal non-conforming use may be maintained and replaced during the life of the non-conforming use but shall not be enlarged or extended.

### **Section 8.08: Government Exception:**

Provisions of this Ordinance shall not apply to conventional directional and identification signs and markers erected by federal, state or local government agencies.

### **Section 8.09: Integration of Multiple Signs on a Free-Standing Structure:**

Where more than one place of business activity exists on a single lot, the Planning Board shall be authorized when reviewing all sign permit applications to require that all advertising signs, whether permanent or temporary, be integrated and coordinated so as to limit any unnecessary proliferation of advertising on the premises. The surface area of the sign shall be no longer than 50 (fifty) square feet plus an additional 5 (five) square feet for each additional business advertised thereon not to exceed 100 (hundred) square feet.

## **ARTICLE IX: OFF-STREET PARKING REQUIREMENTS**

### **Section 9.01: Parking Requirements:**

Off-street parking and loading spaces shall be provided for every new structure and the enlargement of an existing structure, the development of a new land use or a change in an existing land use in accordance with the off-street parking standards as provided for by this Article and as stated in the Planning Board's Site Plan Regulations, following requirements. Each parking space shall be nine (9) feet by eighteen (18) feet, excluding driveways and aisles. This provision shall not apply to one family dwellings.

### **Section 9.02: Location Requirements:**

Off-street parking spaces required by this Ordinance in any district shall be at least ten (10) feet from the side and rear lot lines except as provided in Section 9.03. This provision shall not apply to one family dwellings. (2020)

### **Section 9.03: Commercial and Light Industrial:**

Required off-street parking spaces for commercial and industrial uses are contained within the Planning Board's Site Plan Regulations.

New commercial and light industrial development shall provide ample parking and loading spaces on the premises to accommodate vehicles of employees and customers, spaces to be located not closer than ten (10) feet from any lot line unless as a continuation of a parking area on a contiguous lot, and shall be designed so as to require no backing or maneuvering in a public street.

### **Section 9.04: Off-Street Loading Parking:**

No required off-street parking area shall be used as off-street loading area.

### **Section 9.05: Lighting Restrictions:**

Illumination fixtures shall be so arranged as to direct light away from streets and away from premises used for residential purposes.

### **Section 9.06: Schedule of Required Off-Street Parking Spaces:**

<b><u>USE</u></b>	<b><u>No. Parking Spaces Required</u></b>
(a) Dwelling Use	2 Per Unit
(b) Home Occupation	1 Per Employee PLUS Dwelling Unit
(c) Commercial & Industrial Uses	Refer to Site Plan Review Regulations for requirements



## ARTICLE X: WETLANDS PROTECTION

### **Section 10.01: Purpose and Intent:**

The purpose of this article is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which have been found to be saturated or subjected to high water tables for extended periods of time, including established and seasonal wetlands. It is the intent that this article shall:

- A. Prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and ground water by sewage or toxic substances or sedimentation.
- B. Prevent the destruction of, or significant changes to, natural wetlands which provide flood protection, provide filtration of water flowing into ponds and streams, or augment stream flows that are connected to the ground or surface water supply during dry periods.
- C. Protect unique and unusual natural areas.
- D. Protect wildlife habitats, maintain ecological balance and enhance ecological values such as those cited in RSA 483 A:1.
- E. Protect potential water supplies and existing aquifers (water bearing stratum) and aquifer recharge areas.
- F. Prevent unnecessary or excessive expense to the Town for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.
- G. Encourage those low intensity uses that can be harmoniously, appropriately or safely located in wetlands.
- H. Preserve and enhance the aesthetic values associated with wetlands in the Town of Candia.
- I. Prevent damage to structures and properties caused by inappropriate development in wetlands.

### **Section 10.02: Definitions:**

#### **A. NHDES Site Specific Soils Maps for New Hampshire, Standards and Origins:**

The most recent document prepared by the Society of Soil Scientists of Northern New England detailing the standards for making NHDES Site Specific Soils Maps. (2019)

#### **B. Poorly Drained Soil:**

As defined by the National Cooperative Soil Survey or further defined by NHDES Site Specific Soils Maps for New Hampshire. (2019)

#### **C. Qualified Soil Scientist:**

A person qualified in soil classification and mapping who is recognized by the State Board for Licensure.

#### **D. Very Poorly Drained Soil:**

As defined by the National Cooperative Soil Survey or further defined by NHDES Site Specific Soils Maps for New Hampshire. (2019)

#### **E. Wetlands:**

Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. They include, but are not limited to, swamps, bogs, marshes, ponds, lakes and other water bodies, as well as soils that are defined as poorly drained or very poorly drained.

### **Section 10.03: District Boundaries:**

#### **A. Establishment of a District:**

The limits of the Wetlands Conservation District are hereby determined to be the following:

1. all areas of very poorly drained soils;
2. areas of poorly drained soils and; (2019)
3. areas of poorly drained soils of any size if contiguous to surface waters such as lakes, ponds and streams subjected to high water tables for extended periods of time;
4. identified as a wetland meeting Army Corps of Engineers criteria, by wetlands scientist in conjunction with a subdivision or site plan application. (2019)

#### **B. Location of the District:**

The District as herein defined is shown on a map designated as the "Town of Candia Wetlands Conservation District Map" and is a part of the Official Zoning Map for the Town of Candia. This map is considered as a guide only. The precise location of a wetland boundary in any particular case must be determined by on-site inspection of soil types and vegetation. This data will be prepared by a qualified soil scientist using the standards of Site-Specific Soils Maps for New Hampshire. (2020)

#### **C. Boundary Determinations:**

1. In the event that the Planning Board or Conservation Commission questions the validity of the boundaries of a wetland area on a specific parcel of land, or upon the written petition of the owner or any abutter of the said property to the Planning Board, the Board may call upon the services of a qualified soil scientist to examine said area and report the findings to the Planning Board for their determination of the boundary.
2. The Building Inspector may also call upon the services of a qualified soil scientist to determine the precise wetland boundaries on a parcel of land, before issuing a building permit.

#### **D. Soil Testing Procedures:**

Any necessary soil testing procedures shall be conducted at the expense of the landowner or developer. Any costs incurred through such appeals shall be borne by the landowner or developer.

### **Section 10.04: Relation to Other Districts:**

Where the Wetlands Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

### **Section 10.05: Permitted Uses:**

#### **A. Poorly drained soils:**

Permitted uses in areas of poorly drained soils are as follows:

1. Any use otherwise permitted by this Ordinance and State and Federal laws that does not involve the erection of a structure, or that does not alter the surface configuration of the land by the addition of fill, or by dredging except as a common treatment associated with a non-residential permitted use.
2. Agriculture, including grazing, hay production, truck gardening and silage production provided that such use is shown not to cause significant increase in surface or ground water contamination by pesticides, commercial fertilizers or other toxic or hazardous substances, and that such use will not cause or contribute to soil erosion.
3. Forestry and tree farming to include the construction of access roads for such purpose.
4. Wildlife habitat development and management.
5. Recreational uses consistent with the purpose and intent of this Article as defined in Section 10.01.
6. Conservation areas and natural trails.
7. Water impoundments and the construction of well water supplies.
8. Drainageways to include streams, creeks or other natural paths of normal runoff water.
9. Driveways for access to residential lots with proper drainage and culverts.
10. Open spaces as permitted in this Ordinance.

