

**PUBLIC NOTICE
TOWN OF LYNDEBOROUGH**

**The Lyndeborough Planning Board will hold a
Public Hearing on Proposed Zoning Amendment Warrant Articles
for the 2024 Town Meeting**

**Thursday, December 21, 2023 at 7:00 p.m.
at Citizens' Hall**

Amendment 1

Amend Section 200.29 to update the definition of “Wetland” and Amend Section 1000.01 – (Wetland) District Boundaries to provide to the easiest way to identify the wetland areas of the town as the official source material becomes updated and to permit an analysis of a specific site in case of a dispute.

Existing Section 200.29 reads as follows:

200.29 *Wetland.* Areas delineated as poorly or very poorly drained soils by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Hillsborough County New Hampshire, Western Part, dated October 1985, and the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 in conjunction with the Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, May 1995.

Amend Section 200.29 to reads as follows (language to be added shown in *bold italics*):

200.29 Areas delineated as poorly or very poorly drained soils by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Hillsborough County New Hampshire, Western Part, dated October 1985, and the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 including supplements and amendments, in conjunction with the Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, May 1995 ***as identified and delineated on the National Wetlands Inventory (NWI) layer available on the NHGRANIT website, or delineated in a site-specific analysis by a certified wetland scientist as shown on a plan approved by the Planning Board. In the event that a site-specific analysis by a certified wetland scientist is available or created it shall take precedence.***

Existing Section 1000.01 reads as follows:

1000.01 *District Boundaries.*

The Wetland District encompasses all areas identified and delineated as poorly and very poorly drained soils by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Hillsborough County New Hampshire, Western Part, dated October 1985, and any areas delineated as wetlands on a site specific basis

using the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 in conjunction with the Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, May 1995. The Wetland District is show on the Town of Lyndeborough Wetlands District Map on file with the Town Clerk and the Planning Board. In the event that an area is incorrectly designated as being poorly or very poorly drained soil on the Wetland District Map and evidence to that effect is satisfactorily presented to the Building Inspector, the restrictions in this section shall not apply. All on site wetland delineation shall be conducted by a certified soil scientist.

The Wetland District is an overlay district. In all cases where the Wetland District is superimposed over another district in the Town of Lyndeborough, the more restrictive regulations shall apply.

Amend Section 200.29 to reads as follows (language to be added shown in *bold italics*, language to be removed shown in **bold-strikeout**):

1000.01 District Boundaries.

~~The Wetland District encompasses all areas identified and delineated as poorly and very poorly drained soils by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Hillsborough County New Hampshire, Western Part, dated October 1985, and any areas delineated as wetlands on a site specific basis using the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 in conjunction with the Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, May 1995. The Wetland District is show on the Town of Lyndeborough Wetlands District Map on file with the Town Clerk and the Planning Board. In the event that an area is incorrectly designated as being poorly or very poorly drained soil on the Wetland District Map and evidence to that effect is satisfactorily presented to the Building Inspector, the restrictions in this section shall not apply. All on site wetland delineation shall be conducted by a certified soil scientist.~~

~~The Wetland District is an overlay district. In all cases where the Wetland District is superimposed over another district in the Town of Lyndeborough, the more restrictive regulations shall apply.~~

The Wetland District encompasses all areas defined in Section 200.29 of this Ordinance.

The Wetland District is an overlay district. In all cases where the Wetland District is superimposed over another district in the Town of Lyndeborough, the more restrictive regulations shall apply.

Amendment 2

Amend Section 410.00 - Fences to provide that no fence may be erected in a way that blocks safe sight distance.

Existing Section 410.00 reads as follows:

Fences up to six (6) feet high do not require a building permit. Fences six (6) feet or higher require a building permit. No fence shall exceed ten (10) feet in height. All fences may be constructed within the setback up to one (1) foot of the property line. (3/12/02)

Amend Section 400.00 to reads as follows (language to be added shown in *bold italics*, language to be removed shown in ~~**bold**~~ ~~**strikeout**~~):

Fences up to six (6) feet high do not require a building permit. ~~Fences six (6) feet or higher require a building permit.~~ No fence shall exceed 10 feet in height. All fences may be constructed within the setback up to 1 foot (one) of the property line. *No fence shall be erected that blocks safe line of sight from a roadway or intersection, or from an abutting driveway*”.

Amendment 3

Amend Section 200.12 to provide a new definition for “Home Businesses” and create a new Section 200.13 to provide a definition for “Home Occupation.” Amend Section 1200 to include updated definitions of Home Occupation and Home Business and to change the conditions for approval of home businesses.

