

TOWN OF TEMPLE, N.H.

Zoning Ordinance

(As amended through March 31, 2009)

TOWN OF TEMPLE, NH - ZONING ORDINANCE
(As amended through March 31, 2009)

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ARTICLE I: AUTHORITY AND PURPOSE

Section I: Authority & Purpose

Pursuant to the authority conferred by the Revised Statutes of the State of New Hampshire, Chapter 674, 1983 and as amended, the following ordinance is hereby enacted by the voters of the Town of Temple. The purpose of this ordinance is to promote the health, safety, convenience and general welfare of the community; to protect and conserve the value of property and to promote the preservation of the rural aspect of the Town of Temple. Also that the community may grow in an orderly manner, this ordinance is designed to:

- lessen congestion in the streets;
- secure safety from fires and other dangers;
- promote health and the general welfare;
- provide adequate light and air;
- prevent the overcrowding of land;
- avoid undue concentration of population;
- assure proper use of natural resources and other public requirements; and
- facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, and child day care.

Section II Title

This ordinance shall be known, and may be cited as, the "Town of Temple Zoning Ordinance", hereinafter referred to as "this ordinance."

ARTICLE II: DEFINITIONS

In the interpretation and enforcement of this Ordinance, all words other than those defined specifically below shall have the meanings implied by their context in this Ordinance or their ordinarily accepted meanings. The word person includes a firm, association, organization, partnership, trust company, or corporation, as well as an individual. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The word shall is mandatory, the word may is permissive.

CLASSIFICATION OF ROADS: Highways of State divided into Six Classes - RSA 230:4.

1. Class I - all existing or proposed highways on primary state highway system (except compact area of towns and cities).
2. Class II - all existing or proposed highways on secondary state highway system (except compact area of towns and cities).
3. Class III - state recreational roads.
4. Class IV - all highway within compact sections of cities and towns over 6500. "Compact" mainly occupied by buildings and dwellings. Note - there are numerous legislative classifications as to classification.
5. Class V - all other traveled highways which town has a duty to maintain, called town roads.

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6. Class VI - all other existing public ways including those discontinued as open highways and made subject to gates and bars and those not maintained by town in suitable condition for travel for five years or more.

Accessory Building: A subordinate building or portion of the dwelling, the use of which is incidental to that of the dominant use of the dwelling.

Bed and Breakfast: (1996) "Bed and Breakfast establishment" means an owner occupied residence, a portion of which is used for lodging overnight transient guests, for compensation, with no separate kitchen facilities, and where the only meal served is breakfast.

Building: Any structure for the shelter, support, or enclosure of persons, animals, chattels, or property of any kind.

Certified Community Residence: (RSA 171-A:9-:17) (2001)

A Certified Community Residence that is part of an organization incorporated under RSA 171.A:4, licensed for more than one but not more than three persons, and is part of the State of New Hampshire Health and Human Services Delivery System under Health Facility Licensing Rules.

Dwelling: Any building, or portion thereof, which is designed or used exclusively for residential purposes.

Dwelling Unit: An area of a residential building designed for use by one family.

Family: One or more persons, no more than four of whom are unrelated, occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel as herein defined.

Farm Stand: (1996) A Farm Roadside Stand shall remain an agricultural operation and not be considered commercial, provided that at least 35% of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.

Filling Station: Any building, structure or premise, enclosure or other place used for the dispensing, sale, or offering for sale automobile fuels and oils.

Frontage: The length of the lot bordering on a Class V or better road.

Garage, Private: An accessory building designed or used to house or enclose a motor vehicle.

Garage, Public: A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, hiring, selling, or storing motor-driven vehicles.

Home Produce and Products: (1996) Includes everything of an agricultural nature, grown, produced, or conditioned by the resident or such articles as are manufactured by members of the household or the bona fide resident of the property.

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Hotel, Motel, or Inn: A building or portion thereof where lodging is offered to transient guests for compensation, and in which there are more than five sleeping rooms with or without cooking facilities in any individual room or apartment.

Licensed Community Residence: (RSA 151:2 I(e) (2001)

A Residential Care Facility that is part of an organization incorporated under RSA 151:2 I(d), licensed for 4 or more persons, and has had ALL of it's beds certified as being part of the State of New Hampshire Health and Human Services Delivery System under Health Facility Licensing Rules, with the issuance of a Community Care Waiver.

Lodging House or Boarding Houses: Any dwelling, other than a hotel or motel, in which living accommodations without kitchen facilities are rented to five or more non-transient guests.

Lot Lines Along a Right-of-Way: Lot lines along a public or private right-of-way shall be considered to be at the edge of the right-of-way (not at the edge of the traveled way).

Lot, Plot, or Parcel: A parcel of land occupied or intended for occupancy by one main building, together with its accessory buildings, and uses customarily incidental to it, including the open spaces required by this Ordinance.

Manufactured Housing: 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 heating systems contained therein. (RSA 674:31)

Manufactured Housing Park: A land area occupied or designed for occupancy by two or more manufactured housing units.

Motor Vehicle Junk Yard: (2001) Means any business and any place of storage or deposit, whether in connection with any other business or not, which has stored or deposited 2 or more unregistered and uninspected motor vehicles which are no longer intended or in condition or legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to 2 more motor vehicles. Shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material which are parts of a motor vehicle or cut up the parts thereof.

Multiple Dwelling: A residential building designed for occupancy by two or more families.

Non-conforming Use: A use which lawfully occupied or used a structure or lot at the time this ordinance became effective and which does not conform with the use regulations of the District in which it is located.

One-Family Dwelling: A detached residential dwelling unit, other than a mobile home, designed for one family only.

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Public Highway: Each of those highways that are shown on the "Town of Temple, N.H. Zoning Map 1972" or have subsequently been accepted or relocated by vote of town meeting or by the New Hampshire State Highway Department.

Repair: (2001) To restore to sound or good condition after damage or decay.

Residential Care Facility: (2001) A Residential Care Facility shall be defined according to RSA 151:2 I (e), as may be amended by the State of N.H. Residential care facilities, whether or not they are private homes or other structures built or adapted for the purpose of providing residential care, offering services beyond room and board to more than two (2) but not more than eight (8) individuals, who may or may not be elderly or suffering from illness, injury, deformity, infirmity or other permanent or temporary physical or mental disability.

Structure: Anything constructed or erected with a *permanent* location on the ground, or attached to something having a *permanent* location on the ground including television or other types of antennae, towers, docks, patios, signs and building, excepting telecommunications towers erected under Article XIII.

Tract: (2002) A parcel of land proposed to be subdivided or approved as a Planned Residential Development (PRD).

Travel Trailer: Any vehicle, not self propelled, that is used or was originally constructed so as to permit its being used as a conveyance upon the public highways and duly licensable as such, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons, and may be provided with a toilet and bathtub or shower, and either a holding tank or a combustion device for storing or burning of human wastes.

ARTICLE III: ESTABLISHMENT OF ZONING DISTRICTS

Section 1 Districts

For the purpose of this Ordinance the Town of Temple is divided into the following three zoning districts hereinafter referred to as "Districts":

Village and Historic Preservation District: This District includes all land within one-quarter mile radius of the Town Hall, as per the Zoning Map.

Rural Residential and Agricultural District: This District includes all land outside the Village and Historic Preservation District except that land that is in the Mountain District.

Mountain District: This District includes all the land shown therein on the "Town of Temple, N.H. Zoning Map 1972." (The boundaries of this District, as shown on the Zoning Map, were derived mainly from the early "Ranges and Lots" layout of the Town.) The lands therein include; that portion of the New Ipswich Gore as shown on the Zoning Map; Lots 12, 13, 14 and 15 in Ranges I, II, and III; Lots 12 and 13 plus the northern one-half of Lot 11 in Range IV; Lots 11 and 12 plus the northern two-thirds of Lot 8, 9, and 10 and the northern one-third of Lot 7 in Range V; Lots 7, 8, 9, 10 and 11 in Range VI; Lots 9, 10, and 11 in Ranges VII and VIII; Lots 6, 7, 8, 9, and 10 in Range IX; Lots 4 and 5 in Range X; All of the Peterborough Addition; All of the Borland Farm; And the northern one-third of the Lyndeborough Addition, as shown on the Zoning Map. (NOTE: "Ranges and Lots," as used in the above paragraph are the divisions of land into which the Town was divided at the time of the Town's incorporation and were first shown on the early

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maps of the Town.)

