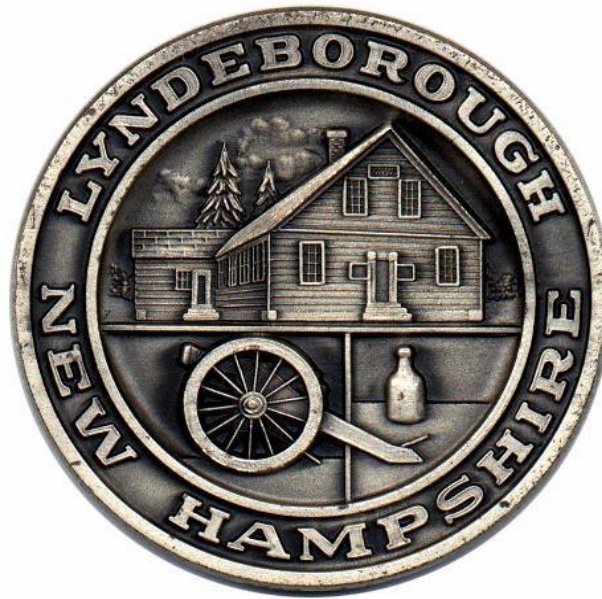


**TOWN OF LYNDEBOROUGH
NEW HAMPSHIRE**



ZONING ORDINANCE

**Recodified: March 10, 1998,
Amended: March 9, 1999; March 18, 2000; March 13, 2001; July 17, 2001;
March 12, 2002; March 9, 2004; March 8, 2005; March 14, 2006; March 13, 2007;
March 11, 2008; March 9, 2010; March 13, 2012; March 18, 2017; March 13, 2018;
March 16, 2019,
Recodified: September 22, 2021 for ADU to be put in new Section 411.0**

TOWN OF LYNDEBOROUGH ZONING ORDINANCE

100.00 ***PURPOSE AND AUTHORITY***

This Ordinance is adopted pursuant to the authority granted by NH RSA 674:16 through 674:21, inclusive.

The purpose of this Ordinance is to promote the health, safety, and general welfare of the residents by preserving the value of buildings; by encouraging the appropriate use of land throughout the Town of Lyndeborough and by:

- a. securing safety from fire, panic and other danger;
- b. providing adequate light and air;
- c. providing adequate area between buildings and rights-of-way;
- d. preserving the rural character of the community;
- e. promoting good design and arrangement of buildings and land uses;
- f. facilitating the adequate provision of transportation, solid waste facilities, septic facilities, water, schools, parks, child day care and housing opportunities for all of its citizens;
- g. wise and efficient expenditures of public funds; and
- j. assuring proper use of natural resources and other public requirements.

101.00 ***Adoption and Amendments***

This Zoning Ordinance was originally adopted at a special Town Meeting on April 14, 1959 and recodified by the voters of the Town of Lyndeborough, New Hampshire, by Official Town Meeting Ballot vote on March 10, 1998.

This ordinance may be amended by an official ballot vote of any legally constituted Town Meeting provided public notice has been given, public hearings conducted and adoption is made in accordance with NH RSA 675:2-5, as amended.

The Planning Board has the authority to assign such section numbers to the Zoning Ordinance and Building Code as it may deem appropriate provided that no substantive change to the Ordinance shall occur as a result of the renumbering.

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200.00 ***DEFINITIONS***

For the purpose of this ordinance, certain words, terms or phrases shall have the meaning as stated in this section unless the context clearly indicates otherwise; and

- a. words in the present tense include the future;
- b. the singular includes the plural and the plural includes the singular; and
- c. terms and words not defined in this ordinance shall have the meanings understood in common usage and as defined in standard American dictionaries.

200.01 ***Abandonment.*** Where any non-conforming use of a building or structure is discontinued for more than one year, or where a non-conforming use of land is discontinued for a period of more than one year, or if the non-conforming use of the land or building or structure is replaced with a conforming use or building or structure, then the non-conforming use shall be deemed to be abandoned.

200.02 ***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. (3/13/18) (recodify 3/16/19)

200.03 ***Accessory Building.*** A detached building located on the same lot as the principal building or use which is customarily used for purposes incidental and subordinate to those of the principal building.

200.04 ***Accessory Use.*** Any use which is customary, incidental and subordinate to the principal use of the structure or lot.

200.05 ***Automobile Graveyard.*** Any lot or portion of a lot which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, dismantled or abandoned motor vehicles or motor vehicle parts. (3/9/99), (3/16/19)

200.06 ***Automobile Service Station.*** Any building, land area or other premises, or portion thereof used for the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar vehicle accessories.

200.07 ***Building.*** Any combination of materials, whether portable or fixed, having a roof or cover which forms a shelter for persons, animals or property.

200.08 ***Dwelling Unit.*** A single unit providing complete independent living facilities for one or more persons with permanent provisions for living, sleeping, eating, cooking and sanitation with a minimum of 600 square feet on a permanent foundation with a state approved septic system and water supply.

200.09 ***Single-Family Dwelling.*** A single building having one dwelling unit.

200.10 ***Two-Family Dwelling.*** A single building containing two attached dwelling units.

200.11 ***Frontage.*** The continuous length of a lot bordering on the public right-of-way.