Existing Section 200.12 reads as follows:

Home Businesses. A business that is incidental and subordinate to the use of the building or lot for residential purposes in compliance with the criteria established for home businesses in Section 1200.00. (3/13/18)

Amend Section 200.12 to replace the existing definition in its entirety and replace it with the following:

Home Business. Home Business means any occupation, trade, profession or craft carried on by an occupant of a residential building as a use secondary to the residential use of the building, or in an accessory building, which does not change the character thereof or have any exterior evidence of such secondary use, but which has

- i. Traffic due to customers or suppliers, or delivery services in excess of what is normal for residences in the zoning district;
- ii. Water use or sanitation impacts in excess of what is normal for the property used as a residence;
- iii. Production of noise, odors, dust or smoke in excess of what a residential homeowner may legally produce in the zoning district;
- iv. Storage or use of hazardous materials.

Amend Section 200 - DEFINITIONS to provide a definition for “Home Occupation” to become Section 200.13 because no definition is currently provided in the ordinance.

New Section 200.13 to read as follows:

Home Occupation. Home Occupation means any occupation, trade, craft, or profession, carried out in a dwelling unit or accessory building, which has a minimal impact on:

- i. traffic flows for customer or supplier visits or for shipment of materials and products
- ii. use of water or natural resources;
- iii. waste management or sanitation

“Minimal Impact” means that the occupation produces no more noise, dust, odors, smoke, or waste materials than any use of the property permitted under the existing zoning district.

Existing Section 1200.00 reads as follows:

A. General Requirements

1. Home Occupations and Home Businesses shall be conducted in accordance with all town, state and federal laws, regulations and licensing requirements.
2. The business activity shall take place within a residence or an accessory building and must be incidental and secondary to the residential use of the dwelling unit.
3. The business activity shall not change the character of the surrounding neighborhood, nor will it provide window displays or other characteristics associated with retail or commercial use.
4. Signs may not exceed four square feet in surface area, may not be internally lit, and may not be placed within the town or state highway right of way.
5. No noise, vibration, dust, smoke, electrical disturbances, odors, heat or glare, shall be produced by a Home Occupation or a Home Business, nor shall there be any discharge of hazardous material into the air, ground or surface water.
6. Motor vehicles and equipment used for the Home Occupation or Home Business shall be parked or placed as inconspicuously as possible.
7. Sufficient off-street parking shall be provided for any non-resident employees, customers and suppliers who may normally be expected to need parking spaces at one time. Where additional parking is required, the spaces shall not be located in the front yard or within the side or rear setbacks. Parking spaces shall be a minimum of 9 by 18 feet. On-street parking is prohibited.
8. Traffic generated by the home business shall not create safety hazards or be substantially greater in volume than would normally be expected in the neighborhood.
9. Whenever a Home Occupation or Home Business exceeds any requirement of this Ordinance, it must relocate into an appropriate zoning district and will be subject to Site Plan Review by the Planning Board.
10. A Home Occupation or Home Business legally operating under the provisions of Section 1200 as amended in 2017 of the Zoning Ordinance on the date of the enactment of this Ordinance may continue unless and until the following:
 - a. The occupation or business expands in size, scope or purpose.
 - b. The ownership of the property is transferred.

o. 1200.00 Subsection o- Deleted. (3/18/17)

B. Home Occupation

(Adopted 3/13/18)

1. A Home Occupation shall be permitted in all districts of the town as a matter of right. No Site Plan Review or Special Exception by the Zoning Board of Adjustment is required for a Home Occupation.
2. The business activity shall occupy less than one-fourth of the floor area of the residence or an equivalent area in an accessory building.
3. The business shall be carried on by the resident owner, the resident owner's family, a resident tenant, or a member of a resident tenant's family.
4. The business may have no more than one non-resident employee.
5. Exterior storage of materials and equipment is prohibited.

C. Home Business

(Adopted 3/13/18)

1. A Home Business shall be permitted in all districts of the town and is subject to Site Plan Review by the Planning Board. A formal application is required.
2. The business activity shall occupy less than one-third of the floor area of the residence or an equivalent area in an accessory building
3. The business shall be carried on by the resident owner, the resident owner's family, a resident tenant or a member of the resident tenant's family.
4. The business may have no more than two non-resident employees.
5. Exterior storage of materials and equipment must be screened from view from any public road or abutting property.

D. Exclusion:

Food articles produced within a residence or on the surrounding property such as vegetables, fruit, maple syrup, etc. may be sold seasonally from roadside stands and are excluded from the requirements of this Ordinance.