Section 2: Zoning Map

The Zoning Districts listed above shall be bounded as shown on the map entitled "Town of Temple, N.H. Zoning Map 1972", which map is filed with the Town Clerk and is made part of this Ordinance by reference.

ARTICLE IV: GENERAL PROVISIONS

The following sections shall apply to all districts.

Section 1: Sanitary Facilities: All new installations and major repairs of septic tank systems and other sanitary drainage facilities shall be in accordance with the State standards of the Water Supply and Pollution Control Commission of New Hampshire and the Water Pollution Control regulations for the Town of Temple, N.H.

Section 2: Garbage: No garbage, rubbish, or trash shall be brought into town. (Garbage defined as per RSA 149-M.)

Section 3: Roads and Driveways: That portion of each new road or driveway that is within thirty feet of the public highway and any portion that could create a drainage problem along the public highway must be built to meet the requirements of the road agent and the selectmen. All costs must be borne by the owner. No driveway shall serve more than one lot, unless granted approval by the Planning Board.

Section 4: Off-Street Parking: Each new dwelling shall provide a suitable parking space for at least four cars, garage and driveway included.

Section 5: Setback: (2007) Each new building, addition or accessory building shall be setback at least thirty-five feet from all lot lines. New lot lines shall be at least thirty-five feet from any existing building and/or accessory building.

Section 6: Height of Structures: (1996) No structure shall be built over forty feet high.

Section 7: Multiple Dwellings

7.10 Multiple dwellings shall not be allowed.

7.20 There shall be no more than one dwelling on a lot plot or parcel.

Section 7A: Accessory apartments are permitted in all residential districts. The intent of this section is to allow home owners with more house than needed to generate extra income, elderly to have caretakers or renters share a home, and as a source of affordable housing in Temple.

7A.10 (2001) Only one accessory apartment is permitted per lot and must be attached to and part of the primary residence.

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7A.20 Manufactured housing units are not eligible for subdivision into accessory apartments.

7A.30 The accessory apartment shall have a minimum floor area of 400 square feet, but in no case shall the floor area compromise more than 30% of the floor area of the primary residence. Floor area of dwellings for the purposes of this section shall be calculated as follows:

- Finished living areas with full headroom shall be measured from the outside face of the structure.
- The area of attics and half floors shall be measured by the area with at least four feet of headroom.
- The full area of a useable basement may be included.
- To be counted as part of the existing residence any addition to structure must have had an occupancy permit for one year.

7A.40 Written state approval of adequate septic capacity required or state approved plan in case of failure of existing system.

7A.50 Applicant must show adequate water supply.

7A.60 (2001) Adequate provision shall be made for off street parking separate from primary residence parking, for at least one car.

7A.70 The accessory apartment shall be within the existing primary residence. In no case shall a “detached” unit be allowed.

7A.80 Occupancy permits required before use as an accessory apartment.

7A.90 Accessory apartments shall not be allowed in Planned Residential Developments.

Section 7B: Detached accessory apartments:

7B.10 A detached accessory apartment shall be permitted on lots that are at least twice the minimum lot size for that district.

7B.20 Neither primary residence nor accessory apartment may be manufactured housing.

7B.30 The accessory apartment shall have a minimum floor area of 400 square feet, but in no case shall the floor area compromise more than 30% of the floor area of the primary residence. Floor area of dwellings for the purposes of this section shall be calculated as follows:

- Finished living areas with full headroom shall be measured from the outside face of the structure.
- The area of attics and half floors shall be measured by the area with at least four feet of headroom.
- The full area of a useable basement may be included.
- To be counted as part of the existing residence any addition to structure must have had an occupancy permit for one year.

7B.40 (2001) Written state approval of adequate septic capacity is required or a state approved plan in case of failure of existing system.

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- 7B.50. (2001) Applicant must show adequate water supply.
- 7B.60 (2001) Adequate provision shall be made for off street parking as defined in 7A.60 above.
- 7B.70 (2001) Occupancy permits required before use as a detached accessory apartment.
- 7B.80 (2001) Only one detached accessory apartment is allowed per lot.
- 7B.90 (2001) Detached accessory apartments shall not be allowed in Planned Residential Developments.

Section 8 Manufactured Housing: Manufactured housing shall conform to Sections 1, 3, 4, 5, 6, and the lot size requirement of the District in which it is located.

Section 9 Temporary Use of Manufactured Housing or Trailers: A manufactured home or trailer may be located temporarily on a lot for up to three years while a permanent dwelling is being constructed, provided it complies with Section 8.

Section 10 Motor Vehicle Junk Yards: Motor vehicle junkyards shall abide by the state laws on this subject (RSA 236: 111-129).

Section 11 Home Industries and Professional Services: Dwellings may be used to house home industries or professional services provided: (a) the business owner's residence shall be maintained on the premises; (b) the professional service or home industry use does not occupy more than one-half the floor area, including basement; (c) not more than four non-residents are employed therein; and (d) adequate off-street parking shall be provided.

Section 12 Farming and Related Rural Pursuits: Farming, logging, sugaring and related rural pursuits that have been normal in this town are permitted.

Section 13 (2008) Industry, Commercial and Non commercial Enterprises: Trade, enterprises, facilities, whether commercial, non commercial and/or industrial use of land or buildings, including the commercial excavation of earth materials, not specifically authorized under other sections of this ordinance, may be permitted by special exception if approved by the Board of Adjustment after a public hearing on the subject. At said public hearing the Board of Adjustment shall only grant a special exception upon a finding that the following standards have been met:

- 1) The proposed use shall be set back at least five hundred feet from any existing dwelling of another owner; provided, however, that, at the discretion of the Board of Adjustment, this distance may be reduced in any amount to a minimum of two hundred feet, but only if written permission is obtained from the abutting owners affected;
- 2) The Board of Adjustment finds that the proposed use shall have off street parking which will be ample to serve the proposed use; provided, however, that any such off street parking shall, at a minimum, be set back at least fifty-five (55) feet from all lot lines.
- 3) The Board of Adjustment finds that the proposed use shall not be obnoxious or injurious by reason of production or emission of odor, dust, smoke, refuse matter, fumes, noise, vibration, traffic or similar conditions, or that is dangerous to the comfort, peace, enjoyment, health, or safety of the community

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or lend to its disturbance or annoyance.

In the event that the Board of Adjustment finds that the above standards have been met and, accordingly, grants a special exception, any such use SHALL comply with the following additional conditions and the Board of Adjustment may not waive compliance with the following conditions as part of its decision regarding the special exception:

- 1) All buildings shall be set back at least one hundred feet from all lot lines;
- 2) Access shall be provided by not more than two driveways, not more than thirty-two (32) feet wide;
- 3) The total footprint of all buildings and structures shall occupy no more than one-eighth (1/8) of the lot or parcel of land.

However, this prohibition is NOT intended to limit the Board of Adjustment in the exercise of its authority to consider applications for variances from the terms of the ordinance made pursuant to RSA 674:33, (I)(b).

Approvals granted hereunder shall expire at the end of twelve months after the date of the Notice of Decision if the activity for which the Special Exception is granted has not been started or significantly acted upon. The Board of Adjustment, upon timely application, may extend the expiration date for an additional twelve months at its discretion and without a public hearing.

Section 14 Multiple Dwellings: There shall be no more than one dwelling on a lot, plot or parcel.

Section 15 Removal of Ruins: No owner or occupant of any land shall permit any building ruins caused by fire, explosion, flood, storm, or other acts of God to be left unfinished or incomplete thereon, but shall finish or complete or remove the same within two years of occurrence.

Section 16 (2007) Home Products and Produce: Home products and produce may be sold, and exposed for sale.