200.12 ***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)

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- 200.13** **Junk.** Pursuant to NH RSA 236:91, old scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. (3/9/99)
- 200.14** **Junk Yard.** Any lot or portion of a lot which is maintained, operated, or used for storing, keeping, buying or selling junk, for the maintenance or operation of an automobile recycling yard, and includes garbage dumps and sanitary fills. (3/9/99)
- 200.15** **Lot or Parcel.** A single area of land defined by metes and bounds or boundary lines as shown in a recorded deed or on a recorded plan.
- 200.16** **Lot of Record.** Land designated as a separate and distinct parcel in a legally recorded deed filed in the Hillsborough County Registry of Deeds.
- 200.17** **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 a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing does not include pre-site built housing. (3/9/99)
- 200.18** **Nonconforming Building or Structure.** A building or structure which lawfully existed prior to the adoption, revision or amendment of this ordinance but which fails to conform to the current provisions of the ordinance. (3/9/99)
- 200.19** **Nonconforming Lot.** A lot which lawfully existed prior to the adoption, revision or amendment of this ordinance but which fails to conform to the current provisions of the ordinance. (3/9/99)
- 200.20** **Nonconforming Use.** A use which lawfully existed prior to the adoption, revision or amendment of this ordinance but which fails to conform to the current provisions of the ordinance.
- 200.21** **Retail Store.** An establishment involved in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.
- 200.22** **Pre-site Built Housing.** Any structure with a permanent foundation designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum standards and local building codes, for installation, or assembly and installation, on the building site. Pre-site built housing does not include manufactured housing. (3/9/99)
- 200.23** **Recreational Vehicle.** A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven for recreational use, including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes. (3/9/99)
- 200.24** **Public Right-of-Way.** All town, state and federal highways and the land on either side as covered by statutes.
- 200.25** **Seasonal Dwelling.** A dwelling unit that lacks one or more of the basic amenities or utilities required for all-year or all-weather occupancy, such as hunting and fishing camps but not including wheeled recreational vehicles. The dwelling unit may be less than 600 square feet. The dwelling unit shall not be considered a permanent residence.

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- 200.26** **Setback.** The minimum distance between two points as prescribed by this ordinance.
- 200.27** **Sign.** A device or structure, freestanding or attached to a building or structure, visible to the public from the exterior of a building which contains any combination of lights, letters, words, objects, graphics, figures, designs, symbols, pictures, logos or colors which are intended to advertise, identify, direct or convey a message to the public or to attract attention to an object, person, institution, organization business or service.
- 200.28** **Structure.** A combination of materials assembled at a fixed location to give support or shelter, including buildings, accessory buildings and accessory uses. (3/9/99)
- 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.

300.00 ***DISTRICTS***

The following districts are established for the purpose of promoting the health, safety and general welfare of the population; to implement the goals of the Lyndeborough Master Plan; to minimize the impact on the natural environment; to provide a variety of housing opportunities; to protect the value of residential property; to broaden the Town's tax base; to encourage the development of balanced and harmonious land uses of varying intensities; and to protect the character of the Town:

- a. Village District – V,
- b. Light Industrial District – LI,
- c. Rural Lands One – RL1,
- d. Rural Lands Two – RL2, and
- e. Rural Lands Three – RL3.

The boundaries and general locations of each district are depicted on the Lyndeborough Zoning Map on file in the Town Office.

400.00 GENERAL PROVISIONS

401.00 Temporary Placement of Manufactured Home

The Planning Board may grant a permit to temporarily locate a manufactured home on the same lot as a permanent dwelling or building for a period of up to twelve (12) months while a dwelling is being initially constructed or substantially reconstructed; or any building is being reconstructed after damage by fire or other natural cause. In cases of hardship, the Building Inspector may grant one six (6) month extension. At the end of the twelve (12) month period or the extension, the manufactured home must be removed from the lot. The intent of this section is to prohibit the creation of an additional dwelling unit. The temporary manufactured home shall be serviced by existing or new approved septic and water systems. Any violations of this section shall be subject to the enforcement proceedings and penalties contained in Section 1500.00 Enforcement and Administration of this ordinance. (3/9/99)

402.00 Alteration and Removal of Materials

The commercial removal of loam, sand, gravel or other natural inorganic material from any lot in any district is permitted upon site plan review and approval, and receipt of an excavation permit from the Planning Board in accordance with the Lyndeborough Site Plan Review Regulations Regarding Excavations.

403.00 Sanitary Protection

All sanitary systems shall be constructed and maintained in accordance with the standards set and enforced by the New Hampshire Department of Environmental Services Water Supply and Pollution Control Division and other Town of Lyndeborough regulations.

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

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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").

405.00 Driveways

All driveway entrances shall be constructed in conformance with the *Town of Lyndeborough Street and Road Standards* or the NH Department of Transportation regulations for any State maintained roads. Driveway entrances shall be consistent with the adjacent public road.

406.00 Use of Manufactured Housing, Pre-Site Built Housing and Recreational Vehicles

A dwelling unit may be constructed on-site, or may be manufactured housing or pre-site built housing. Under no circumstances shall a recreational vehicle be considered a dwelling unit. (3/9/99)

407.00 Junkyards and Automobile Graveyards

Junkyards and Automobile Graveyards are prohibited in all zoning districts in the Town of Lyndeborough. (3/9/99)

408.00 Soil-Based Zoning Requirements (Overlay District) (3/18/00) (3/16/19)

All lots in the Rural Lands One (RL1) or Light Industrial zoning districts with less than 5 acres shall require a minimum of 2 contiguous acres of "slight" and/or "moderate" limitations rated soils for septic tank absorption fields, as determined by the USDA Natural Resource Conservation Service criteria and published in Table 11 of the "Soil Survey of Hillsborough County, New Hampshire", issued October 1985. A Site specific soil survey conducted by a NH Certified Professional Soil Scientist may be required by the Planning Board to ensure that the requirements of this section are met. Contiguous shall mean any area undivided by wetland, ponding (seasonal or perennial) or seasonal or perennial drainage ways. Lots of record shall not be affected by this soil-based zoning for residential usage.