1200.01 Rural Lands One, Two and Three Districts. (AMENDED AND APPROVED TO DELETE SECTIONS 1200-01 a-e, 3/17/17)

1201.00 *Exclusions.*

Food articles produced within a residence or on the surrounding property such as vegetables, fruit, maple syrup, etc. may be sold seasonally from roadside stands and are excluded from the requirements of this Ordinance.

Amend Section 1200.00 to read as follows:

1200.00 HOME OCCUPATION AND HOME BUSINESS

A. General Requirements

2. Home Occupations and Home Businesses shall be conducted in accordance with all town, state and federal laws, regulations and licensing requirements.
2. The business activity shall take place within a residence or an accessory building and must be incidental and secondary to the residential use of the dwelling unit.

3. The business activity shall not change the character of the surrounding neighborhood, nor will it provide window displays or other characteristics associated with retail or commercial use.
4. Signs may not exceed four square feet in surface area, may not be internally lit, and may not be placed within the town or state highway right of way.
5. No noise, vibration, dust, smoke, electrical disturbances, odors, heat or glare, shall be produced by a Home Occupation or a Home Business, nor shall there be any discharge of hazardous material into the air, ground or surface water.
6. Motor vehicles and equipment used for the Home Occupation or Home Business shall be parked or placed as inconspicuously as possible.
7. Sufficient off-street parking shall be provided for any non-resident employees, customers and suppliers who may normally be expected to need parking spaces at one time. Where additional parking is required, the spaces shall not be located in the front yard or within the side or rear setbacks. Parking spaces shall be a minimum of 9 by 18 feet. On-street parking is prohibited.
8. Traffic generated by the home business shall not create safety hazards or be substantially greater in volume than would normally be expected in the neighborhood.
9. Whenever a Home Occupation or Home Business exceeds any requirement of this Ordinance, it must relocate into an appropriate zoning district and will be subject to Site Plan Review by the Planning Board.
10. A Home Occupation or Home Business legally operating under the provisions of Section 1200 as amended in 2017 of the Zoning Ordinance on the date of the enactment of this Ordinance may continue unless and until the following:
 - a. The occupation or business expands in size, scope or purpose.
 - b. The ownership of the property is transferred.

o. 1200.00 Subsection o- Deleted. (3/18/17)

B. Home Occupation

1. A Home Occupation shall be permitted in all districts of the town as a matter of right. No Site Plan Review or Special Exception by the Zoning Board of Adjustment is required for a Home Occupation.
2. The business shall be carried on by the resident owner, the resident owner's family, a resident tenant, or a member of a resident tenant's family.
3. Exterior storage of materials and equipment which is visible to abutters or from the frontage is prohibited.

C. Home Business

1. A Home Business shall be permitted by Conditional Use Permit in all districts of the town and is subject to Site Plan Review by the Planning Board. A formal application is required.
2. The business shall be carried on by the resident owner, the resident owner's family, a resident tenant or a member of the resident tenant's family.
3. Exterior storage of materials and equipment must be screened from view from any public road or abutting property.

4. Sufficient off-street parking for employees, customers, and service providers is provided.

D. Exclusion:

Food articles produced within a residence or on the surrounding property such as vegetables, fruit, maple syrup, etc. may be sold seasonally from roadside stands and are excluded from the requirements of this Ordinance.

Amendment 4

Amend Section 200.02 to include a detached Accessory Dwelling Unit in the definition of an Accessory Dwelling Unit and Amend Section 411.00 to conform to the new definition.

Existing Section 200.02 reads as follows:

Accessory Dwelling Unit. means a residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

Amend Section 200.02 to read as follows (language to be added shown in *bold italics*):

Accessory Dwelling Unit (“ADU”). means a residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies; ***or within an accessory building, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. A detached ADU may be newly constructed or a conversion of an existing accessory building. Manufactured housing units and recreational vehicles are not permitted to be ADUs.***

An ADU may not contain more than two bedrooms and shall not exceed two thousand (2,000) square feet in gross floor area.