**Section 10.05: Permitted Uses (continued):**

**B. Very poorly drained soils:**

Permitted uses in areas containing very poorly drained soils, marshes, bogs, open water and major streams are as follows:

1. Uses specified under Section 10.05.A (1 through 10) shall be permitted except that no alteration of the surface configuration of the land by filling or dredging and no use which results in the erection of a structure except as provided for in Section 10.09 shall be permitted.
2. The construction offences, footbridges, catwalks and wharves, only provided:
  - (a) said structures are constructed on posts or pilings so as to permit unobstructed flow of water;
  - (b) the natural contour of the wetland is preserved, and;
  - (c) the Conservation Commission has reviewed and recommended the proposed construction.

**C. Lot size determination:**

Areas designated as having poorly drained soils may be used to fulfill up to 50% of the minimum lot size required by this Ordinance and Subdivision Regulations, provided the non-wetland area is at least one and one-half (1 1/2) contiguous buildable acres, and shall accommodate primary structures and required utilities such as sewage disposal and water supply, including primary and auxiliary leach field locations. (2019)

No part of areas designated as having very poorly drained soils, or bodies of water may be used to satisfy minimum lot size. Contiguous non-wetland portions of a lot shall be adjacent to or connected by no less than a 50-foot width of non-wetland area.

**Section 10.06: Buffer Provisions:**

- A. No septic system, leach field or other waste disposal facility shall be installed within 75 feet of the edge of any wetland.
- B. All construction, forestry and agriculture activities within 100 feet of any wetland shall be undertaken with special care to avoid erosion and siltation into the wetlands. The Planning Board, pursuant to its site plan review authority, may require an erosion control plan approved by the Rockingham County Conservation District for any project undertaken up-grade of a wetland. No building activity (building does not include septic systems) shall be permitted within 100 feet of any pond, flowing stream or very poorly drained soil and within 50 feet of any poorly drained soil except as provided in subsection C of this section. Where required, permits from the Department of Environmental Services shall be obtained. (2020)
- C. Where an existing building within the buffer zone is destroyed or is in need of extensive repair, it may be rebuilt provided that such rebuilding is completed within two years of the event causing destruction; the new or rebuilt structure shall not extend further into the wetlands or buffer area than the original foundation.

**Section 10.07: Filled and Pre-Existing Uses - Non-Residential:**

- A. Lands which may have been wetlands but were filled under properly Ordinance shall be judged according to the soils and flora existing at the site at the time application for building permit or subdivision is made.
- B. Structures and uses existing at the time of the adoption of this Ordinance may be continued provided that such use shall not be expanded to further encroach upon the wetlands or designated buffer areas.

**Section 10.08: Exemption for Residential Structures:**

Notwithstanding other provisions of this article, the construction of additions and extensions to one and two-family family dwellings shall be permitted within the Wetlands Conservation District provided that:

1. The dwelling lawfully existed prior to the effective date of this article, and;
2. That the proposed construction conforms with all other applicable Ordinances and Regulations of the Town of Candia.

**Section 10.09: Conditional Uses:**

- A. A Special Use Permit may be granted by the Planning Board (RSA 674:21-11) for the construction of roads and other access ways, and for pipelines, power lines and other transmission lines provided that all of the following conditions are found to exist:
1. The proposed construction is essential to the productive use of land not within the e Wetlands Conservation District.
  2. Design, construction and maintenance methods will be such as to minimize detrimental impact upon the wetlands and will include restoration of the site as nearly as possible to its original grade and condition.
  3. No alternative route which does not cross a wetland or has less detrimental impact upon the wetland is feasible.
- B. Prior to the granting of a Special Use Permit under this Section, the applicant shall submit a performance security to ensure that all construction is carried out in accordance with an approved design. The security shall be submitted in a form and amount, with surety and conditions satisfactory to:
- (1) the Planning Board for site plan and subdivision applications and;
  - (2) the Board of Selectmen in all other cases.

In addition, Town Counsel approval must be acquired. The security shall be submitted and approved prior to issuance of any permit authorizing construction.

- C. The Planning Board, with the concurrence of the Conservation Commission may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.
- D. Economic advantage alone is not the reason for the proposed construction.

**Section 10.10: Exceptions:**

**A. Water Impoundments:**

Water impoundments for the enhancement of a wetland area with a permit from the Department of Environmental Services under Env-Wg 401. (2020)

**B. Non-Conforming Lots:**

1. Special Exceptions to this Ordinance shall be permitted only upon authorization by the Board of Adjustment in the manner prescribed in Article XIII of this Ordinance.
2. Special Exception Standards: In order to permit the erection of a structure and related site work within the Wetlands Conservation District on vacant lots, the Board of Adjustment shall find that such exceptions comply with the following requirements and other applicable requirements as set forth in this Ordinance:
  - a. that the lot upon which an exception is sought was an official lot of record, as recorded in the Rockingham County Registry of Deeds, prior to the date on which this amendment was posted and published in the Town.
  - b. that the use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the Wetlands Conservation District.
  - c. that due to the provisions of the District, no reasonable and economically viable use of the lot can be made without the exception.
  - d. that the design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this article.
  - e. that the proposed use will not create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of groundwater or other reason.
  - f. that the applicant shall provide to the Board a study prepared by a qualified consultant showing that the above conditions have been met. The cost of such studies shall be borne by the applicant.

**Section 10.11: Other Provisions:**

- A. The Building Inspector shall not issue any permits for construction within the Wetlands Conservation Overlay District unless such activity conforms with the provisions of this article. The Board of Selectmen shall have the power to enforce this article, and violations may be punishable by fines as provided by Article XIV Section 15.04 of this Ordinance.
- B. Any wetlands altered in violation of this Ordinance shall be restored at the owner's expense or the violator(s) as provided by RSA 487-A:14.
- C. No building, fill or other obstruction shall be permitted in any floodway where it is determined by the Town that such encroachment will adversely affect the flood carrying capacity of the floodway or flood levels along the flood plain or create a hazard to life and property. In making this determination, the Town may consult with the U.S. Army Corp of Engineers or such other experts as deemed necessary.
- D. The Town of Candia, as a governmental body, shall not be exempt from this Ordinance nor the rules and regulations found therein.

**ARTICLE XI: GROUNDWATER PROTECTION**

**Section 11.01: Authority:**

The Town of Candia hereby adopts the following Article XI pursuant to the authority granted under RSA 674:16, in particular RSA 674:16, II and RSA 674:21,1, (j) relative to innovative land use controls.

**Section 11.02: Purpose:**

The Town of Candia views existing and potential groundwater supply areas and surface waters as being a finite resource within the Town of Candia. These resources are needed for both present and/or future public water supply within the Town. The purpose of this Article is accomplished by regulating those land uses that could contribute pollutants to the Town's present and/or future public water supply.

**Section 11.03: Definitions:**

- A. Ambient Groundwater Quality Standards:** Maximum concentration levels for regulated contaminants in groundwater which result from human operations or activities, as delineated in RSA 485-C:6.
- B. Aquifer:** A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.
- C. Green Yard:** A junkyard which has been certified by the NH DES as a Green Yards Under Phase II: Compliance Assurance and Certification component of the NH DES Green Yards Program.
- D. Groundwater:** Subsurface water that occurs beneath the water table in soils and geologic formations.
- E. Impervious:** Not readily permitting the infiltration of water.
- F. Impervious Surface:** A surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete and asphalt unless unsealed cracks or holes are present. The following surfaces are not considered impervious: earthen, wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them.
- G. Junkyard:** An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk (ex. such as scrap metal, used appliances), or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary landfills. The word does not include any motor vehicle dealers registered with the Director of Motor vehicles under RSA 261:104 and controlled under RSA 236:126.
- H. Loam:** See NH Department of Transportation Section 641.