All lots in the Rural Lands One (*RLI*) or Light Industrial zoning districts with less than 500 foot frontage shall require a minimum of 2 contiguous acres of "slight" and or "moderate" limitations rated soils for septic tank absorption fields, as determined by

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the USDA Natural Resource Conservation Service criteria and published in Table 11 of the “Soil Survey of Hillsborough county, New Hampshire”, issued October 1985. A Site specific soil survey conducted by a NH Certified Professional Soil Scientist may be required by the Planning Board to ensure that the requirements of this section are met. Contiguous shall mean any area undivided by wetland, ponding (seasonal or perennial) or seasonal or perennial drainage ways. Lots of record shall not be affected by this soil-based zoning for residential usage. (3/18/00) (3/16/19)

[Note of Clarification: This section 408.00 does not apply to the Village District, section 500.00; Rural Lands 2, section 800.00; Rural Lands 3, section 900.00; or the Large Tracts of Land, section 404.00.]

409.00 Optional Acceptance by the Town of New Roads Created During Subdivisions (3/18/00)

A road created to town standards for the purpose of road frontage requirements during subdivision may or may not be accepted by the Town of Lyndeborough as a public road. Subdivision approval may not be revoked for the sole reason of the road created for road frontage not being accepted as a Class V road. If the town does not accept the new road as a public road, the road will remain a private road and the landowner(s) accept full responsibility for the road. (3/18/00)

410.00 Fences

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)

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

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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)

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500.00 VILLAGE DISTRICT (V)

The purpose of the Village District is to provide opportunities for mixed uses commonly associated with a town center.

500.01 District Boundaries.

The Village District includes the portion of Lyndeborough delineated as follows:

Beginning at the stone monument located on the easterly side of NH Route 31 at the point where it intersects the Lyndeborough-Wilton Town boundary, east along the Town boundary to the western edge of the railroad right-of-way, north along the railroad right-of-way to its point of intersection with Cross Road, east along Cider Mill Road to its point of intersection with Cemetery Road, northwest along Cemetery Road to its point of intersection with Putnam Hill Road, northwesterly along a straight line to a point on Center Road one thousand (1,000) feet north of its intersection with NH Route 31, south along the same line to its point of intersection with Stoney Brook, south along Stoney Brook to the point where it intersects the Lyndeborough-Wilton Town boundary, then east to the point of beginning.

501.00 Permitted Uses. (AMENDED AND APPROVED 3/13/18)

The following uses and their associated accessory uses are permitted in the Village District subject to all other applicable provisions of this Ordinance and, excepting single-family and agricultural uses, Site Plan Review and approval, as applicable, by the Lyndeborough Planning Board.

- a. Single family dwellings;
- b. Retail stores;
- c. Professional offices;
- d. Personal Services;
- e. Banks;
- f. Municipal, government or postal offices and facilities;
- g. Agricultural operations;
- h. Home Businesses and Home Occupation in compliance with the requirements of Section 1200.00 of these regulations;
- i. Houses of worship;
- j. Utility structures less than 200 square feet in area; and
- k. Restaurants.

502.00 Lot Requirements.

502.01 Area. Minimum lot size 2 contiguous acres of dry land undivided by wetland, pond or drainage way.

502.02 Frontage. Minimum 150 feet of continuous frontage.

502.03 Setbacks. All structures must be set back a minimum of 35 feet from the front, side and rear lot lines. No buildings requiring a building permit or associated uses, including but not limited to swimming pools, antennas and satellite dishes, are permitted in the setback.

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503.00 Special Exceptions.

The following uses may be permitted as special exceptions by the Zoning Board of Adjustment. **A** Site Plan Review and approval **will then be required** by the Planning Board. (3-13-18)

- a. Two family dwellings provided the following conditions can be met:
 - 1) minimum lot size 4 acres;
 - 2) minimum frontage 300 feet;
 - 3) a common road or street access serves both units;
 - 4) two off-street parking spaces shall be provided for each dwelling unit;
 - 5) Certification from the applicant and the Lyndeborough Health/Code Enforcement Officer that any existing septic system or new system is designed to support the increased load created by two families.

- b. Private schools including daycare centers.

- c. Automobile Service Stations

- d. Personal service businesses including but not limited to service or repair of jewelry, appliances or other personal or household items, photography studios, beauty/barber shops and tailors.

- e. Bed and Breakfasts providing the following conditions can be met:
 - 1) the B&B is operated by the resident owner;
 - 2) two (2) non-family employees are permitted on the premises;
 - 3) no additions or changes shall be made to the residence that would make it impractical to revert the building to purely residential;
 - 4) two (2) off-street parking spaces shall be provided for the residents of the B&B and one (1) off-street space shall be provided for each rental unit;
 - 5) certification from the applicant and the Lyndeborough Health/Code Enforcement Officer that any existing septic system or new system is designed to support the increased load; and
 - 6) the business shall be operated in accordance with all Town regulations, state laws and licensing requirements.