Existing Section 400.11 reads as follows:

411.00 Accessory Dwelling Units (*Deleted 3/13/18*) (*Recodify 3/16/19*) (*Updated 9/22/21*)

- 1) **An Accessory Dwelling Unit** shall be allowed as a matter of right by the Building Inspector pursuant to RSA 674:21 in all zoning districts that permit single family dwellings. One accessory dwelling unit shall be allowed without additional requirements for lot size, frontage, space limitations, or other controls beyond what would be required for a single family dwelling without an accessory dwelling unit. Not more than one accessory dwelling unit for any single family shall be allowed. (3/13/18) (Recodify 3/16/19)
- 2) An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit, but shall not be required to remain unlocked. (3/13/18) (Recodify 3/16/19)

3) Regulations applicable to single family dwellings shall also apply to the combination of a principal dwelling unit and an accessory dwelling unit including, but not limited to lot coverage standards and standards for maximum occupancy per bedroom consistent with policy adopted by the United States Department of Housing and Urban Development. Adequate parking to accommodate an accessory dwelling unit shall be provided. (3/13/18) (Recodify 3/16/19)

4) The applicant for a building permit to construct an accessory dwelling unit shall make adequate provisions for water supply and sewage disposal for the accessory dwelling unit in accordance with RSA 485A:38, but separate systems shall not be required for the principal and accessory dwelling units. (3/13/18) (Recodify 3/16/19)

5) The owner must demonstrate that one of the units is his or her principal place of residence. (3/13/18) (Recodify 3/16/19)

6) A familial relationship between the occupants of an accessory dwelling unit and the occupants of a principal dwelling unit shall not be required. (3/13/18) (Recodify 3/16/19)

7) An accessory dwelling unit may be deemed a unit of workforce housing for purposes of satisfying the town's obligation under RSA 674:59 if the unit meets the criteria in RSA 674:58, IV for rental units. (3/13/18) (Recodify 3/16/19)

Amend Section 411.00 to read as follows (language to be added shown in *bold italics*, language to be removed shown in ~~**bold strikeout**~~):

411.00 Accessory Dwelling Units

- 1) An Accessory Dwelling Unit shall be allowed as a matter of right by the Building Inspector pursuant to RSA 674:71 and 674:72 in all zoning districts that permit single family dwellings. One accessory dwelling unit shall be allowed without additional requirements for lot size, frontage, space limitations, or other controls beyond what would be required for a single family dwelling without an accessory dwelling unit. Not more than one accessory dwelling unit for any single family residence shall be allowed.
- 2) An interior door shall be provided between the principal dwelling unit and ~~the an~~ *attached* accessory dwelling unit but shall not be required to remain unlocked.
- 3) Regulations applicable to single family dwellings shall also apply to the combination of a principal dwelling unit and an accessory dwelling unit including, but not limited to lot coverage standards and standards for maximum occupancy per bedroom consistent with policy adopted by the United States Department of Housing and Urban Development. Adequate off-street parking to accommodate an accessory dwelling unit shall be provided.
- 4) The applicant for a building permit to construct an accessory dwelling unit shall make adequate provisions for water supply and sewage disposal for the accessory

dwelling unit in accordance with RSA 485A:38, but separate systems shall not be required for the principal and accessory dwelling units.

- 5) *Construction of a new ADU, or conversion of an existing accessory building into an ADU, shall comply with all building code requirements including fire and life safety requirements under RSA 153:5 for the maximum intended number of occupants.*
- 6) The owner must demonstrate that one of the units is his or her principal place of residence.
- 7) A familial relationship between the occupants of an accessory dwelling unit and the occupants of a principal dwelling unit shall not be required.
- ~~7) An accessory dwelling unit may be deemed a unit of workforce housing for purposes of satisfying the town's obligation under RSA 674:59 if the unit meets the criteria in RSA 674:58, IV for rental units. (3/13/18) (Recodify 3/16/19)~~

Amendment 5

Amend Sections 200 and 400 to provide definitions for “Short Term Rentals” and “Resident Owner” and to establish requirements to permit Short Term Rentals as a Conditional Use.

Amend Section 200 to provide definitions of “Resident Owner” and “Short Term Rental” to read as follows:

200.30 ***Resident Owner.*** A natural person who owns a dwelling unit in the town whether directly or through a trust or corporation and resides there for at least 120 days in a calendar year.

200.31 ***Short-Term Rental.*** The use of any dwelling or portion for accommodations or lodging of guests paying a fee for a period of less than 30 consecutive days. Short term rental does not include rooming houses or hotels as defined in the fire code.

Amend Section 400 – GENERAL PROVISIONS, to create a new Section 412 to allow the short-term rental by resident owners of rooms in a residence or in an Accessory Dwelling Unit to transient guests to read as follows:

412 ***Short-Term Rentals***

A Resident Owner may engage in the business of Short-Term Rentals under a Conditional Use Permit under the following conditions:

- 1) the rental operation is operated by the Resident Owner;
- 2) no additions or changes shall be made to the residence that would make it impractical to revert the building to purely residential;
- 3) two (2) off-street parking spaces shall be provided for the resident owner(s) and one (1) off-street space shall be provided for each rental unit and one (1) off-street space for each employee;

- 5) affirmation from the that any existing septic system or new system is designed to support the increased load; that the rental units meet the applicable requirements of the state fire and life safety codes; and
- 7) the business shall be operated in accordance with all Town regulations, state laws and licensing requirements.