**Section 11.04: Groundwater Protection District:**

The Groundwater Protection District is an overlay district that is superimposed over the existing underlying zoning of the entire Town of Candia.

**Section 11.05: Applicability:**

This Article applies to all uses in the Groundwater Protection District, except for those uses exempt under Section 11.11 of this Article.

**Section 11.06: Performance Standards:**

The following Performance Standards are in addition to the regulations set forth in the balance of this Article and apply to all uses in the Groundwater Protection District unless exempt under Section 11.11:

1. For any use that will render impervious more than 15% or more than 10,000 square feet of any lot, whichever is greater, a Stormwater Management Plan shall be prepared in a manner consistent with Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, Rockingham County Conservation District, August 1992 and Best Management Practices for Urban Stormwater Runoff, NH Department of Environmental Services, January 1996. The Planning Board shall determine whether or not the Stormwater Management Plan is consistent with the above referenced standards and may reject any Management Plan which fails to conform with the standards.
2. Stormwater management plans prepared pursuant to paragraph 1 above shall demonstrate that storm water recharged to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary.
3. Animal manures, fertilizers, and compost must be stored in accordance with the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 1998, and subsequent revisions.
4. All regulated substances stored in containers with a capacity of 5 gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains.
5. Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door(s) and/or gate(s) which are locked when authorized personnel are not present and must be inspected weekly by the facility owner.
6. Outdoor storage areas for regulated substances must be protected from exposure to precipitation and must be located at least 75 feet from surface water or storm drains, wetlands, private wells and outside the sanitary protective radius of wells used by public water systems.
7. Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of 275 gallons or more of regulated substances are stored outdoors on any particular property.
8. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.
9. All land cleared and graded for the purpose of establishing lawns must be finish graded with at least 4 inches of good quality loam or topsoil in order to reduce the demand for lawn irrigation.

**Section 11.07: Permitted Uses:**

All uses permitted by right, in the underlying district shall be permitted in the Groundwater Protection District unless identified in Section 11.08. as a Prohibited Uses or Section I. as a Conditional Use. All Permitted Uses must comply with the Performance Standards set forth in Section 11.06. unless specifically exempted under Section 11.11. Exemptions.

**Section 11.08: Prohibited Uses:**

The following uses are prohibited in the Groundwater Protection District:

1. The siting or operation of a hazardous waste disposal facility as defined under RSA 147-A.
2. The siting or operation of a solid waste landfill.
3. The siting or operation of a wastewater or septage lagoon. The siting or operation of a sludge monofill or sludge composting facility.
4. The storage of regulated substances, unless in a free-standing container within a building, or above ground with secondary containment adequate to contain 110% of the container's total storage capacity.
5. The storage of commercial fertilizers, unless such storage is within a structure designed to prevent the generation and escape of runoff or leachate.
6. The siting or operation of junkyards, unless such facility is certified by the NH DES as a Green Yards under the Phase II: Compliance Assurance and Certification component of the NH DES Green Yards Program.

**Section 11.09: Conditional Uses:**

The issuance of a Conditional Use Permit is subject to Site Plan Approval by the Planning Board. The Planning Board may grant a Conditional Use Permit for a use that is otherwise permitted within the underlying district, if the permitted use is or is involved in one or more of the following:

1. Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time, provided that an adequate plan is in place to prevent, contain, and minimize releases from catastrophic events such as spills or fires which may cause large releases of regulated substances.
2. Any use that will render impervious more than 15% or 10,000 square feet of any lot, whichever is greater. In granting such approval the Planning Board must first determine that the proposed use is not a prohibited use and will be in compliance with the Performance Standards as well as all applicable local, state and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards. The amount of this bond shall be in addition to any other bond required by the Board under either the subdivision or site plan regulations.
3. The siting or operation of a commercial composting facility.
4. The siting or operation of a snow dump from offsite sources.
5. The siting or operation of a commercial car wash. The facility must be designed and operated as a closed-loop system.

**Section 11.10: Existing Nonconforming Uses:**

Existing nonconforming uses may continue without expanding or changing to another nonconforming use but must be in compliance with all applicable state and federal requirements, including Env-Ws 421, Best Management Practices Rules. However, under no circumstances will a nonconforming use be permitted when a continuance of that use presents a risk to public health and/or safety.

**Section 11.11: Exemptions:**

The following uses are exempt from the provisions of this Article. This exemption shall not excuse compliance with all other applicable local, state, and federal requirements:

1. Any private residence is exempt from all Performance Standards except for Section 11.06. 2, and 3.
2. Any business or facility where regulated substances are stored in containers with a capacity of five (5) gallons or less is exempt from Performance Standard 11.06.5.
3. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detect F. 5 exempt from performance standard.
4. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards 11.06.5 through 8.
5. Storage and use of office supplies is exempt from Performance Standards 11.06.5 through 8.
6. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards 11.06.5 through 8.
7. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this Article.
8. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 400 and 500 are exempt from Performance Standards 11.06.5 through 8. (2020)
9. Underground storage tank systems and above ground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Section 11.13 of this Article.

**Section 11.12: Relationship Between State and Local Requirements:**

Where both the State and the municipality have existing requirements the more stringent shall govern. In the event that there is a conflict between the provisions of this Zoning Ordinance and any other provision of the Town of Candia Zoning Ordinance, or State law, the provision imposing the greater restriction or higher standard shall control.

**Section 11.13: Maintenance and Inspection:**

1. Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Code Enforcement Officer at reasonable times with prior notice to the landowner.
2. All properties within the Groundwater Protection District known to the Code Enforcement Officer as using or storing regulated substances in containers with a capacity of 10 gallons or more except for facilities where all regulated substances storage is exempt from this Article under Section 11.11., shall be subject to inspections under this Section.
3. The Planning Board may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Planning Board as provided for in RSA 41-9: a.

**Section 11.14: Enforcement Procedures and Penalties:**

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

**Section 11.15: Saving Clause:**

If any provision of this Article is found to be unenforceable, such provision shall be considered separable and shall not be construed to invalidate the remainder of the Article.

**Section 11.16: Effective Date:**

This Article shall be effective upon adoption by the municipal legislative body.



## **ARTICLE XII: TELECOMMUNICATIONS/PERSONAL WIRELESS SERVICE FACILITIES**

### **Section 12.01 Purpose and Intent:**

These regulations have been enacted in order to establish general guidelines for the siting of towers and antennas and to enhance and fulfill the following goals:

- Preserve the authority of the Town of Candia to regulate and provide for reasonable opportunity for the siting of telecommunications facilities.
- Enhance the ability of providers of telecommunications services to provide such services to the community effectively and efficiently.
- Reduce the adverse impacts such facilities may create on, including, but not limited to migratory bird flight corridors, impacts on aesthetics, environmentally sensitive areas, historically significant locations, health and safety by injurious accidents to person and property, and diminution of property values.

This Article is structured to encourage carriers to locate on existing buildings and structures whenever possible. New ground mounted telecommunications/personal wireless facilities are permitted, but only when the use of existing structures and buildings are found to be infeasible. Co- location is encouraged for all telecommunications/personal wireless service facility applications and the review of a telecommunications/personal wireless facility shall be on the basis of the site being built using all positions on the mount.

### **Section 12.02 Applicability:**

The terms of this Article and the Site Plan Review Regulations shall apply to telecommunications/personal wireless service facilities proposed to be located on property owned by the Town of Candia, on privately owned property, and on property that is owned by any other governmental entity that acts in its proprietary capacity to lease such property to a carrier.