REMOVED FORMER 503.00 D - ACCESSORY DWELLING UNITS, RECODIFIED TO SECTION 411.00

600.00 LIGHT INDUSTRIAL DISTRICT (LI)

The purpose of the Light Industrial District is to provide employment opportunities and broaden the tax base by establishing a location for light industrial development in an area that does not conflict with surrounding land uses and that provides good access to transportation facilities.

600.01 District Boundaries.

That portion of Lyndeborough which is bounded as follows: Beginning at the point where Purgatory Brook joins the Lyndeborough Town boundary with Mont Vernon; thence easterly along said boundary to its point of intersection with the Lyndeborough Town Boundary with Milford; thence southerly along said boundary to its point of intersection with Purgatory Road; thence southerly along Purgatory Road to its point of intersection with the Lyndeborough Town boundary with Milford, thence westerly along said boundary to Purgatory Brook; thence northerly along Purgatory Brook to the place or point of beginning. The district shall also encompass that area now or formerly known as "The Sawmill" including the land designated as 228-015-000 of the official tax map of the Town of Lyndeborough and bounded by NH Route 31 on the west and Winn Road on the east.

601.00 Permitted Uses. (3/16/19)

The following uses and their associated accessory uses are permitted in the Light Industrial District subject to all other applicable provisions of this Ordinance and Site Plan Review and approval by the Lyndeborough Planning Board.

- a. Light manufacturing;
- b. Research and/or testing facilities;
- c. Offices;
- d. Newspaper and printing facilities;
- e. Warehouses;
- f. Retail stores;
- g. Banks;
- h. Personal service businesses including but not limited to service or repair of jewelry, appliances or other personal or household items, photography studios, beauty/barber shops and tailors.
- i. Utility structures less than 200 square feet in area.

602.00 Lot Requirements.

602.01 Area. Minimum lot size 2 contiguous acres of dry land undivided by wetland, pond or drainage way.

602.02 Frontage. Minimum 250 feet of continuous frontage.

602.03 Setbacks. All structures must be set back a minimum of 50 feet from the front, side and rear lot lines. Parking areas shall be set back as follows:

- a. No buildings or parking areas are permitted in the front setback or in any setback which abuts a residential property.
- b. Parking areas are permitted up to within ten (10) feet of the side or rear lot line of a light industrial zoned parcel where it abuts another light industrial zoned parcel.

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- c. Parking areas shared between two adjacent light industrial zoned parcels may be developed up to the common side or rear lot line if all other conditions of the district are met.

603.00 Special Exceptions.

The following uses may be permitted as special exceptions by the Zoning Board of Adjustment. A Site Plan Review and approval **will then be required** by the Planning Board. (3-12-02)

- a. Vehicular sales and repair facilities;
- b. Automobile service stations;
- c. Contractor yards;
- d. Public assembly halls and places of worship.

700.00 RURAL LANDS ONE DISTRICT (RL1)

The purpose of the Rural Lands 1 District is to provide for residential development at higher densities than other areas while conserving the rural character of the Town, maintaining natural resources and protecting the health and safety of residents.

700.01 District Boundaries.

The Rural Lands One district encompasses all land within the Town not included in any other district designated in this Ordinance.

701.00 Permitted Uses. (Amended & Approved 3/18/17)

The following uses and their associated accessory uses are permitted in the Rural Lands One District subject to all other applicable provisions of this Ordinance and Subdivision or Site Plan Review and approval by the Lyndeborough Planning Board as applicable.

- a. Single family dwellings;
 - b. Seasonal dwellings such as hunting and fishing camps, but not including wheeled recreational vehicles, and not to be considered as a permanent residence;
 - c. Agricultural operations;
 - d. Forestry operations and management;
 - e. Home Businesses and Home Occupation in compliance with the requirements of Section 1200.00 of these regulations;
 - f. Manufactured housing greater than 400 square feet in size on a masonry foundation with skirting; and
 - g. Outdoor recreation uses and facilities, including but not limited to golf courses, cross-country ski areas, riding stables, but excluding campgrounds.
- To include a provision that no use allowed under this section shall:
- 1) Adversely affect abutting property values; or
 - 2) Result in increased noise beyond property lines over and above that normally associated with residential uses allowed in the district; or
 - 3) Be a health hazard; or
 - 4) Be a nuisance to abutting properties; or
 - 5) Uses allowed under this section will be subject to site plan review and approved by the Planning Board. (3-13-01)

702.00 Lot Requirements.

702.01 Area. Minimum lot size 2 contiguous acres of dry land undivided by wetland, pond or drainage way.

702.02 Frontage. Minimum 250 feet of continuous frontage.

702.03 Setbacks. For lots 5 acres or larger, all structures must be set back a minimum of 50 feet from the front, side and rear lot lines. For lots smaller than 5 acres, all structures must be set back a minimum of 50 feet from the front lot line, and a minimum of 35 feet from the side and rear lot lines. No buildings or associated uses, including but not limited to swimming pools, antennas and satellite dishes, are permitted in the setback. (3-12-02)

703.00 Special Exceptions.

The following uses may be permitted as special exceptions by the Zoning Board of Adjustment. **A** Site Plan Review and approval **will then be required** by the Planning Board. (3-13-18)

- a. Two-family dwellings provided the following conditions can be met:
 - 1) minimum lot size 4 acres;
 - 2) minimum frontage 500 feet;
 - 3) a common road or street access serves both units;
 - 4) two off-street parking spaces shall be provided for each dwelling unit;
 - 5) Certification from the applicant and the Lyndeborough Health/Code Enforcement Officer that any existing septic system or new system is designed to support the increased load created by two families.