Section 17 Signs:

- (a) Property owners of business, professional, or service enterprises shall be allowed two advertising signs on the premises for their goods and services only, such signs not to exceed eight square feet each.
- (b) Two signs not exceeding eight square feet each are permitted on any lot advertising that lot and/or building thereon for sale or lease.
- (c) Two signs, advertising their goods and services only and not exceeding twenty square feet each, are permitted on the premises of any commercial or industrial enterprise that has been approved by the Board of Adjustment according to Section 13.
- (d) "No Trespassing" and official Town, State, and Federal signs shall be exempt from these regulations.
- (e) No neon, flashing or internally illuminated signs, nor signs with rotating or moving to get attention, are permitted.
- (f) Each residence shall be permitted to have nameplates.

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(g) Temporary signs for special occasions shall be permitted.

Section 18 Travel Trailers and Recreational Vehicles: Any property owner or lessee may, in addition to his house, accommodate one travel trailer, motor home, pick-up camper, or similar recreational vehicle for non-paying guests, for a period not to exceed ninety days in any one year. This applies only to such vehicles as are used for sleeping and/or living purposes. This is not intended to restrict the storage or parking of up to two such vehicles during periods of non-use on the premises of the owner.

Section 19 Planned Residential Development

A. Purpose:

The purpose of this Article IV Section 19 is to encourage reasonable flexibility in the development of land for residential purposes, to promote the most efficient use of land and to preserve significant natural and man-made features and open space in the design and development of residential projects. The specific objectives of these provisions and the general standards with which all proposed Planned Residential Developments shall comply are:

1. Promote the conservation of the natural environment and the development of land in harmony with natural features of the specific site proposed for development.
2. (2002) Preserve open space and the natural beauty of existing rural roads, farmlands, woodlands and cultural features which give the Town much of its identity.
3. (2002) Provide open space and recreation areas for the enjoyment of the residents of the development.
4. Promote economy and efficiency in the design, construction and maintenance of new roads and utilities for the developer, the Town and the residents of the proposed development.
5. Avoid development of lands which by virtue of excessive slope, wetness, flood hazard or similar conditions are unsuitable for residential use.
6. Promote a wide range of housing opportunities for individuals and families of various ages and economic circumstances.
7. Provide an efficient and expedient regulatory procedure while assuring high quality design, engineering and site planning.
8. Protect the health, safety and welfare of present and future residents of the Town.

B. Standards and Criteria:

1. (2006) Planned Residential Development shall be a permitted use in the Rural Residential and Agricultural District, of the Town of Temple.
2. (2002) The minimum tract size for any Planned Residential Development shall not be less than 6 contiguous acres.
3. (2002) Any tract proposed for a Planned Residential Development shall have a minimum of 300

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contiguous feet of frontage on a class V or better road.

4. (2002) The maximum allowable density in any Planned Residential Development shall be calculated as follows:

TOTAL area in acres of the tract

MINUS area of all un-developable lands which shall include all surface waters on the tract, all lands with slopes of 25% or greater, all soils designated by the U.S.D.A. Soils Conservation Service in cooperation with the Hillsborough County Conservation District to be poorly drained or very poorly drained, and all lands within the 100-year flood zone. On-site determination of soil types may be conducted at the request of the Planning Board by an agent of the Hillsborough County Conservation District or a qualified soil scientist approved by the Town of Temple Planning Board. Structures, paved areas, service areas and other developed facilities shall be built only on the developable area or developable portion of the tract, excepting, however, stream and wetlands crossings as shall be necessary for the construction of an internal system of roads or ways.

EQUALS total developable area.

TOTAL developable area minus area of all streets and/or road rights-of-way in the development

DIVIDED by the minimum lot size for the zone in which the tract is located

EQUALS the maximum number of dwelling units permitted (fractions should be rounded down to the next lowest number).

5. Minimum lot size, frontage, setback and other dimensional requirements specified in the Zoning Ordinance and/or Subdivision Regulations may be modified or waived by the Planning Board within the Planned Residential Development provided that the Planning Board after review of the required application materials finds that the proposal is consistent with the objectives outlined in paragraph A and other provisions of this Article. A Planned Residential Development may provide for private road access within the Planned Residential Development provided that a waiver of Town responsibility for municipal services in a form acceptable to Town counsel is delivered with any approval of the Planned Residential Development and further, provided that notice of private roads within the Planned Residential Development is suitably recorded in any document or instrument concerning the creation of the Planned Residential Development at the Hillsborough County Registry of Deeds.

6. (2002) All land in the Planned Residential Development which is not covered by buildings, septic systems, wells, paved areas, parking and service areas, and which is not set aside as private yards, patios, or gardens for the residents shall be treated as open space. The area of the open space shall be at least forty percent (40%) of the total area of the Planned Residential Development tract. At least fifty percent (50%) of the land required to be set aside as open space shall be land that is not undevelopable land as defined in Article IV: Section 19 (a). The open space area shall have a shape, dimension, character and location suitable to assure use for park, recreation, conservation or agricultural purposes by at least all of the residents of the Planned Residential Development. To the extent possible, as much open space as possible shall be contiguous. Such provisions shall further hold that all the open space shall be readily accessible to all residents of the Planned Residential Development and that such open space shall be retained in perpetuity, and a note to this effect shall be placed on the final plat, for one or more of the following uses: conservation,

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agriculture, recreation or park. No building construction or substantial alteration of terrain or topography, whether it is to be structures or septic systems, shall take place in the open space. Where the Planning Board feels that it is in the best interests of the Town, this land may be conveyed to the Town (subject to the approval of the homeowners association and the voters at Town Meeting). Timber harvesting in the open space shall be conducted only consistent with good timber stand management practices pursuant to a timber management plan prepared by a qualified licensed forester.

The open space shall be conveyed to a homeowners association, whose membership includes all the owners of lots or units contained in the tract. The developer shall be responsible for the formation of the homeowners association of which the developer or owner shall be a member until a majority of lots of record are sold. The homeowners association shall be structured so as to provide that the membership and obligation of unit purchasers in the homeowners association will be automatic upon the conveyance of title or lease of dwelling units.

7. To provide an adequate transition between the development and abutting lands or public roadways all Planned Residential Developments shall provide for a natural existing vegetation perimeter buffer with a minimum of 35 foot depth along any existing public road frontage, side lot line or rear lot line, provided, however where there are existing residential dwelling units abutting the Planned Residential Development, then the buffer shall be a minimum of 100 feet from any existing dwelling unit. No cutting of timber or brush, or pruning of trees will be allowed in the buffer zone for any reason without approval from the Planning Board.

8. No lots shown on the plan for which a permit is granted under this Planned Residential Development ordinance shall be further subdivided and a note to this effect shall be placed on the final plat.

9. Where there are differences between Planned Residential Development requirements and the Subdivision Regulations, the requirements of the Planned Residential Development shall prevail. All the regulations and restrictions not specifically mentioned in this ordinance shall be those of the zoning district in which the Planned Residential Development is located.

C. Procedure:

Applicants for approval for the proposed Planned Residential Development shall make application to the Planning Board in the same fashion as specified in the Subdivision Regulations. In the course of review of the proposal by the Planning Board, the Board shall hear evidence presented by the Applicant and determine whether, in the Board's judgment, the proposal meets the objectives and purpose set forth above, in which event the Board shall grant approval to the proposal, subject to such reasonable conditions and limitations as the Board shall deem appropriate.

Section 20: (1996) Bed & Breakfast: Bed & Breakfasts are allowed in all districts by special exception from the Zoning Board of Adjustment with the following conditions:

1. There is no existing accessory apartment.
2. No more than 3 rooms may be rented.
3. A change of use permit and an occupancy permit must be obtained from the Selectmen.
4. There must be adequate off street parking.
5. Must show adequate septic & water capacity.
6. Will be subject to annual inspections by the Code Enforcement Officer and/or Health Officer.

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7. Must be the minimum lot size requirements for the district.
8. Will not compromise the peace and enjoyment of the neighborhood.