This Ordinance shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas. This Ordinance adopts the provisions and limitations as referenced in RSA 674:16, IV.

Essential Services & Public Utilities. Telecommunication facilities shall not be considered infrastructure, essential services, or public facilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunications facilities is a use of land and is addressed by this Section. *When a portion of this Article or similar language is included in the Site Plan Regulations, this Article shall govern.*

### **Section 12.03 Definitions:**

For the purpose of this Article, the following terms shall have the meaning given herein:

- A. **Antenna** -The surface from which wireless radio signals are sent and/or received by a telecommunications /personal wireless service facility.
- B. **Antenna Array** -A collection of antennas attached to a mount to send and receive radio signals.
- C. **Average Tree Canopy Height** -An average found by inventorying the height at ground level (AGL) of all trees over twenty (20') feet in height within a 150-foot radius of the facility. Trees that will be removed for construction shall not be used in this calculation. In open areas without trees, the AGL shall be taken as 130' within a 150' radius of the facility.
- D. **Camouflaged** -A telecommunications/personal wireless service facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.
- E. **Carrier** -A Company that provides telecommunications/personal wireless services, also sometimes referred to as a provider.

- F. **Co-location** -The use of a single mount on the ground by more than one carrier (vertical collocation) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.
- G. **Environmental Assessment (EA)** -An EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a telecommunications/personal wireless service facility is placed in certain designated areas.
- H. **Equipment Shelter** -An enclosed structure, cabinet, shed, vault or box near the base of the mount within which are housed equipment for telecommunications/personal wireless service facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.
- I. **Facility** -See Telecommunications/Personal Wireless Service Facility
- J. **Fall Zone** -A distance of 150% of the tower height measured from the outside edge of the tower base. See Zoning Section 6.01 G.
- K. **Guyed Tower** -A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.
- L. **Height** -The height above ground level (AGL) from the natural grade of a site to the highest point of the structure.
- M. **Lattice Tower** -A type of mount with multiple legs and structural cross bracing between the legs that is self-supporting and free standing.
- N. **Mast** -A thin pole that resembles a streetlight standard or telephone pole. A dual-polarized antenna is typically deployed on a mast.
- O. **Monopole** -A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel, concrete, or other material, which is designed for the placement of antennas and arrays along the shaft.
- P. **Mount** -The structure or surface upon which antennas are mounted, including the following four types of mounts:
  - a. Roof-mounted. Mounted on the roof of a building.
  - b. Side-mounted. Mounted on the side of a building.
  - c. Ground-mounted. Mounted on the ground.
  - d. Structure-mounted. Mounted on or in a structure other than a building.
- Q. **Telecommunications/Personal Wireless Service Facility** -Telecommunications/Personal Wireless Service Facility for the provision of telecommunications/personal wireless services facilities include a mount, antenna, equipment shelter, and other related equipment as defined by The Telecommunications Act of 1996, as amended.
- R. **Personal Wireless Services** -The three types of services regulated by this Ordinance: Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.
- S. **Radio Frequency (RF) Engineer** -An engineer specializing in electrical or microwave engineering, especially of radio frequencies.
- T. **Radio Frequency (RFR) Radiation** -The emissions from telecommunications/personal wireless service facilities.
- U. **Security Barrier** -A wall, fence, or berm that restricts an area from unauthorized entry or trespass.
- V. **Separation** -The distance between one carrier's array of antennas and another carrier's array.
- W. **Tower** -Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.

## **Section 12.04 District Regulations:**

- A. Location** -Telecommunications/Personal wireless service facilities shall be permitted in all zoning districts except the Wetlands Conservation District. Special exception by the Zoning Board of Adjustment is required for the residential zoning district and Mixed-Use District. Applicants seeking approval for telecommunications/personal wireless service facilities shall first evaluate existing structures for the siting of telecommunications/personal wireless service facilities. Only after finding that there are not suitable existing structures pursuant to Section C (4) herein, shall a provider propose a new ground mounted facility.
- B. Existing Structures** -Policy: Telecommunications/Personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunication facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.
- C. Existing Structures** -Burden of Proof -The applicant shall have the burden of proving that there are no existing structures which are suitable to locate its telecommunications/personal wireless service facility and/or transmit or receive radio signals. To meet that burden, the applicant shall take all of the following actions to the extent applicable:
1. The applicant shall submit to the Zoning Board of Adjustment a list of all contacts made with owners of potential sites regarding the availability of potential space for a telecommunications/personal wireless service facility. If the Zoning Board of Adjustment informs the applicant that additional existing structures may be satisfactory, the applicant shall contact the property owner(s) of those structures.
  2. The applicant shall provide copies of all letters of inquiry made to owners of existing structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered “Return Receipt Requested” forms from the U.S. Post Office shall be provided for each owner of existing structures that was contacted.
  3. If the applicant claims that a structure is not capable of physically supporting a telecommunications/personal wireless service facility, this claim must be certified by a licensed professional structural engineer. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the telecommunications/personal wireless service facility without unreasonable costs. The estimated cost shall be provided to the Zoning Board of Adjustment. (2020)
  4. **Ground Mounted Facilities Policy** -If the applicant demonstrates that it is not feasible to locate on an existing structure, ground mounted telecommunications/personal wireless service facilities shall be designed so as to be camouflaged to the greatest extent possible, including, but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees.
  5. **Inventory of Existing Telecommunications/personal wireless facilities and Structures** -Each applicant for telecommunications/personal wireless facilities shall provide an inventory of existing telecommunications/personal wireless facilities and Structures that are within the jurisdiction of the Town and those within two miles of the border thereof. This shall include mapping these existing telecommunications/personal wireless facilities and Structures on a U.S.G.S. Topographical Map and shall include specific information about the location, Height, design of each telecommunications/personal wireless facility, as well as economic and technological feasibility for Co-location on the inventoried telecommunications/personal wireless facilities. The Town may share such information with other applicants applying for approvals or Special Exception permits under this Ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority. By sharing such information, however, the Town is not in any way representing or warranting that such sites are available or suitable.
  6. **Use of Alternative Telecommunication Sites** -If the applicant is proposing to build a new telecommunications/ personal wireless facility, the applicant shall submit written evidence demonstrating that no existing telecommunications/personal wireless facilities or other Structure can accommodate the applicant’s proposed telecommunications/personal wireless facilities. This evidence can consist of:
    - a. Substantial Evidence that no existing telecommunications/personal wireless facilities or Structures are located within the geographic area required to meet the applicant’s engineering requirements, provided that a description of the geographic area required is also submitted.

- b. Substantial Evidence that existing telecommunications/personal wireless facilities are not of sufficient Height to meet the applicant's engineering requirements, and why.
- c. Substantial Evidence that the existing telecommunications/personal wireless facilities or Structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- d. Substantial Evidence that applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing telecommunications/personal wireless facilities or Structures, or the antenna on the existing telecommunications/personal wireless facilities or Structures would cause interference with the applicant's proposed antenna.
- e. Substantial Evidence that fees, costs, or contractual provisions required by the owner in order to share the existing telecommunications/personal wireless facilities or Structure are unreasonable. Costs exceeding new Tower Development are presumed to be unreasonable.
- f. Substantial Evidence that the applicant can demonstrate other limiting factors that render existing telecommunications/personal wireless facilities and Structures unsuitable.