- b. Bed and Breakfasts providing the following conditions can be met:
 - 1) the B&B is operated by the resident owner;
 - 2) two (2) nonfamily employees are permitted on the premises;
 - 3) no additions or changes shall be made to the residence that would make it impractical to revert the building to purely residential;
 - 4) two (2) off-street parking spaces shall be provided for the residents of the B&B and one (1) off-street space shall be provided for each rental unit;
 - 5) certification from the applicant and the Lyndeborough Health/Code Enforcement Officer that any existing septic system or new system is designed to support the increased load; and
 - 6) the business shall be operated in accordance with all Town regulations, state laws and licensing requirements.

REMOVED FORMER 703.00 B - ACCESSORY DWELLING UNITS, RECODIFIED TO SECTION 411.00

800.00 RURAL LANDS TWO DISTRICT (RL2)

The purpose of the Rural Lands Two district is to provide an area for low density, rural residential development given the distances from the Town center, steep slopes, poor road conditions, difficulty of travel during certain seasons and septic system restrictions.

800.01 District Boundaries.

The Rural Lands Two district encompasses all lands at or above 1,000 feet but less than 1,500 feet in elevation as defined by the most recent USGS Topographic Map of the area.

801.00 Permitted Uses. (AMENDED AND APPROVED 3-18-17)

The following uses and their associated accessory uses are permitted in the Rural Lands Two District subject to all other applicable provisions of this Ordinance and Subdivision and Site Plan Review and approval by the Planning Board as applicable.

- a. Single family dwellings;
- b. Seasonal dwellings such as hunting and fishing camps, but not including wheeled recreational vehicles, and not to be considered as a permanent residence;
- c. Agricultural operations;
- d. Forestry operations and management;
- e. Outdoor recreation uses and facilities, including but not limited to golf courses, cross-country ski areas, riding stables, but excluding campgrounds.
To include a provision that no use allowed under this section shall:
 - 1) Adversely affect abutting property values; or
 - 2) Result in increased noise beyond property lines over and above that normally associated with residential uses allowed in the district; or
 - 3) Be a health hazard; or
 - 4) Be a nuisance to abutting properties; or
 - 5) Uses allowed under this section will be subject to site plan review and approved by the Planning Board. (3-13-01)
- f. Home Businesses and Home Occupation in compliance with the requirements of Section 1200.00 of these regulations.

802.00 Lot Requirements.

802.01 Area. Minimum lot size 5 acres, 2 contiguous acres of dry land undivided by wetland, pond or drainage way.

802.02 Frontage. Minimum 500 feet of continuous frontage.

802.03 Setbacks. All structures must be set back a minimum of 50 feet from the front, side and rear lot lines. No buildings or associated uses, including but not limited to swimming pools, antennas and satellite dishes, are permitted in the setback.

803.00 Special Exceptions.

The following uses may be permitted as special exceptions by the Zoning Board of Adjustment. A Site Plan Review and approval **will then be required** by the Planning Board. (3-13-18)

- a. Two-family dwellings provided the following conditions can be met:
 - 1) minimum lot size 10 acres;
 - 2) minimum 1,000 feet of continuous frontage;
 - 3) a common road or street access serves both units;
 - 4) two off-street parking spaces shall be provided for each dwelling unit; and
 - 5) certification from the applicant and the Lyndeborough Health/Code Enforcement Officer that any existing septic system or new system is designed to support the increased load created by two families.

- b. Bed and Breakfasts providing the following conditions can be met:
 - 1) the B&B is operated by the resident owner;
 - 2) two (2) nonfamily employees are permitted on the premises;
 - 3) no additions or changes shall be made to the residence that would make it impractical to revert the building to purely residential;
 - 4) two (2) off-street parking spaces shall be provided for the residents of the B&B and one (1) off-street space shall be provided for each rental unit;
 - 5) certification from the applicant and the Lyndeborough Health/Code Enforcement Officer that any existing septic system or new system is designed to support the increased load; and
 - 6) the business shall be operated in accordance with all Town regulations, state laws and licensing requirements.

Removed former 803.00 b - Accessory Dwelling Units, recodified to Section 411.00

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900.00 ***RURAL LANDS THREE DISTRICT (RL3)***

The purpose of the Rural Lands Three District is to protect the most sensitive and remote land from development. Poor road access, steep slopes, shallow depths to bedrock and generally severe limitations for septic systems characterize the undevelopable nature of land within this District.

900.01 **District Boundaries.**

The Rural Lands Three District encompasses all lands situated at or above 1,500 feet in elevation as defined by the most recent USGS Topographic Map of the area.