Amendment 6

Amend Section 400 – GENERAL PROVISIONS to create a new Section 413.00 to authorize the use of a Conditional Use Permit (CUP) to allow the Planning Board to approve uses as defined within this ordinance and amend Section 302 (Table of Permitted Uses) and sections 503.00, 603.00, 703.00, 803.00, 1303.00 to replace the term “Special Exception” with the term “Conditional Use Permit”.

Amendment 7

Amend Section 400 – GENERAL PROVISIONS to delete existing Section 404.00 – Exclusive Optional Method of Developing Large Tracts of Land, and Section 404.10 - Conservation Lands to replace them with a

Existing Sections 404.00 and 404.10 read as follows:

404.00 Exclusive Optional Method of Developing Large Tracts of Land (3/18/00) (3/16/19)

As an exclusive optional method of development, not a required process of subdivision, any lot of record may be subdivided in accordance with the following criteria: (3/18/00) (3/16/19)

- a. The average size of the subdivision lots shall not be less than 25 acres with a minimum size of 10 acres.;
- b. The lots shall be accessed by a private road constructed to meet the minimum standards established in the *Town of Lyndeborough Street and Road Standards*.
- c. No further subdivisions would be permitted using roads existing as of January 1, 1997 to meet zoning frontage requirements. Further subdivision will require adequate frontage on a Class V or better highway constructed after January 1, 1997, as required by the zoning ordinance in force at the time of any further resubdivision. (3/18/00) (3/16/19)

404.10 Conservation Lands (Adopted March 8, 2005)

Conservation Lands is an optional method of subdivision pursuant to RSA 674:21 (“Innovative Land Use Controls”) and RSA 674:21-a. Conservation Lands is an overlay district which allows a one-time-only subdivision of any parcel which is 60 acres or larger in any zoning district. Its primary purpose is to allow an expedited subdivision process, where lots created are at least 30 acres in size and the lots will remain in forestry and agricultural use in perpetuity with single-family residential use the only allowed accessory use to forestry and agriculture. The following standards are the only requirements for subdivision approval:

- a. The minimum lot size of any lot created shall be at least 30 acres.
- b. Each lot shall have direct access to a public highway or a deeded easement to a public highway recorded in all future deeds. Wherever possible, lots shall have a common entrance onto a public highway. All highway entrances shall be shown on the plat and there shall be no more than one entrance for every 1000 feet of public highway.
- c. Pursuant to RSA 674:21-a, deed and plat restrictions shall indicate that there will be no further re-subdivision in perpetuity.
- d. The Planning Board shall approve or disapprove any subdivision created under this option not later than the Board's next meeting following acceptance by the Board of a plat to the above standards and with statutory notice to abutters. The plat shall meet the standards of Subdivision Section 510.00 (Plat Standards).
- e. Because there are no frontage requirements connected with this section, Section 404.10 shall be exempt from section 408.0 requirements as is section 404.00 ("Large Lot Subdivisions").

Replace Subsections 404.00 and 404.10 in their entirety with new Subsection 404.00 to read as follows:

404.00 Large Lot Overlay District

An optional method of development, pursuant to RSA 674:21 ("Innovative Land Use Controls"), as an overlay district which allows a subdivision of any parcel which is 50 acres or larger in any Rural Lands zoning district, with the following criteria:

- a. The average size of the subdivision lots shall not be less than 25 acres with minimum size of 10 acres.
- b. The lots shall be accessed by a Class V or better highway or by a private road constructed to meet the minimum standards established in the Town of Lyndeborough Street and Road Standards. No certificates of occupancy within the subdivision shall be issued until all proposed road improvements have been inspected and approved by the road agent or a civil engineer appointed by the planning board.
- c. No further subdivisions would be permitted using private roads. Further subdivision will require adequate frontage on a Class V or better highway, as required by the zoning ordinance in force at the time of any further re-subdivision. Any such re-subdivision shall be considered a major subdivision.

All interested parties are invited to attend and provide comments. A draft will be available for review at Citizens' Hall, 9 Citizens' Hall Road during regular business hours or by contacting Jay Minkarah at jaym@nashuarpc.org.

The Lyndeborough Planning Board