**D. Use Regulations** -A telecommunications/personal wireless service facility shall require a building permit in all cases and may be permitted as follows:

- 1. **Existing Structures** -Subject to the provisions of this Article and site plan review under RSA 674:43: III and except as otherwise permitted. A carrier may locate a wireless service facility on an existing structure, building, utility tower or pole or water tower. For the purposes of this section, new structures that are conforming to all other district zoning requirements shall be considered as existing structures.
- 2. **Ground Mounted Facility** -A telecommunications/personal wireless service facility involving construction of a ground mount shall require a site plan review and be subject to the provisions of this Article.
- 3. **Completion Schedule** -Any approval issued by the Planning Board will be in effect for nine (9) months from the date of approval to allow for completion of construction. After nine (9) months, if construction is not completed, a new application may be required.

**E. Dimensional Requirements** -Telecommunications/Personal wireless service facilities shall comply with the following requirements:

- a. **Height, Maximum** -In no case shall a telecommunications/personal wireless service facility exceed one hundred fifty (150') feet in height, unless the mount for the facility was greater than one hundred fifty (150') feet prior to the adoption of this Article.
- b. **Height, Existing Structures and Utility Poles** -Carriers that locate new telecommunications/personal wireless service facilities on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts and monopoles may be permitted to increase the height of those structures no more than twenty (20') feet, or forty (40') feet at the discretion of the Planning Board, if the additional height will not materially impair the visual impacts of the site. This increase in height shall only be permitted once for each structure.
- c. **Height, Other Existing Structures** -The height of a telecommunications/personal wireless service facility shall not increase the height of a structure by more than fifteen (15') feet, unless the facility is completely camouflaged: for example a facility completely within a flagpole, steeple, or chimney. The increase in the height of the structure shall be in scale and proportion to the structure as originally configured. A carrier may locate a telecommunications/personal wireless service facility on a building that is legally nonconforming with respect to height, provided that the provisions of the Article are met.
- d. **Height, Ground-Mounted Facilities** -Ground mounted telecommunications/personal wireless service facilities shall not project higher than twenty (20') feet above the average tree canopy to equipment, whichever is greater.

- e. **Setbacks** -All telecommunications/personal wireless service facilities, equipment shelters, and security barriers shall comply with the building setback provisions of the zoning district in which the facility is located.
- f. **Fall Zone for Ground Mounts** -In order to ensure public safety, the minimum distance from the base of any ground-mount of a telecommunications/personal wireless service facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Article. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the Site Plan Review.
- g. **Fall Zone for Non-Ground Mounts** -In the event that an existing structure is proposed as a mount for a telecommunications/personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of preexisting non-conforming structures, telecommunications/personal wireless service facilities and their equipment shelters shall not increase non-conformities.

**F. Height Simulations** -During the ninety (90) day period following formal acceptance of an application, the Board may, during its deliberations, require that the applicant erect a structure that would physically simulate the proposed tower, thus enabling the Board to better assess the impact of a tower at a particular location. As an example, a crane boom, extending one hundred (100') feet vertically, would simulate a one hundred (100') foot communications tower.

**G. Performance and Design Standards:**

**1. Visibility:**

**a. Visual impacts are measured on the basis of:**

- 1. Change in community scale, as exhibited in relative height, mass or proportion of the telecommunications /personal wireless service facility within their proposed surroundings.
- 2. New visible elements proposed on a contrasting background.
- 3. Different colors and textures proposed against a contrasting background.
- 4. Use of materials that are foreign to the existing built environment.

**b. Enhancements are measured on the basis of:**

- 1. Conservation of opportunities to maintain community scale, e.g. buffering areas and low-lying buildings should not be compromised so as to start a trend away from the existing community scale.
- 2. Amount and type of landscaping and/or natural vegetation.
- 3. Preservation of view corridors, vistas and view sheds.
- 4. Continuation of existing colors, textures and materials.

**c. Visibility focuses on:**

- 1. Eliminating or mitigating visual impact.
- 2. Protecting, continuing and enhancing the existing environment.

**d. Camouflage for Facilities on Existing Buildings or Structures-Roof Mounts** -When a telecommunications /personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.

- e. **Camouflage for Facilities on Existing Buildings or Structures-Side Mounts** -Telecommunications /Personal wireless service facilities which are side mounted shall blend with the existing building's architecture and, if individual antenna panels are over five (5) square feet, the panels shall be painted or shielded with material consistent with the design and materials of the building.
  - f. **Camouflage for Ground Mounted Facilities** -All ground mounted telecommunications/personal wireless service facilities shall be surrounded by a buffer of dense tree growth that extends continuously for a minimum distance of one hundred fifty (150') feet from the mount, a security barrier, or designated clear area for access to equipment, whichever is greatest, and screens views of the facility in all directions. These trees must be existing on the subject property, planted on the site, or be within a landscape easement on an adjoining site. The Planning Board shall have the authority to decrease, relocate, or alter the required buffer based on site conditions. The one hundred fifty (150') foot vegetative buffer area shall be protected by a landscape easement or be within the area of the carriers lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.
2. **Color** -To the extent that any telecommunications/personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be of a color which blends with the background or surroundings.
3. **Equipment Shelters** -Equipment shelters for telecommunications/personal wireless service facilities shall be designed consistent with one of the following design standards:
- a. Equipment shelters shall be located in underground vaults; or
  - b. Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the telecommunications/personal wireless service facility; or
  - c. Equipment shelters shall be camouflaged behind effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
  - d. If mounted on a roof top, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.
4. **Lighting, Signage, Security and Utilities:**
- a. **Lighting** -The mounts of telecommunications/personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities shall be shielded from abutting properties.
  - b. **Signage** -Signs shall be limited to those needed to identify the property and owner and warn of any danger. All signs shall comply with signage requirements of the Town of Candia Zoning Ordinance.
  - c. **Security Barrier** -The Planning Board shall have final authority on whether a ground mounted telecommunications/personal wireless service facility should be surrounded by a security barrier.
  - d. **Utilities** -All utilities servicing a telecommunications/personal wireless service facility shall be placed underground.
5. **Historic Buildings:**
- a. A structure shall not alter the character or defining features, distinctive construction methods, or original historic materials of the building.
  - b. Any alteration made to an historic structure to accommodate a telecommunications/personal wireless service facility shall be fully reversible.
  - c. Telecommunications/Personal wireless service facilities authorized under this subsection shall be concealed within or behind existing architectural features or shall be located so that they are not visible from public roads and viewing areas.

6. **Scenic Landscapes and Vistas** -Ground mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, or abutting properties. All ground mounted telecommunications /personal wireless service facilities shall be surrounded by a buffer of dense tree growth as per Section G.
7. **Driveways** -If available, existing entrances and driveways to serve a telecommunications/personal wireless service facility shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic and environmental impact. New driveways to serve a telecommunications/personal wireless service facility shall not exceed twelve (12') feet in width and shall include provisions for turn offs to accommodate emergency vehicles at a minimum spacing of 500 feet. A gravel or crushed stone surface is encouraged.
8. **Antenna Types** -Any antenna array placed upon an existing or proposed ground mount, utility pole, or transmission line mount shall have a diameter of no more than four (4') feet, exclusive of the diameter of the mount. A larger diameter antenna array may be permitted after a finding by the Planning Board that the visual impacts of a large antenna array are negligible.
9. **Hazardous Waste** -No hazardous waste shall be discharged on the site of any telecommunications/personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred ten (110%) percent of the volume of the hazardous material stored or used on the site.
10. **Radio Frequency Radiation (RFR) Standards** -All equipment proposed for a telecommunications/personal wireless service facility shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation (FCC Guidelines), under Report and Order, FCC 96-326, published on August 1, 1996, and all subsequent amendments.