901.00 **Permitted Uses. (AMENDED AND APPROVED 3/18/17)**

The following uses and their associated accessory uses are permitted in the Rural Lands Three District subject to all other applicable provisions of this Ordinance and Subdivision or Site Plan Review and approval by the Lyndeborough Planning Board as applicable:

- a. Agricultural and farming operations;
- b. Single family dwellings;
- c. Seasonal dwellings such as hunting and fishing camps, but not including wheeled recreational vehicles, and not to be considered as a permanent residence;
- d. Forestry operations and management;
- e. Home Businesses and Home Occupation in compliance with the requirements of Section 1200.00 of these regulations.
- f. Outdoor recreation uses and facilities, including but not limited to golf courses, cross-country ski areas, riding stables, but excluding campgrounds.
To include a provision that no use allowed under this section shall:
 - 1) Adversely affect abutting property values; or
 - 2) Result in increased noise beyond property lines over and above that normally associated with residential uses allowed in the district; or
 - 3) Be a health hazard; or
 - 4) Be a nuisance to abutting properties; or
 - 5) Uses allowed under this section will be subject to site plan review and approved by the Planning Board. (3/13/01)

902.00 **Lot Requirements.**

902.01 **Area.** Minimum lot size 10 acres with a minimum of 2 acres contiguous dry land undivided by wetland, pond or drainage way.

902.02 **Frontage.** Minimum 500 feet of continuous frontage.

902.03 **Setbacks.** All structures must be set back a minimum of 50 feet from the front, side and rear lot lines.

1000.00 WETLANDS DISTRICT

The purpose of the Wetlands District is to guide the use of areas of land with extended periods of high water tables to:

- a. prevent development of structures and land uses on naturally occurring wetlands which would contribute to the pollution of surface and ground water by sewage;
- b. prevent the destruction of natural wetlands which provide flood protection, recharge groundwater supplies and augment stream flows during dry periods;
- c. prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of inharmonious use of wetlands.

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.

1001.00 Permitted Uses. (3/16/19)

Any of the following uses that require a permit by NH DES are also permitted by this Ordinance.

- a. Forestry operations and management in accordance with best management practices;
- b. Agriculture in accordance with agricultural best management practices;
- c. Water impoundments and wells;
- d. Drainage ways - streams, ditches or other paths of normal water runoff;
- e. Wildlife refuges;
- f. Parks and recreation uses consistent with the purpose and intent of this Ordinance;
- g. Conservation areas and nature trails; and
- h. Open space as permitted by the Subdivision Regulations and other sections of this Ordinance.

1002.00 Special Exceptions.

The following uses may be permitted as special exceptions by the Zoning Board of Adjustment. Prior to the granting of a special exception, the Zoning Board shall refer the application to the Planning Board, the Health Officer and the Conservation Commission for review and comment prior to the public hearing. Lack of response from any of these parties within 30 days implies consent to the application. Construction of any uses permitted by special exception shall minimize the detrimental impact of the use on the wetland.

- a. Streets, roads and other access ways;
- b. Utility right-of-way easements including power lines and pipelines if essential to the productive use of land not in the Wetland District;
- c. A use not otherwise permitted in the Wetland District, including the erection of a structure, dredging, draining or otherwise altering the configuration of the land, if it can be shown that the proposed use is not in conflict with the purpose and intent of this section and if the proposed use is otherwise permitted by the by the Zoning Ordinance. Proper evidence of this shall be submitted in writing to the Zoning Board and is subject to review by the Hillsborough County Conservation District to determine the effect of the proposed use on the wetlands in question.

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**1100.00 PLANNED RESIDENTIAL DEVELOPMENT (PRD)*
ALLOWED BY CONDITIONAL USE PERMIT
Adopted March 14, 2006 (3/16/19)**

1101.00 Purpose:

To provide an alternative pattern of land development for single-family homes in the Village District (V) and along a corridor 1,000 feet either side of State Route 31 in Rural Lands One District (RL1). (3/16/19)

It is intended to encourage the preservation of open space and, at the same time, provide for a greater variety of housing types and affordability, with similar densities and more inclusive building permits than permitted elsewhere in the Zoning Ordinance, without causing an increase to Town maintained roads. (3/16/19)

It is planned that in a PRD, the setbacks for dwelling units in a PRD in the Village District shall be the same as required in Section 502.03 of the Lyndeborough Zoning Ordinance. The setbacks for dwelling units in a PRD in Rural Lands One District (RL1) shall be the same as required in Section 702.03 of the Lyndeborough Zoning Ordinance except that no dwelling unit shall be less than 300 feet from Route 31 nor more than 1,000 feet from Route 31. (3/16/19)

The dwelling units shall be constructed in clusters that are in harmony with neighborhood developments and housing and with the natural surroundings. These clusters shall not detract from the ecological and visual qualities of the environment, or from the value of the neighborhood or Town. Every PRD unit shall be occupied by an owner occupant who is at least 55 years of age or older and should add to the variety of housing types in Lyndeborough to accommodate the Master Plan purposes. The overall site design and amenities should enhance the quality of living for the residents of the development and, in general, the neighborhood and Town. The Planning Board shall determine whether the proposed PRD, namely the site plan or layout, number, type and design of the proposed housing is suitable to the neighborhood within which it is located and is consistent with the Master Plan and reasonable growth objectives. (3/16/19)

1102.00 Conditions:

An applicant for approval of a proposed PRD* 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, the Board shall hear evidence presented by the applicant and all those requiring notice and determine whether, in its judgment, the proposal meets the objectives and purpose set forth above, in which event the Planning Board may grant approval to the proposal, subject to reasonable conditions and limitations as it shall deem appropriate. (3/16/19)