Section 21: (2001) Residential Care Facilities: Residential Care Facilities may be permitted in all districts by special exception if approved by the Board of Adjustment after a public hearing on the subject. Any existing residential care facility, or an organization offering services as a residential care facility, may be expanded only by special exception, if approved by the Board of Adjustment after a public hearing on the subject. This shall mean expansion of any existing structures, the building of any new facilities, or the expansion of services to any new or additional property or structure. Remodeling without expansion, or the construction of accessory structures shall not require a special exception. In all cases the proposed residential care facility shall conform to the following requirements:

1. Must be licensed by the State of NH Health Facilities Administration pursuant to RSA 151, or be in the process of applying for such license.
2. Must meet the minimum lot size requirements for the district in which it is located.
3. Setbacks must meet the minimum setback requirements for the district in which it is located.
4. Must show that the provisions of Article IV Section 7 and Article IV Section 14 are not violated or that the facility qualifies under this section, number 11 below.
5. Must have adequate off street parking to ensure that any facility vehicles, resident caregiver vehicles, resident aide vehicles and visitor's vehicles are not parked in State or Town right-of-ways.
6. Must show adequate septic & water capacity, per State of NH-DES regulations, for the number of residents anticipated to live in the structure.
7. Will be subject to annual inspections by the Code Enforcement Official and/or Health Officer.
8. Will be required to obtain a certificate of occupancy from the Board of Selectmen indicating the change of use upon obtaining the special exception.
9. Will not compromise the peace and enjoyment of the neighborhood.
10. Shall be required to obtain Site Plan Review from the Planning Board upon the granting of a special exception by the Zoning Board of Adjustment.
11. More than one Residential Care Facility may be allowed on one lot or parcel, but not more than one-half the dwelling units that would be allowed if the lot or parcel were to be subdivided under the requirements of Article IV: Section 19, Planned Residential Development (PRD). For the purposes of this section, staff accommodations shall not be deemed to be accessory apartments.

Section 22: (2001) Certified Community Residence: (RSA 171.A:4)

May be permitted and is not required to be in compliance with Temple's zoning ordinance if properly licensed by the State of New Hampshire.

Section 23: (2001) Licensed Community Residence: (He-P814 by RSA 151.9)

May be permitted and is not required to be in compliance with Temple's zoning ordinance if properly licensed by the State of New Hampshire and in possession of a Community Care Waiver issued by the Department of Health and Human Services certifying ALL beds in the facility.

Section 24: (2008) MOUNTAIN DISTRICT CONSERVATION DEVELOPMENT

The purpose of the Mountain District Conservation Development (MDCD) design is to conserve agricultural and forestlands, habitat, water quality, and rural character that would likely be lost through conventional development approaches in Temple's Mountain District.

A. Objectives:

To accomplish this goal, flexibility and creativity in design is encouraged.

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- 1 To conserve areas with productive soils for continued agricultural and forestry use by preserving blocks of land large enough to allow for economic and ecologically sensitive operations.
- 2 To encourage the maintenance and enhancement of habitat for plant and animal communities, including rare species.
- 3 To minimize site disturbance and erosion through retention of existing vegetation and avoiding development in sensitive areas.
- 4 To conserve land that protects water quality and quantity, including watersheds and buffers along streams, wetlands, ponds, and land overlying aquifers.
- 5 To protect scenic views and special elements of rural character.
- 6 To minimize the impact of exterior lighting.
- 7 To conserve and maintain historic settings, cellar holes, stone walls, archeological sites and structures that serve as significant visible reminders of the town's history.
- 8 To provide for outdoor recreational needs of residents, including trails and scenic beauty.
- 9 To provide for a town-wide trail network for the health, enjoyment and safe travel of residents.
- 10 To provide for a wide range of housing opportunities.
- 11 To provide greater efficiency in the siting of services and infrastructure by reducing road length and width and utility runs.
- 12 To create compact neighborhoods accessible to open space amenities and with a strong community identity and quality of life.
- 13 To minimize runoff by reducing the land area covered by impervious surfaces.

B. Applicability:

- 1 **Ten Acre Minimum** – In any residential subdivision in Temple's Mountain District (MD) where three or more lots are being applied for, an applicant must apply for a MDCD under this Article unless the applicant demonstrates and the Planning Board finds that a conventional subdivision plan is more appropriate to the site and better meets the objectives of this ordinance. Applicants for subdivisions of fewer than three lots may apply under this MDCD ordinance.
- 2 **Minimum Frontage** – A minimum of fifty feet of frontage on a Class 5 road shall be required.
- 3 **Phased Subdivision Applications** – This MDCD ordinance shall apply to the phased subdivision of a parcel over a period of time through separate successive applications. The density and design requirements of this Article shall apply to phased applications for the original parcel as though the development of the entire parcel were proposed in one application at one time. The total permitted density will be based upon the acreage and characteristics of the original parcel that existed as of the date of enactment of this Article.
- 4 **InterDistrict Lots** – If the lot is partly in the MD and partly in the Rural Residential and Agricultural (RA) District, one of the two following approaches will be used:
 - (a) The MDCD shall apply in the MD portion. Either the PRD or Conventional Subdivision ordinance shall be used in the RA District portion. The houses allowed under the MDCD formula may be located either in the MD or the RA District portion. However, houses allowed under the RA District calculation shall be located in the RA District portion only.
 - (b) The entire parcel shall be treated as if it was entirely within the MD and all calculations and proceedings shall follow this MDCD ordinance.

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C. Site Planning Process:

The application process shall consist of informal discussions, a land evaluation, a conceptual design review, and a final plat review.

- 1 Informal Discussion** – The applicant shall schedule informal discussions with the Planning Board at one or more of its regular public meetings to review the purposes and provisions of the ordinance with respect to the property, the intent of the applicant, and the conservation features of the property.
- 2 Land Evaluation** – Includes identification of conservation features and the proposed Conservation Area(s). At the start of the Land Evaluation process, the Planning Board shall notify all abutters by regular mail. The applicant shall prepare a conceptual plan showing the conservation features and proposed Conservation Area(s) of the property. The proposed Conservation Area(s) shall consist of a minimum of 50% of the developable area of the property. The plan shall show at a minimum:
 - (a) Contours based at least upon topographical maps published by the U.S. Geological Survey;
 - (b) Undevelopable areas (wetlands, steep slopes, etc);
 - (c) Aquifers, water bodies and perennial watercourses, NRCS soil types;
 - (d) Fields, tree lines, utilities, roads, trails, historic and habitat features;
 - (e) Proposed Conservation Areas.
- 3 Conceptual Design Review** - The purpose of the conceptual plan is to identify issues, problems, and opportunities before the applicant incurs extensive engineering costs. Conceptual Design Review for a MDCD has **five major components**;

(a) Calculation of number and location of building sites:

The applicant shall calculate the number of building lots to be allowed according to Section D of this Article. The applicant shall locate the potential building sites and preliminary individual or centralized well and septic disposal areas. Potential sites shall be located to advance the purposes of this Article listed in Section A. 1. in order to minimize impacts upon sensitive resources on the property and limit the amount of infrastructure needed to serve the development. When possible, building sites should be screened from existing public vantage points.

(b) Location of roads:

Next, the conceptual plan shall show the roads and curb cuts for the building sites. Wetland crossings and impacts upon sensitive resources shall be minimized. The applicant shall also lay out any trails needed to access the Conservation Area(s) from the building lots and roads.

(c) Location of lot lines and estimated locations of wells and septic systems:

The applicant shall locate the lot lines for the building lots as well as estimated locations of wells and septic systems.

(d) Storm water management:

The applicant shall provide plans for storm water management.

(e) Exterior lighting and vegetation cutting/removal:

The applicant shall provide plans for exterior lighting and vegetation cutting/removal.

All other requirements of Temple's Subdivision Regulations shall also apply, unless deferred by the Planning Board until the Final Plat stage.

- 4 Final Plat Review** -- Once the Conceptual Design has been accepted, the approval of the final plat will be considered according to the Temple Subdivision Regulations including engineering and studies for topography, soils, septic design, wetlands delineation, road layout, and other features.

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This stage will also include review of the proposal for ownership and uses of the Conservation Areas, stewardship of any conservation easements, and deed restrictions or conservation easement language assuring permanent protection of Conservation Areas, as required in Section G of this Article.