#### **H. Monitoring, Maintenance and Verification:**

1. **Maintenance** -The owner of the facility shall maintain the telecommunications/personal wireless service facility in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the mount and security barrier and maintenance of the buffer areas and landscaping.
2. **Monitoring** -As part of the issuance of the site plan approval or building permit, the property owner shall agree that the Town of Candia may enter the subject property to obtain RFR measurements at the expense of the carrier. The Town shall provide reasonable written notice to the carrier and landowner and provide them the opportunity to accompany Town representatives when the measurements are conducted.
3. **Security for Removal:**
  - a. Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunication facilities in the event that a facility is abandoned and the owner is unwilling or unable to remove the facility in accordance with Section I.
  - b. The amount of the security shall be based upon the removal costs plus fifteen (15%) percent provided by the applicant and certified by a structural engineer licensed in New Hampshire. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional structural engineer licensed in New Hampshire every seven (7) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen (15%) percent the owner of the facility shall provide additional security in the amount of the increase.
4. **Verification** -The Zoning Board of Adjustment or Planning Board, at its discretion, may hire an expert of its choice to review applications. Such experts may include, but are not limited to Planning Experts, Technical Experts, Engineering Experts, Legal Experts and Surveying Experts. All such expenses shall be borne by the applicant.

**I. Abandonment or Discontinuation of Use:**

1. **Notification** -At such time that a carrier plans to abandon or discontinue operation of a telecommunications /personal wireless service facility, such carrier will notify the Town by certified U.S mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the telecommunications/personal wireless service facility shall be considered abandoned upon such discontinuation of operations.
2. **Removal** -Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the telecommunications/personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
  - a. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
  - b. Proper disposal of the waste materials from the site in accordance with local and state Solid Waste Disposal regulations.
  - c. Restoring the location of the telecommunications/personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after condition.
3. **Failure to Remove** -If the owner of the facility does not remove the facility upon the Code Enforcement Officer's order, then the Board of Selectmen shall, after holding a public hearing with notice to the owners and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

**J. Notifications** -Additional written notification of a Special Exception request to the Zoning Board of Adjustment shall be made to all abutters within ¾ miles of the proposed site.

**K. Easements** -The owner of the proposed facility shall provide a draft permanent easement with the Town for review and comment. The easement shall include sufficient area to access, maintain and remove the facility. Once approved by the Town, the easement shall be recorded by the facility owner in the Rockingham County Registry of Deeds prior to the issuance of a Building Permit.

**Section 12.05 Severability:**

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

**Section 12.06 Administration and Enforcement:**

It shall be the duty of the Board of Selectmen, and they are hereby given the power and authority, to enforce the provisions of this ordinance. The Selectmen may appoint an agent to enforce this ordinance.

Upon any well-founded information that this ordinance is being violated, the Selectmen shall take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any other legal action.

## **ARTICLE XIII: LAND USE REGULATION**

**Section 13.01: Purpose:**

The Land Use Regulation herein is based on the Master Plan of the Town of Candia. The purpose and intent is to regulate the pace of growth of the Town so as to insure orderly growth at a rate consistent with the goals and objectives of, and the physical and financial constraints and limitations upon, the Town identified by the Master Plan.

**Section 13.02: Building Year:**

As used herein, "Building Year" shall mean a year commencing March 14th and ending March 13th.

**Section 13.03: Regulation:**

The Candia Planning Board has the authority to review and approve a subdivision in its entirety. Limitations on development of lots, currently 9 per year, shall be administered through the building permit process by the Building Inspector. For the purpose of this regulation, lot shall mean lot, plat, site, or other division of land for the purpose of sale, rent, lease, or condominium conveyance or building development.



## ARTICLE XIV: BOARD OF ADJUSTMENT

### **Section 14.01: Authority:**

There shall be a Board of Adjustment as provided by the statutes of the State of New Hampshire.

### **Section 14.02: Powers:**

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

#### **A. Administrative Appeal:**

Upon appeal from a decision by an administrative official, the Board of Adjustment shall decide any question involving the interpretation of any provision of this Ordinance, including determination of the precise location of any district boundary.

#### **B. Special Exception:**

The Board of Adjustment may authorize special exception uses as specified in this Ordinance.

#### **C. Variances:**

The Board of Adjustment shall hear and decide requests for variances from the terms of this Ordinance. No variance may be granted unless **ALL** of the following criteria are met:

1. The variance will not be contrary to the public interest;
2. The spirit of the ordinance is observed;
3. Substantial justice is done;
4. The values of surrounding properties are not diminished; and
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

Any conditions necessary to meet one or more of the foregoing standards may be attached to approval of the variance. Any variance shall grant the minimum relief from the terms of this Ordinance that is necessary to relieve the unnecessary hardship.

#### **D. Building permit on Class VI Road:**

The Board of Adjustment shall hear appeals pursuant to the provisions of RSA 674:41.

### **Section 14.03:**

The Board shall adopt rules and regulations governing meetings, hearings, fees, and other matters for the proper functioning of the Board.

### **Section 14.04:**

Representations made at public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or use which are subject to regulation pursuant to this Ordinance shall be deemed conditions upon such special exception or variance.

### **Section 14.05:**

No variance or special exception may be granted for premises on which outstanding violations of this Ordinance exist, unless the effect of such a variance or special exception would be to remedy all such violations.

### **Section 14.06:**

Variance and special exceptions shall expire unless used within a period of two (2) years from the date granted. The Board may for good cause shown extend such period by as much as one year. (2019)

## **ARTICLE XV: SPECIAL EXCEPTION USES**

### **Section 15.01: Authorized Uses:**

The Board of Adjustment may authorize the uses set forth in Section 5.02 of this Ordinance as Special Exceptions in specified Districts.

### **Section 15.02: Special Exception Standards:**

**Special Exceptions shall meet the following standards provided by this Ordinance for the particular use:**

1. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;
2. No detriment to property value in the vicinity or change in the neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;
3. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;
4. No excessive demand on municipal services, including, but not limited to water, sewer, waste disposal, police and fire protection, and schools;
5. No significant increase of storm water runoff onto adjacent property or streets.

### **Section 15.03: Special Exception Conditions:**

**Special Exception approvals may be subject to appropriate conditions including the following:**

1. Front, side, or rear yard in excess of the minimum requirements of this Ordinance;
2. Screening of the premises from the street or adjacent property by walls, fences, other devices;
3. Modification of the exterior features of buildings or other structures;
4. Limitations on the size of buildings and other structures more stringent than minimum or maximum requirements of this Ordinance;
5. Limitations on the number of occupants and methods and times of operation;
6. Grading of the premises for proper drainage;
7. Regulation of design of access drives, sidewalks, and other traffic features;
8. Off-street parking and unloading spaces in excess of the minimum requirements of this Ordinance;
9. Regulation of the number, size, and lighting of signs more stringent than the requirements of this Ordinance.

### **Section 15.04: Specific Special Exception Uses:**

#### **A. Neighborhood Businesses and Professional Offices in Residential Districts:**

Those commercial uses identified in Section 5.02:b3, 5.02:b5 and 5.02:b6 of this ordinance and specifically referring to this section may be permitted as Special Exceptions in the Residential Zone provided that:

1. Such uses are located only on an arterial street as designated in Article III.
2. Such uses do not have an enclosed floor area in excess of 2000 SF.
3. Such uses do not detract from the rural aesthetics of the area.