1102.01 Minimum Net Tract Area. Planned Residential Developments may be permitted on single or adjacent tracts of land, under one owner, or to be brought under one owner, which have a net tract area* of no less than twenty (20) buildable acres. Irrespective of the net tract area size, the PRD shall not contain more than twenty (20) dwelling units. Net tract area shall mean the total area of the tract, or tracts, less the area of wetlands, identified flood plains and areas of slope equal to or greater than 20%. To maintain comparable densities, as calculated using existing Lyndeborough zoning regulations, (as determined by soil based zoning section 408.00 of the zoning ordinance) PRD septic systems are to be of the “shared- type”, located in the Open

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Space on soils that are rated “slight to moderate” as spelled out in the Hillsborough County West published soils survey. (3/16/19)

1102.02 **Minimum Lot Size.** Individual lots created within the PRD shall be a minimum of one (1) acre in size. While each PRD shall be subject to the Subdivision Regulations, where there are differences between the PRD requirements and the Subdivision Regulations, the requirements of the PRD shall prevail. All other regulations and restrictions not specifically mentioned in this Ordinance shall be those governed by the Zoning regulations in which the PRD is located.

1102.03 **Permitted Uses.** There may be permitted in the PRD, single family detached dwelling units* of any type without regard to unit configuration. It is envisioned that the housing types, while having different internal configurations, will have an external appearance that complements and is in general harmony with the natural surroundings of the PRD. The maximum height of any dwelling structure shall be 25 feet, exclusive of chimneys or cupolas, measured from the lowest adjacent exterior elevation. The maximum area of living space* is not to exceed 2000 square feet. At a minimum there shall be a fifty (50) foot set back* from the property line around the perimeter of the property. The lot frontage*, as measured at the edge of the road right-of-way, to be a minimum of 100 feet. Lot frontage on Cul-de-sac* turnarounds, as measured at the edge of the right-of-way, to be a minimum of 75 feet. Off-road parking space will be furnished to accommodate one (1) vehicle and have an area not less than 9 ft. X 18 ft. not including driveways or passage ways and have direct access to a private way. For the purpose of this Ordinance, the following definition will apply:

“Single Family Detached Dwelling Unit—any building designed for and occupied by not more than one family and which is not attached to any other dwelling unit by any means.”

The Planning Board shall determine the mix of housing types and these shall be determined at the Final Review and be noted on the Plat.

1103.00 Open Space:

All land in the PRD which is not covered by dwellings, paved areas, service areas, or which is not set aside as private yards, patios or gardens for the residents shall be treated as open space*. The total of the open space shall be at least 50% of the total net area of the PRD tract. Such land shall have shape, character and location suitable to assure its use for park, recreation, conservation, or agricultural purposes (excluding farm livestock) by at least all the residents of the PRD.

Provisions shall be made for the open space to be held in common and equally, by all the Home Owners Association* members of the PRD. Such provisions shall further hold that all the open space shall be readily accessible to all residents the PRD and that such open space shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, recreation or park. No building or construction of structures shall take place in the open space. Should the PRD plan call for shared wells* and or shared septic systems*, they may be constructed to State specifications in the open space, with permission of the Planning Board. Harvesting of trees in the open space is permitted if it is done in accordance with good forestry practice and with the permission of the Planning Board.

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1103.01 **Density.** In a Planned Residential development bedroom density* shall be determined by the following method:

“Multiply the number of allowed dwelling units by two (2)”

The result of this calculation shall be the number of bedrooms permitted in the entire development. The number of bedrooms permitted in any PRD shall be determined by the Planning Board to assure compliance with the PURPOSE of the PRD and shall not exceed the limit determined above. The number of bedrooms in each dwelling unit shall be noted on the final Plat and cannot be increased without permission from the Planning Board.

For the purpose of this ordinance, a bedroom may mean any room other than a kitchen, bathroom, or small utility room and must be located in the normal living space of the unit and not located in the basement, attic or garage. In review of the floor plan or plans, the planning Board, may deem the floor space shown on said plan or plans to constitute the number of bedrooms that can be built in that space. The Planning Board may designate a room not to be a bedroom if it deems that its use as a bedroom is unlikely in view of the layout of the unit, or in the overall character of the PRD.

1103.02 **Architectural Design.** As a condition of final approval, the applicant must obtain the Planning Board’s approval of the external architectural design of the PRD to ensure that it complies with the goals of harmonious existence with the neighborhood and the environment, as stated in the PURPOSE. A buffer zone must be provided around the perimeter of the PRD, to a depth of 200 feet, by preserving the existing natural foliage and planting local species of trees and plants that will act as a screen from the surrounding neighborhoods.

1103.03 **Limitation of the Subdivision.** No lot shown on the PRD plan for which a permit is granted under this Ordinance may be further subdivided, in perpetuity, and a note to that effect shall be placed on the Final Plan. No structure* within the subdivision can be within 500 feet of any public road.

1103.04 **Roads.** Road(s) that service the PRD will be considered a private road(s) and the Planning Board shall require adequate covenants, restrictions and agreements, including a Home Owners Association guarantee that states the Town will have no liability or responsibility to maintain said road. All private roads must be constructed to meet or exceed Town standards. Furthermore, road(s) that connect with Town or State public roads must adhere to the intersection regulations of both or either of those bodies.

1104.00 **Provided Services to Dwellings:**

Power: All power must be run under ground

Phone: All communication lines must be run under ground.

Water: Clean drinking water is to be supplied either from a municipal source, private source, community wells, or individual wells.

Waste: Waste material will be managed *either* by municipal sewer or shared septic systems. All septic systems must meet Town and State regulations.