D. Density:

- 1 The intent of this Article is to enable the applicant to decrease lot sizes and conserve land as open space, thereby lowering development costs and increasing the desirability of the project.
- 2 The maximum number of building lots allowed in a MDCD shall be **calculated as follows**:
 - (a) **Total area** in acres of the tract...
 - (b) **Minus area of all undevelopable lands** which shall include all surface waters on the tract, all lands with slopes of 25% or greater, all soils designated by the USDA Soils Conservation Service in cooperation with the Hillsborough County Conservation District to be poorly drained or very poorly drained, and all lands within the 100 year flood zone. On site determination of soil types may be conducted at the request of the Planning Board by an agent of the Hillsborough County Conservation District or qualified soil scientist approved by the Town of Temple Planning Board. Structures, paved areas, service areas and other developed facilities shall be built only on the developable area or developable portion of the tract, excepting, however, stream and wetland crossings as shall be necessary for the construction of an internal system of roads or ways...
 - (c) **Equals total developable land.** Total developable land...
 - (d) **Minus area of all streets** and/or road rights-of-way in the development...
 - (e) **Divided by the five** acre minimum lot size...
 - (f) **Equals the maximum number of dwelling units** permitted (fractions should be rounded down to the next lowest number.)
- 3 The Planning Board may approve a **density bonus** of up to 10% if the applicant provides exceptional public benefits, namely:
 - (a) Conserving 60% or more of the developable land as open space; or
 - (b) Providing public access to trails or dedicated Conservation Area(s).

E. Lot Size:

Planning Board has the discretion to determine appropriate lot size consistent with the objectives of this ordinance.

F. Buffers:

To provide an adequate transition between the development and abutting lands or public roadways all MDCDs shall provide for a natural existing vegetation perimeter buffer with a minimum of 35 foot depth along any existing public road frontage, side lot line or rear lot line. No cutting of timber or brush, or pruning of trees will be allowed in the buffer zone for any reason without approval from the Planning Board. No more than one proposed new dwelling shall be within 250 feet of any existing dwelling.

G. Ownership and Protection of Conservation Areas:

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- 1 Conservation areas** provided by MDCDs **shall be permanently protected as open space** and shall be conveyed to one of the following entities, subject to the approval of the Planning Board:
 - (a) To the homeowners association, whose membership includes all the owners of lots or units contained in the tract. The developer shall be responsible for the formation of the homeowners association of which the developer or owner shall be a member until a majority of lots of record are sold. The homeowners association shall be structured so as to provide that the membership and obligation of unit purchasers in the homeowners association will be automatic upon the conveyance of title or lease of dwelling units.
 - (b) To the Town of Temple and accepted by the Board of Selectmen for open space or other specified conservation uses;
 - (c) To the State of New Hampshire for permanent open space uses;
 - (d) To a private non-profit organization which is exempt from tax under Section 501 (c)(3), or similar provision of the Internal Revenue Code, and whose principal purpose is the conservation of open space and has the financial and organizational means for perpetual stewardship.
 - (e) To a private landowner that will manage it for uses consistent with the purposes of this Article.
- 2 Conveyances of land** are subject to the approval of the Planning Board and shall include:
 - (a) Conveyances of land to the Town or State will be subject to permanent deed restrictions.
 - (b) Conveyances of land to private entities will be subject to a permanent conservation easement granted to qualified non-profit organization which is exempt from tax under Section 501 (c)(3), or similar provision of the Internal Revenue Code, and whose principal purpose is the conservation of open space and has the financial and organizational means for perpetual stewardship.
 - (c) Recording at the Hillsborough County Registry of Deeds
 - (d) No further subdivision,
 - (e) No residential or industrial development,
 - (f) No roads or commercial uses except for agriculture, forestry or outdoor recreational activities conducted according to best management practices.
 - (g) No septic systems or buildings of any kind
 - (h) No structures except those consistent with the use of the land for recreational trails.
- 3 General public access** to the Conservation Areas will not be required unless the land is conveyed in fee simple to the Town or State or a specific public trail corridor easement is proposed. Except in the aforesaid cases, the rights to post land and limit public access will remain with the landowner.

H. Conservation Area Location and Design:

- 1** Except as otherwise provided herein, **a minimum of 50% of the developable area** of the property must be included in a Conservation Area. Exclusions from the developable area are steep slopes in excess of 25%, wetland soils, and rock outcroppings;
- 2** In evaluating the acceptability of proposed Conservation Area(s) the Planning Board shall consider the extent to which the location and design of the area achieves these objectives:
 - (a) Large enough blocks of land are conserved to retain ecosystem diversity, function and habitat integrity;

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- (b) Large enough blocks of land are conserved to sustain agricultural or forestry operations and buffer them from nearby development;
- (c) For trail or stream corridors, wide enough buffers are provided from building lots (minimum of 75 feet);
- (d) Access to and/or benefits from the open space are provided to the greatest number of lots within the subdivision;
- (e) Linkages or contiguity with existing or potential Conservation Areas on abutting properties are provided;
- (f) Scenic views from public roads and prominent ridgelines are conserved as much as possible; and
- (g) Creative and successful achievement of the Objectives listed in Section A.

SECTION 25: (2009) SMALL WIND ENERGY SYSTEMS ORDINANCE

A. Purpose:

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

B. Definitions:

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

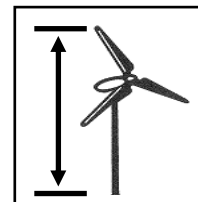
Modification. Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

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

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

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

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

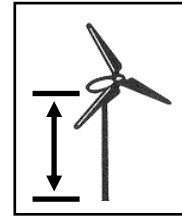


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System height. The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.

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

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



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

C. Procedure for Review:

1. Building Permit: Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. No small wind energy system shall be erected, constructed, or installed without first receiving a building permit from the building inspector. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.
2. Application: Applications submitted to the building inspector shall contain a site plan with the following information:
 - i) Property lines and physical dimensions of the applicant's property.
 - ii) Location, dimensions, and types of existing major structures on the property.
 - iii) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
 - iv) Tower foundation blueprints or drawings.
 - v) Tower blueprints or drawings.
 - vi) Setback requirements as outlined in this ordinance.
 - vii) The right-of-way of any public road that is contiguous with the property.
 - viii) Any overhead utility lines.
 - ix) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
 - x) Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
 - xi) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
 - xii) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
 - xiii) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.

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- xiv) List of abutters to the applicant’s property.
- 3. Abutter and Regional Notification: In accordance with RSA 674:66, the building inspector shall notify all abutters and the local governing body by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded 30 days to submit comments to the building inspector prior to the issuance of the building permit. The building inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the building inspector shall follow the procedures set forth in RSA 36:57, IV.

D. Standards:

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

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

- i) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
 - ii) Guy wires used to support the tower are exempt from the small wind energy system setback requirements.
- b. Tower: The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 125 feet.
- c. Sound Level: The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
- d. Shadow Flicker: Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
- e. Signs: All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
- f. Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.

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

E. Abandonment:

1. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

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

F. Violation:

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

G. Penalties:

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

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ARTICLE V: DISTRICTS AND USES

A. Village and Historic Preservation District

The Village and Historic Preservation District shall enjoy the following provisions: (It shall be mainly a District of dwellings and farms and include in its purpose the preservation and protection of the historical heritage of buildings and lands in the District).

Section 1: Permitted Uses

Buildings may be erected, altered, or used for one-family year-round dwellings and farms. (See General Provisions, Article IV, Section 7.)

Section 2: Lot Area and Dimensions

The area of each lot shall be at least two acres. Each lot shall be capable of containing a square two hundred feet by two hundred feet. The minimum frontage requirement shall be two hundred fifty feet on a class V or better road.

Section 3: Prohibited Uses

Manufactured housing and manufactured housing parks are prohibited. Commercial enterprises of any kind are prohibited other than those existing or as outlined in General Provisions, Article IV, Section 13.

B. Rural Residential and Agricultural District

The Rural Residential and Agricultural District shall enjoy the following provisions: (It shall be mainly a district of farms, residences, and woodlands.)

Section 1: Permitted Uses

Buildings may be erected, altered, or used for one-family year-round or seasonal dwellings and farms. (See General Provisions, Article IV, Section 7.)