## **B. Two-Family and Multi-Family Dwellings:**

**Purpose:** It is declared to be in the public interest and for the general welfare of the Town of Candia to permit the development of housing facilities specifically suited to address the needs of the elderly, handicapped, youth, and low-income families who wish to reside in the Town of Candia. In order to achieve this goal, two family and multi-family dwelling uses identified in Section 5.02: A.32 of this Ordinance and specifically referring to this section may be permitted as Special Exceptions in the R District subject to the following safeguards:

1. Such uses shall be located on an arterial street as designated in Article III. (Business Routes 101, S.R. #43, S.R. #27)
2. **Specifications:**
  - a. Lot size shall contain no less than three (3) acres and have 200 feet of frontage. Lots greater than six (6) acres may utilize existing legal right of ways providing private road access is built to town standards.
  - b. The dimensional requirements shall comply with Section 6.02 of this Ordinance. Specifically: front yards shall be 50feet, side and rear yards shall be 25 feet, and maximum building height shall be 35 feet/2.5 stories.
  - c. Density shall be one dwelling unit for the first three acres and an additional dwelling unit for each additional contiguous buildable acre. In accordance with Section 2:05 only one multi-family or two-family building will be allowed per lot unless approved under innovative land use.
  - d. One-bedroom units shall contain a minimum of 600 square feet per unit. Two-bedroom units shall contain a minimum of 800 square feet.
  - e. Two parking spaces shall be provided for each dwelling unit.
  - f. All applications for 3 or more units shall be subject to site plan review.
  - g. A maximum of four dwelling units shall be allowed in any multi-family structure.
  - h. Multi-family dwellings shall be wholly located no more than 800 feet from the arterial street on which the lot has frontage. Only this portion of the lot shall be used for calculating unit density as specified in 15.04: B.2.c.

## **C. Elderly Housing -Repealed**

## **D. Sexually Oriented Business:**

1. **Purpose** -It is the purpose of this section to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Candia and to promote the health, safety and general welfare of the citizens of the Town of Candia: that the regulations be utilized to prevent problems of blight and deterioration which may accompany concentrations of sexually oriented businesses. The provisions of this amendment have neither the purpose nor the effect of imposing limitation or restriction on the content of any communicative materials, including sexually oriented materials. It is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.
2. **Definition** -Sexually oriented business includes, but is not limited to, an adult arcade, adult bookstore or adult video store, adult cabaret, adult theaters, adult motels, nude model studio, sexual encounter center or any other business which meets the definition of "harmful to minors" and/or sexual conduct as set forth in RSA 571-B:1 Allowed locations and restrictions: Must be located in a commercial district

Must not be located within the Drug Free School Zone. Shall not be permitted within 1000 feet of any church, place of worship, parish house, public or private school, kindergarten, day care center or public sports/recreation parks. Shall not be located within 1000 feet of any Town Office Building or any public library. Shall not be located within 1000 feet of any private residence and shall not be located within 500 feet of any other sexually oriented business.

For a use to be established under this section, the applicant must demonstrate that the proposed site satisfies all the site requirements of Site Plan Review and must secure a Special Exception from the Zoning Board of Adjustment subject to the requirements and procedures contained herein.

**Severability:** The invalidity of any section or provision of this Article shall not invalidate any other section or provision thereof.

**E. Accessory Dwelling Units:**

Any single family dwelling unit in the residential or mixed use districts may be converted or constructed to provide for one accessory dwelling unit subject to conformance with Section 15.02, Special Exception Standards and any additional requirements imposed by the Board of Adjustment under Section 15.03, Special Exception Conditions and subject to the following restrictions:

1. There shall be no more than one accessory dwelling unit for any single-family dwelling.
2. There shall be no more than two bedrooms in the accessory dwelling unit.
3. Adequate sewer and water service shall be provided. One septic system shall serve the entire property and the adequacy of the system shall be certified by a licensed septic installer.
4. There shall be a maximum of 750 square feet for the accessory dwelling unit.
5. On-site parking for one additional vehicle shall be provided.
6. All existing set back requirements shall be met.
7. The accessory unit shall be within or attached to the main dwelling unit.
8. Architectural enhancements will be employed for the purpose of maintaining aesthetic continuity with the principal dwelling unit resulting in both units appearing as a single-family dwelling unit.
9. Either the primary or the accessory dwelling unit shall be occupied by the owner of the property.
10. The current State Building and Fire Codes for two family dwellings shall apply.

**F. Dwelling in Building Used for Commercial Purposes:**

One dwelling unit may be built in a commercial building provided that:

1. The building is in a commercial district and is being used for commercial purposes.
2. That the commercial use will not be hazardous to health and safety of occupants.
3. No other residential building exists on the lot.

**\*Square footage of dwelling shall not exceed square footage of commercial use.**

**ARTICLE XVI: ADMINISTRATION AND ENFORCEMENT**

**Section 16.01:**

The Building Inspector Shall Administer the Provisions of this Ordinance.

**A. Building Inspector -Duties:**

It shall be the duty of the Building Inspector to keep a record of all applications for permits issued with a notation of special conditions involved. He shall file and safely keep copies of all plot plans submitted and the same shall form a part of his records.

**B. Inspection for Compliance:**

It shall be the further duty of the Building Inspector to maintain a constant surveillance of the Town to ensure that the provisions of this Ordinance are not being violated.

**Section 16.02: Building Permits and Certificates of Occupancy Required:**

- A. Requirements to Commence Building** -No building or structure shall be erected, added to or altered and no excavation shall be started until a Building Permit therefore shall have been issued by the Building Inspector stating that the building complies with all the provisions of this Ordinance.

- B. Certificate of Occupancy** -No land or building shall be occupied, used, or changed in use until a Certificate of Occupancy shall have been issued by the Building Inspector stating that the proposed use of such land or building complies with all the provisions of this Ordinance.
- C. Application for Certificate of Occupancy** -A Certificate of Occupancy shall be applied for at the same time application is made for a Building Permit and shall be issued following an inspection of the premises by the Building Inspector and his finding that all provisions of this Ordinance have been met.
- D. Application Procedure and Requirements** -Applications for Building Permits and Certificates of Occupancy shall be made in duplicate on forms provided by the Building Inspector, each to be accompanied by a plot plan drawn to scale showing all lot and required yard dimensions, the size and location of all buildings and uses, driveway locations, and all other such information as may be required by the Building Inspector to process said applications. The proposed handling of water supply and sewage disposal shall be described on all applications and shown on the plot plan.
- E. Denial: Certificate of Occupancy** -Except upon written order of the Board of Adjustment, no Building Permit or Certificate of Occupancy shall be issued for any construction or use which would be in violation of this Ordinance.
- F. Denial: Notification Procedures** -Where applications are denied by the Building Inspector, the specific reasons for so doing shall be stated fully on the application and a copy returned to the applicant.
- G. Period of Validity** -All valid permits must be exercised within twelve (12) months after date of issue. If a valid permit is not exercised, a renewal permit must be applied for.
- H. Compliance with Noticed Changes: Pursuant to RSA 676:12 the Building** -Inspector shall not issue any building permit where application for such permit is made after the first legal notice of proposed changes in the building code or the zoning ordinance has been noticed.
- I. Limitation of Building Permits** -The Building Inspector is authorized to issue no more than nine (9) permits per building year per approved subdivision of land.

**Section 16.03: Planning Board Review:**

**A. RSA Reference:**

In accordance with Chapters 674:43, 674:44 675:8, New Hampshire Revised Statutes Annotated, the Planning Board shall have the authority to review and approve site plans to the extent provided for in said chapters (NH RSA 674 & 675).

The planning board is authorized to review and approve or disapprove site plans involving change or expansion of use as now provided in RSA 674:43-1 as amended by the 1987 session of the New Hampshire General Court.