Section 2: Lot Area and Dimensions

The area of each lot shall be at least three acres. Each lot shall be capable of containing a square two hundred fifty feet by two hundred fifty feet. The minimum frontage requirement shall be three hundred feet on a class V or better road.

Section 3: Prohibited Uses

Commercial enterprises of any kind are prohibited, other than those existing or as outlined in General Provisions, Article IV, Section 13.

Section 4: Manufactured Housing Parks

Each manufactured housing park shall (a) be approved by the Board of Adjustment according to Article IV, Section 13, and (b) each manufactured housing site thereon shall conform to Article IV, Section 8.

C. Mountain District

The Mountain District shall enjoy the following provisions: (It shall be mainly a district of mountains and woodlands.)

Section 1: Permitted Uses

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Buildings may be erected, altered, or used for one-family year-round or seasonal dwellings.

Section 2: Lot Area and Dimensions

The area of each lot shall be at least five acres. Each lot shall be capable of containing a square three hundred feet by three hundred feet. The minimum frontage requirement shall be three hundred fifty feet on a Class V or better road.

Section 3: Prohibited Uses

Manufactured housing and manufacturing housing parks are prohibited. Commercial enterprises of any kind are prohibited, other than those existing or as outlined in General Provisions, Article IV, Section 13.

Section 4: (2000) Height of Buildings and Other Structures

Deleted March 2000.

ARTICLE VI: BOARD OF ADJUSTMENT

Section 1: Creation:

A Board of Adjustment is hereby created and shall have the terms and power hereby conferred upon the Board of Adjustment by the provisions of New Hampshire Revised Statutes Annotated, Chapters 672-677, 1983 and as may be amended. The Board of Adjustment members and alternates will be appointed by the Selectmen, who shall also be responsible for filling vacancies and maintaining the full membership of the Board.

Section 2: Adoption of Rules:

The Board of Adjustment shall adopt rules to govern its proceedings in accordance with the NH Office of State Planning handbook for local officials "The Board of Adjustment in New Hampshire" (1993), and the provisions of Chapters 672-677, Revised Statutes Annotated, 1983, and as amended.

Section 3: Interpretation:

The Board of Adjustment may hear and decide a case where it is alleged there is error in any order, requirement, decision, or determination made by the Selectmen or their agent in the enforcement of this ordinance.

Section 4: Appeals:

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as notice to the parties in interest, and decide the same within thirty (30) days. Upon the hearing, any party may appear in person or by agent or attorney. An appeal cannot be taken to or granted by the Board of Adjustment for both a special exception and variance at the same time or concurrently for the same case, use, structure or lot.

Section 5: Variances:

The Board of Adjustment shall authorize upon appeal in specific cases a variance from the terms of this Ordinance as will not be contrary to the public interest if, owing to special conditions, a literal enforcement

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of the provisions of this Ordinance will result in unnecessary hardship. The Board shall grant a variance provided the following conditions are satisfied:

1. No diminution in the value of surrounding properties would be suffered.
2. Granting the permit would be of benefit to the public interest.
3. Denial of the permit would result in unnecessary hardship to the owner seeking it.
4. By granting the permit substantial justice would be done.
5. The use must not be contrary to the spirit of the Ordinance.

Section 6: Special Exceptions:

The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of this Ordinance. All special exceptions shall be made in harmony with the general purpose and intent of the ordinance and shall be in accordance with the general or specific rules contained in this ordinance.

ARTICLE VII: NON-CONFORMING USES, STRUCTURES AND LOTS

Any lawful use of land or buildings or parts thereof at the time of the adoption of this ordinance may be continued indefinitely, although such use does not conform to the provisions of this ordinance, subject to the conditions listed below.

Section 1: Non-Conforming Uses

1. When any existing non-conforming use of land or buildings has been discontinued for two years, the land and buildings shall thereafter be used only in conformity to this ordinance.
2. A non-conforming use may not be changed to another non-conforming use. If a non-conforming use is superseded by a conforming use, the non-conforming use may not thereafter be resumed.
3. (2001) A non-conforming use may not be substantially expanded or enlarged; natural, but limited, expansion may be allowed under some circumstances by special exception if approved by the Board of Adjustment after a public hearing on the subject. In all cases the proposed expansion shall conform to the following requirements:
 1. Must meet the minimum lot size requirements for its use and for the district in which it is located.
 2. Setbacks must meet the minimum setback requirements for its use and for the district in which it is located.
 3. Expansion and/or enlargement of use will not render the property or premises proportionally less adequate.
 4. Expansion of use will not require an expansion of the total non-conforming area used.
 5. Expansion of use will not adversely affect the neighborhood.
 6. Expansion of use must be related to and a continuation of the existing non-conforming use and cannot increase the degree of non-conformity.
 7. Any expansion of use must conform with Planning Board Site Plan Review.
 8. The Zoning Board of Adjustment may apply any other restrictions to the expansion of use that it deems necessary to protect the peace and enjoyment of the neighborhood.

Section 2: Non-Conforming Structures

1. Any non-conforming structure destroyed or damaged by fire or other casualty, in whole or part, may be

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replaced by a structure to be used for the same purpose as the one destroyed, provided that such reconstruction or replacement shall not exceed in cubic contents that of the original structure, and that it occur within 12 months of the casualty.

2. Any non-conforming structure may be altered, provided that such alteration conforms with the dimensional and setback requirements for the zoning district in which it is located.

3. (2001) A non-conforming structure may be expanded by Special Exception if approved by the Board of Adjustment after a public hearing on the subject, provided that the expansion does not encroach any more into the non-conforming direction than the existing structure. Expansion in a conforming direction is permitted. In addition to the above criteria, the Board will also consider the following conditions:

- a. The proposal will not adversely affect the adjacent area.
- b. There will be no nuisance or serious hazard to vehicles or pedestrians.
- c. Approval would be consistent with the intent of the Master Plan, after having given due consideration to recommendations received from the Planning Board, Conservation Commission and the Selectmen, within thirty (30) days of receipt of the petition by the Board of Adjustment.

Section 3: Non-Conforming Lots of Record

In any district, a vacant lot which was a lawful lot of record as of the effective date of this ordinance may be developed for the uses permitted in that district, even though the lot does not conform to the area or frontage requirements of this ordinance. The applicable district requirements for yard setbacks and state septic system requirements shall still apply. Contiguous lots under one ownership, any one of which has less than the required frontage and/or minimum area for the district, must be combined to conform to the zoning requirements before any building permit is granted, unless said lots have been previously approved by the Planning Board.

ARTICLE VIII: ADMINISTRATION

Section 1: Duty

It shall be the duty of the Selectmen, and they are hereby given power and authority to administer and enforce the provisions of this ordinance. The Selectmen may appoint an agent to administer (accept and issue building permits and inspect) but not enforce this ordinance.

Section 2: (2001) Building Permit Required

It shall be unlawful to erect and use any structure, alter, remodel (except as noted in Section 3 below) or repair (except as noted in Section 6 below) any existing building, change the use of any land, building or structure, remove or demolish any existing structure, to repair or replace any existing structure destroyed or damaged by fire or an act of God, or relocate any building in any district within the Town of Temple without first obtaining a building permit from the Board of Selectmen or their agent, unless such structure or building is less than 125 square feet and serves as an accessory use to an existing residence. The Selectmen or their agent shall issue any and all building permits requested when such building permit is in accordance with the provisions of this ordinance. Prior to the granting of a permit for the development or change or expansion of any non-residential use or multi-family use, excepting agricultural use, Site Plan Review approval shall be granted by the Planning Board. Before any structure or dwelling may be occupied, all inspections must be completed and a certificate of occupancy issued by the Selectmen.

Section 3: (2002) Remodeling

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No building permit shall be required for remodeling or repairing the interior of a structure where the purpose for which the building or structure is to be used is not changed, or a change in electrical wiring involves only one existing branch circuit, or there is no change to existing plumbing, or the building is not enlarged or the use extended or the number of dwelling units is not increased.

Section 4: Enforcement

Upon any well-informed 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.