**B. Exemptions to site review procedures and requirements:**

1. The construction or enlargement of any single family or two-family dwelling or building accessory to such building.
2. Construction or alteration providing for not more than 200 square feet total area after construction.
3. Customary home occupations, home offices and home shops as defined in Article V, Section 5.03 A, B and C.

**C. Impact Fees:**

Purpose: This ordinance is enacted pursuant to RSA 674:21, and in order to:

- Promote the public health, safety, welfare and prosperity;
- Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Candia;
- Prevent scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services;
- Provide for the harmonious development of the municipality and its environs;
- Ensure the proper arrangement and coordination of streets; and
- Ensure streets of sufficient width to accommodate existing and prospective traffic.

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

**Authority to Assess Impact Fees:**

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

**Assessment Methodology:**

- The amount of any impact fee shall be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee.
- Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.
- The amount of the impact fee shall be determined by an Impact Fee Schedule prepared in accordance with the methodology established in a report by the Planning Board entitled "Impact Fee: Town of Candia", and adopted by the Planning Board.

**Administration of Impact Fees:**

- In order for the Planning Board to adopt an impact fee schedule, the Town of Candia must have enacted a capital improvements program pursuant to RSA 674:5-7.
- Each impact fee shall be accounted for separately, shall be segregated from the Town's general fund and shall be exempt from all provisions of RSA 32, relative to limitation and expenditure of town monies, may be spent only upon written order of the governing body, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are collected to meet.
- The Town Treasurer shall record all fees paid, by date of payment and name of the fee payer and shall maintain an updated record of the current ownership, tax map and lot reference number of properties for which fees have been paid under this ordinance. At the end of each fiscal year, the Town Treasurer shall make a report to the governing body, giving a particular account of all impact fee transactions during the year.
- All impact fees imposed pursuant to this section shall be assessed at the time of Planning Board approval of a subdivision plat or site plan. When no Planning Board approval is required or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees may be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development.
- Between the date of assessment and collection, the Planning Board may require developers to post security, in the form of a cash bond, letter of credit or performance bond so as to guarantee future payment of assessed impact fees.
- Impact fees shall be collected as a condition for the issuance of a Certificate of Occupancy. If no Certificate of Occupancy is required, impact fees shall be collected when the development is ready for its intended use. In addition, projects where off-site improvements are to be constructed simultaneously with a project's development, and where the Town has appropriated the necessary funds to cover such portions of the work for which it will be responsible, the Town may advance the time of collection of the impact fee to the issuance of a building permit.
- No Certificate of Occupancy shall be issued for new development until the assessed impact fee has been paid, or until the fee payer has established a mutually acceptable bond guaranteeing such payment with the Planning Board.
- The Planning Board and the assessed party may establish an alternate, mutually acceptable schedule of payment of impact fees.

**Credits** -Land and/or public capital facility improvements may be offered by the impact fee payer as total or partial payment of the required impact fee. The offer must be determined to represent an identifiable dollar value computed in a manner acceptable to the governing body. The governing body may authorize the impact fee payer an impact fee credit in the amount of the amount of the contribution. Any claim for credit must be made no later than the time application for the building permit is made. Credits shall not be transferable from one project or development to another without written approval of the governing body.

**Additional Assessments** -Payment of the impact fees does not restrict the Town of Candia or the Planning Board in requiring other payments from the impact fee payer, including such payments relating to the cost of necessary highway, drainage, and sewer and water upgrades or other infrastructure and facilities specifically benefiting the development as required by the Town's Subdivision or Site Plan Review Regulations.

**Review** -The impact fee schedule shall be reviewed periodically by the Planning Board. Such reviews may result in recommended adjustments in one or more of the fees based on the most recent data as may be available from the US Census Bureau, local property assessment records, market data, reflecting interest and discount rates, current construction cost information for public capital facilities, etc. Adjustments shall be approved by the Planning Board. Schedule adjustments which would change the methodology shall be made by the Planning Board.

**Return of Impact Fee:**

If the full impact fee assessed under this ordinance is not encumbered or otherwise legally bound to be spent for the purpose for which it was collected within six (6) years, the fee shall be refunded to the assessed party, with any accrued interest.

- Whenever the calculation of the impact fee has been predicated upon some portion of capital improvement costs being borne by the Town, a refund shall be made upon the failure of the Town Meeting to appropriate the Town's share of the capital improvement costs within six (6) years from the date of payment thereof.

**Applicability** -This ordinance shall not be deemed to affect the existing authority of the Planning board over subdivisions and site plans, including, but not limited to the authority to declare a development to be premature or scattered in accordance with the regulations of the Board and in accordance with RSA 674:36, II(a).

**Section 16.04: Violations and Penalties:**

**A. Notification:**

If at any time the Building Inspector finds that any construction or use has been commenced in violation of this Ordinance, he shall immediately notify the owner, agent and/or occupant of the nature of the violation in writing and order the abatement of such violation.

**B. Penalties:**

Violations of this Ordinance, including conditions of any variance or special exception granted by the Board of Adjustment shall be punishable either:

1. By a civil fine of not more than one hundred dollars (\$100) for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the town that he is in violation of this ordinance whichever is earlier, or
2. As a misdemeanor, if committed by a natural person, or a felony, if committed by any other person.

In addition, the Town may take any appropriate legal action to enjoin or abate any such violation or proposed violation and may recover costs and attorney's fees as provided by statutes.

**C. Filing of Complaints:**

Wherever any violation of this Ordinance occurs, any person may file a complaint in regard thereto in writing to the Building Inspector. The Building Inspector shall investigate said complaint, and, finding a violation to exist, shall act according to paragraph 16.01A of this Ordinance. (2019)

**D. Appeal:**

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

**Section 16.05: Amendments:**

Amendments to regulations and District boundaries set forth in this Ordinance proposed by the Planning Board, Board of Selectmen or petition of voters shall be acted upon in accordance with the procedures set forth in Chapter 675:3 through 675:5 and 675:7, New Hampshire Revised Statutes Annotated.

**Section 16.06: Validity:**

Should any provision of the Ordinance be declared by the courts to be invalid, such decision shall not affect the validity of the Ordinance as a whole, or any other section or provision thereof.

**Section 16.07: Conflict with Other Laws:**

Whenever the requirements of this Ordinance conflict with the requirements of any other lawfully adopted rules, regulations, or ordinance, the most restrictive or higher standards shall apply.

**Section 16.08: Repealed:**

The Zoning Ordinance and Map adopted on March 9, 1965 together with all amendments thereto is hereby repealed.

**Section 16.09: Effective Date:**

This Ordinance shall become effective immediately upon its passage.

**\*Original Ordinance Enacted:**

March 8, 1960

**Amended:**

March 14, 1961; March 12, 1963

**Repealed and Re-Enacted:**

March 9, 1965

**Amended:**

March 14, 1967; March 11, 1969; March 9, 1971

**Repealed and Adopted New Ordinance:**

March 6, 1973

**Amended:**

3/14/78; 3/13/79; 3/11/80; 3/10/81; 3/9/82; 3/13/84; 3/14/86, 3/10/87; 3/8/88; 3/14/89; 3/13/90; 3/12/91; 3/10/92; 3/9/93; 3/8/94; 3/14/95; 3/12/96; 3/10/98; 3/9/99; 3/14/00; 3/13/01; 3/12/02; 3/11/03; 3/9/04; 3/8/05; 3/14/06; 3/13/07; 3/11/08; 3/10/09; 3/9/10; 3/8/11; 3/13/12; 3/16/17; 3/12/19; 3/10/20