Section 5: (2001) Penalties

Any person, firm, or corporation violating any provision of this ordinance, any related or applicable rule as well as any condition of any approval or directive of the code enforcement officials of the town shall be subject to such enforcement action as may be available under applicable law, including but not limited to RSA 676:15-18, at the discretion and in the judgment of the selectmen and/or the code enforcement official or other authority having jurisdiction.

Section 6: (2001) Repairing

No building permit shall be required for minor repairs where the purpose for which the building or structure is to be used is not changed, or the building is not enlarged or the use extended or the number of dwelling units is not increased, unless said repair requires changes in electrical wiring involving more than one existing branch circuit, or existing plumbing, in which case a building permit will be required. A minor repair shall be considered work done to less than twenty five percent (25%) of the building or structure.

Section 7: (2001) Inspections

1. It shall be the duty of the Code Enforcement Officer , who will be appointed by the Selectmen, to inspect all new residences, prior to the issuance of a building permit for that residence, to insure the compliance of existing zoning ordinances, building codes and life safety codes, where necessary. After inspection of available architectural/building plans and/or building site and having determined that the owner/builder of a residence will be in compliance with current zoning laws or such other requirements as may be required by New Hampshire RSA's, the Code Enforcement Officer shall so certify compliance by affixing his signature to the building permit prior to the issuance of said permit by the Selectmen. The Code Enforcement Officer may inspect a building site at his discretion during construction to insure compliance and will be responsible for a final inspection authorizing an occupancy permit.
2. It shall be the duty of the Highway Road Agent, who is elected, to inspect all new residences, prior to the issuance of a building permit for that residence, to insure the compliance of existing highway department policies for the maintenance of Temple's roadways. He shall determine that any connection of a new driveway to an existing town roadway, whether by quality of construction or water runoff drainage or any other consideration, shall not adversely affect that roadway, and after such determination shall certify compliance by affixing his signature to the building permit prior to the issuance of said permit by the Selectmen. The Highway Road Agent will additionally inspect any points of access/egress to town roadways by any vehicles involved in, but not limited to, commerce or any other use on a temporary basis. The Highway Road Agent shall have the power to require, as he shall determine the necessity of, a cash bond.
3. It shall be the duty of the Health Officer, who will be appointed by the Selectmen, to inspect all new

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residences, prior to the issuance of a building permit for that residence, to insure the compliance of existing zoning ordinances and NHDES regulations. After inspection of available architectural/building plans and/or building site and having determined that the owner/builder of a residence will be in compliance with current zoning laws or such other requirements as may be required by NHDES, the Health Officer shall so certify compliance by affixing his signature to the building site septic plan and building permit prior to the issuance of said permit by the Selectmen. The Health Officer will inspect a building site at his discretion during construction and prior to burying the septic system to insure compliance and will be responsible for a final inspection authorizing an occupancy permit.

ARTICLE IX: AMENDMENTS

This ordinance may be amended by vote as provided in Chapter 675 of the New Hampshire Revised Statutes Annotated, 1983, as amended.

ARTICLE X: CONFLICT

Nothing contained in this ordinance shall be construed as repealing or modifying any other ordinance or regulation of this Town, except such as may be specifically repealed or modified by this ordinance, but shall be in addition thereto. Nor shall anything in this ordinance be construed as repealing or modifying any private restrictions placed upon property by covenant, deed, or other private agreement, or any restrictive covenants running with the land to which the Town is a party, but shall be in addition thereto. Whenever the provisions of this ordinance differ from those prescribed by any statute, other ordinance or other regulation or restriction, that provision which imposes the greater restriction or the highest standard shall govern.

ARTICLE XI: SAVINGS CLAUSE

If any article, section, sub-section, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of these regulations.

ARTICLE XII: EFFECTIVE DATE

This ordinance shall take effect upon its passage.

ARTICLE XIII: TELECOMMUNICATIONS FACILITIES

SECTION I: AUTHORITY

This Ordinance is adopted by the Town of Temple on March 8, 2005, in accordance with the authority granted by the New Hampshire Revised Statutes Annotated 674:16 and 21.

SECTION II: PURPOSE

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:

- A. Preserve the authority of the Town of Temple to regulate and provide for reasonable opportunity for the siting of telecommunications facilities.
- B. Enhance the ability of providers of telecommunications services to provide such services to the community effectively and efficiently.
- C. Reduce the adverse impacts such facilities may create, including, but not limited to: impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight

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corridors, wildlife and human health and safety including injurious accidents to person and property, and diminution of property values.

- D. Preserve Temple's unique view sheds and scenic values, in particular those associated with Temple Mountain, Pack Monadnock, North Pack Monadnock, and Mount Monadnock, and all other significant hills and vistas.

SECTION III: DEFINITIONS

- A. Antenna: Means any exterior apparatus designed for telephonic, radio, television, personal communications service, pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.
- B. Average Tree Canopy Height: Means the average height found by inventorying the height above ground level of all trees over 20 feet in height for a radius of 150 feet.
- C. Tower: Means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.
- D. Telecommunications Facilities; Means any antenna, tower, or other structure intended for use in connection with the transmission or reception of radio or television signals or any other electromagnetic transmission/receptions.

SECTION IV: LOCATION OF TELECOMMUNICATIONS FACILITIES

- A. Telecommunications facilities may be permitted in all districts if located in an existing building or hidden or camouflaged from view. In no case, however, shall such a facility be sited in a location that would unreasonably impact any significant views.
- B. Due to the high quality of scenery in the Town of Temple, tower profiles that interrupt distant or near views are deemed to be detrimental to both property values and the general scenic quality of Temple.

SECTION V: PERMITTED USES

- A. Principal or Secondary Use. Telecommunications facilities may be considered either principal or secondary uses. Having an existing permitted use on site shall not preclude the addition of such facility as a Secondary Use as long as all other provisions of the Ordinance are met.

A different existing use or an existing structure on the same lot shall not preclude the installation of a facility on such lot. Sites with multiple existing uses may be precluded from having towers added if, in the opinion of the Planning Board, the additional use substantially reduces the residential or scenic character of the area.

For purposes of determining whether the installation complies with district development regulations, including but not limited to setback and lot coverage requirements, the dimensions of the entire lot shall control, even though the facility may be located on leased parcels within such lots. Facilities that are installed in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

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- B. Any alteration of the original permitted use and device configuration of the facility will require a new approval.
- C. Amateur Radio & Receive-Only Antennas. This Ordinance does not apply to any antenna used exclusively in the amateur radio services that is eligible under the Amateur Radio Preemption, 101 FCC 2nd 952 (1985).
- D. 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.

SECTION VI: CONSTRUCTION PERFORMANCE REQUIREMENTS

- A. Federal Requirements. All facilities must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, the owners of facilities governed by this Ordinance shall bring these into compliance within six (6) months of the effective date of the changes, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring facilities into compliance with any changes shall constitute grounds for the removal, in accordance with Section X, of the tower or antenna, as abandoned, at the owner's expense through the execution of the posted security.
- B. Building Codes/Safety Standards. To ensure the structural integrity of towers and antennas, all facilities will be inspected every three (3) years by an engineer approved by the Town, with the cost to be paid by the owner, and the report submitted to the Town. If the report concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal, in accordance with Section X, of the tower or antenna, as abandoned, at the owner's expense through execution of the posted security.

SECTION VII: STANDARDS

- A. Height.
 - 1. The height of any structure will be the minimum necessary in order to transmit and receive signals. The intent to serve a large area with one tall installation will not be accepted as justification of height. Multiple, minimum-height towers may be preferred, and required depending upon the resulting visual impact.
 - 2. The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town at large, including demonstration of the need for the proposed height and camouflage techniques. In no case, however, may any tower extend more than 25 feet above the existing on-site vegetation or average tree canopy height. If no vegetation exists on site, any tower may not extend more than 25 feet above ground level.
- B. Location.

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1. Site location and development shall preserve the existing character of the surrounding buildings and land uses and the zoning district as much as possible. Telecommunications facilities shall be integrated through location and design to blend in with existing characteristics of the site.
 2. in locations where they will negatively affect historic or significant views as determined by the Planning Board or any state of federal law or agency, or where they will create visual clutter as determined by the Planning Board.
 3. The Planning Board reserves the right to request that the applicant reasonably demonstrate that siting the telecommunications facility in a proposed location will not negatively affect historic or significant views or create visual clutter.
 4. If a telecommunications facility is proposed to be sited in a location that the Planning Board has determined will negatively affect historic or significant views or create visual clutter, the applicant must demonstrate that there is no other location that could provide similar coverage. The applicant must also demonstrate that there are no available opportunities for co-location on existing facilities that would provide similar coverage.
- C. Setbacks and Separation. In addition to compliance with the minimum zoning district setback requirements for other structures, towers shall be set back a distance equal to 125% of the height of the tower from any property lines.
- D. Security Fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.
- E. Co-Location. While the Town supports the sharing of telecommunication facilities, where appropriate and feasible, an opportunity for co-location is not to be considered a justification for excessive height of towers. Co-location opportunities shall also not exclude the investigation of alternative sites or multiple towers on one site.
- F. Landscaping.
1. A buffer shall be provided that effectively screens the view of the compound from adjacent property. The standard minimum buffer shall consist of a landscaped strip at least 10 feet wide outside the perimeter of the compound, and shall be expanded as required by the Planning Board based on site-specific considerations. Natural vegetation is preferred.
 2. In locations where the visual impact of the compound would be minimal or nonexistent, the landscaping requirement may be reduced or waived entirely.
 3. Existing on-site vegetation and natural landforms on the site shall be preserved and disturbance minimized to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer.
- G. Camouflaging.
1. Camouflaging of towers is required and must be approved by the Planning Board.

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2. At a tower site, the design of the tower, buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment.
3. Existing on-site vegetation and natural landforms on the site shall be preserved and disturbance minimized to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer.
4. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment visually unobtrusive.
5. Where possible, dish antennae will be arranged contiguous to or below the abutting tree line.

SECTION VIII: CONDITIONAL USE PERMITS

- A. General. Telecommunications Facilities are permitted only after obtaining a Conditional Use Permit. All such uses must comply with other applicable ordinances and regulations of the Town of Temple (including Site Plan Review Regulations).
- B. Issuance of Conditional Use Permits. In granting the Conditional Use Permit, the Planning Board may impose conditions to the extent that it concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties, and preserve the intent of this Ordinance.
 1. Procedure on Application.
 - a. The Planning Board shall act upon the application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4.
 - b. All towns within 20 miles of the proposed location will be notified of the public hearing, by certified mail, to be paid by the applicant. A notice will also be posted in the newspaper customarily used for legal notices by these municipalities. Such notice shall be published not less than 7 days nor more than 21 days prior to the public hearing date.
 2. Decisions. All decisions shall be rendered in writing, in accordance with RSA 676:3 and the National Wireless Telecommunications Siting Policy – Section 332(c)(47 U.S.C.332(c)), which mandates that a denial be based upon substantial evidence contained in the written record.
 3. Permits shall be renewable every five (5) years. When possible, this time frame shall be consistent with the timing for performance bond renewal. Updates or improvements in camouflaging technology can be required by the Planning Board at this time.

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- C. Plan Requirements. Each applicant requesting a Conditional Use Permit under this Ordinance shall submit a scaled plan showing or accompanied by the following information:
1. Title block that shows the name of the development or project.
 2. North arrow, date of plat, scale; name, address and seal of all persons preparing the plat.
 3. Signature block for Planning Board endorsement and approval.
 4. Vicinity sketch and zoning district(s).
 5. Total area of the parcel in acres and square feet.
 6. Lot frontage.
 7. Boundary lines and approximate dimensions and bearings.
 8. Tax map and lot numbers.
 9. Locations and descriptions of any existing or proposed easements, deed restrictions, or covenants.
 10. Physical features on the site and within 200 feet of the site.
 11. Soil information based on the Hillsborough County Soil Survey.
 12. All natural features, such as streams, ponds, wetlands, etc.
 13. Existing and proposed grades and contours, and base flood elevations.
 14. Shape, size, height, location and use of existing and proposed structures on the site.
 15. Existing buildings and structures within 500 feet of the site.
 16. Access to the site, with location and width of existing and proposed driveways.
 17. A driveway permit been granted from either the NH DOT or the Town of Temple.
 18. Locations, names, right-of-way and travel widths of any existing and proposed roads on the property and within 200 feet of the site.
 19. Final road profiles and cross-sections for any new roads.
 20. Locations and sizes of all electric and telephone lines on the site.
 21. Existing and proposed fire hydrants and/or fire ponds.
 22. Existing and proposed methods of handling storm water runoff, and the direction of the flow indicated by arrows.
 23. Sizes and locations of all storm water drainage lines, catch basins, drywells, drainage ditches, retention basins, and culverts.
 24. Location, types, and sizes of all existing and proposed landscaping and screening.
 25. Location of any proposed lighting.
- D. Other Information Required. In order to assess compliance with this Ordinance, the Planning Board shall require the applicant to submit the following prior to any approval:

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1. Photographic documentation of the balloon test(s) from all roads from which the site is visible.
2. Propagation maps showing proposed radio frequency (RF) coverage.
3. Detailed maps showing all of the carrier's current or planned externally visible tower and monopole locations in the state within a 20-mile radius, both active and inactive.
4. Site descriptions for each of the above locations showing the antenna height and diameter, and all externally visible structures.
5. A description of why less visibly intrusive alternatives for this facility was not proposed.
6. The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency exposure guidelines.
7. The applicant shall submit written proof that it has conducted an evaluation of any requirements of the National Environmental Policy Act (NEPA) pertaining to the proposed facility, as may be required under applicable FCC rules, and the results of any such evaluation. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and/or NEPA, the applicant shall submit the EA or EIS to the Planning Board prior to the beginning of the federal 30-day comment period; the Town proceedings with respect to the proposed facility shall become part of the FCC application requirements.
8. If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. The evidence may consist of:
 - a. substantial evidence that no existing towers or structures are located within the geographic area needed to meet the applicant's requirements;
 - b. substantial evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.
 - c. substantial evidence that the applicant's proposed antenna would cause electromagnetic interference with the antenna(s) on the existing towers, or that existing towers or structures would cause electromagnetic interference with the applicant's proposed antenna;
 - d. information on the number of sites for wireless telecommunication facilities each provider will require;
 - e. information on sites outside of the Town for the particular coverage area that are being considered; and f. information on how the siting of a wireless telecommunication facility will affect the ability to allow a competitor's antennas on the same property.
9. It is mandatory that the applicant provide the Planning Board with studies of alternative sites in Town that have been considered for siting.

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10. The applicant will provide the Planning Board with any copies of the federal license from the FCC proving that they, or their contracted client, are eligible to deploy their systems under the Federal Telecommunications Act of 1996.
11. The applicant will submit an agreement to the Town to the effect that the Town will be held harmless for any extraordinary fire or safety events.

SECTION IX: WAIVERS

- A. Any portion of these regulations may be waived or modified when, in the opinion of the Planning Board, strict conformity would pose an unnecessary hardship to the applicant and such waiver would not be contrary to the purpose, spirit and intent of these regulations.
- B. Conditions. In approving waivers, the Planning Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.
- C. Procedures. A petition for any such waiver shall be submitted in writing by the applicant for Planning Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

SECTION X: BONDING AND SECURITY INSURANCE

- A. The applicant shall provide a bond to the Town in an amount that would be sufficient to cover the costs of removal and disposal of the facility components. The Planning Board shall set the form and amount of the security. The Planning Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed facilities prior to construction.
- B. If the Planning Board requires an engineering assessment in order to set the amount of the bond, the cost of that assessment shall be borne by the applicant.

SECTION XI: REMOVAL OF ABANDONED ANTENNAS AND TOWERS

1. Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner/operator of the tower.
2. If the abandoned tower is not removed within 90 days, the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

SECTION XII: ADMINISTRATION AND ENFORCEMENT

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1. 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.
2. 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.

SECTION XIII: SEVERABILITY

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

SECTION XIV: APPEALS

Pursuant to RSA 676:5, any decision made under this ordinance cannot be appealed to the Board of Adjustment, but to the superior court as provided by RSA 677:15.

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