1105.00 **Home (Unit) Owner’s Association:**

The applicant for the PRD must establish a Home or Unit Owners Association* as part of the application that adheres to the provisions of New Hampshire RSA 356-B

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and creates with respect to the land a condominium with the condominium form of ownership. All Home Owners Association agreements must be reviewed by the Town of Lyndeborough's attorney and approved by the Planning Board prior to final approval of the application. Any amendments to the original agreement must be reviewed and approved by the Planning Board prior to implementation by the Home Owner's Association.

1106.00 Bond:

As a condition of final approval, the applicant must post a bond or other surety with the town treasurer in the amount \$20,000.00 per dwelling unit on each building permit in order to guarantee compliance with the permit. The bond will be released upon the completion of all dwelling units assigned to the permit.

1107.00 Growth Ordinance:

In the case of a PRD, the Growth Management Ordinance is modified to allow the applicant to construct a minimum of five (5) and a maximum of ten (10) dwelling units, under a single permit, in a given calendar year. The applicant will not be considered for another permit until the number of dwelling units, already under permit have been completed. Furthermore, the Planning Board will not approve more than one (1) PRD in any given calendar year.

1108.00 Definitions:

1108.01 Accessory Building. A detached building on the same lot with the primary building, the use of which is clearly incidental to that of the primary building or use of the land.

1108.02 Building. Any structure that has a roof and is intended to shelter people, animals or chattel.

1108.03 Buffer. An upland area immediately adjacent to a wetland or a body of water, usually specified by a setback distance from the edge, that serves to filter surface water flowing into the wet land or body of water.

1108.04 Cul-de-Sac. A road designed for the purpose of a vehicle turnaround.

1108.05 Density. The total number of bedrooms allowed per net track area .

1108.06 Driveway. A private from the private road traversing private property, ordinarily leading to a single residence.

1108.07 Dwelling. A structure that is designed or used as a place of residence for one family.

1108.08 Dwelling Unit. A structure or part of a structure used as a place of residence for one family.

1108.09 Family. One or more persons who live as a single housekeeping unit in a dwelling unit.

1108.10 Frontage. The continuous distance of any property line of a lot that abuts a private road approved by the Planning Board.

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- 1108.11** **Home Owners Association.** Dwelling unit owners, acting as a group in accordance with the Condominium Act, the Declaration and stated Bylaws.
- 1108.12** **Living Space.** Those defined areas within the dwelling that conform to realty standards for normal living. They do not include basements, attics, garages, or out buildings.
- 1108.13** **Lot.** A tract of land occupied or capable of being occupied by a building or use and by accessory uses, including the open space provided for in this Ordinance.
- 1108.14** **Net Track Area.** Is the total usable area of a particular track of land.
- 1108.15** **Open Space.** Is that area that is held in common by the members of the Home Owner's Association.
- 1108.16** **Private Road.** A road constructed to or exceeding the Town standards for Class V roads.
- 1108.16** **PRD.** Is a Planned Residential Development of single-family dwelling units.
- 1108.17** **Setback.** The minimum distance between two points as prescribed by this ordinance.
- 1108.18** **Single Family detached Dwelling Unit.** Any building designed for and occupied by not more than one family and which is not attached to any other dwelling unit by any means.
- 1108.19** **Shared Septic.** Septic systems that are shared by two or more dwelling units.
- 1108.20** **Shared Wells.** Wells that are shared by two or more dwelling units.
- 1108.21** **Structure.** A combination of materials assembled at a fixed location to give or shelter, including but not limited to, buildings, accessory buildings and accessory support uses.

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1200.00 HOME OCCUPATION AND HOME BUSINESS
(AMENDED AND ADOPTED ON 3/18/17. DELETE 1200.00 SUBSECTION O)
(AMENDED AND ADOPTED 3/13/18)

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)

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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.

1250.00 TELECOMMUNICATION FACILITIES (ADOPTED 3/10/98)

In recognition of the requirements of the federal Telecommunications Act of 1996, this ordinance is designed and intended to balance the interests of the residents of Lyndeborough, telecommunications providers, and telecommunications customers in the siting of telecommunications facilities within the town of Lyndeborough so as to ensure coordinated development of communications infrastructure while preserving the health, safety and welfare of the Town and its residents. This ordinance establishes general guidelines for the siting of telecommunications towers and antennas to enhance and fulfill the following goals:

- a. Preserve the authority of Lyndeborough to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities, by enhancing the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- b. Reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values;
- c. Provide for co-location and minimal impact siting options through assessment of technology, current location options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town;
- d. Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;

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- e. Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town;
- f. Provide constant maintenance and safety inspections for any and all facilities;
- g. Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and Building code compliance. Provide a mechanism for the Town to remove these abandoned towers to protect the citizens from imminent harm and danger; and
- h. Provide for the removal or upgrade of facilities that are technologically outdated.

1251.00 Definitions.

1251.01 Alternative Tower Structure. Innovative siting techniques such as artificial trees, clock towers, bell towers, steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

1251.02 Antenna. Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

1251.03 Co-location. The use of an existing tower or an existing telecommunications facility, for multiple purposes or users.

1251.04 Guy Wires. A cable used to secure and steady a tower.

1251.05 Height. The distance measured from ground level to the highest point on the tower or other structure, including antennas.

1251.06 Monopole. Any tower consisting of a single pole, constructed without guy wires with ground anchors.

1251.07 Pre-existing Towers and Antennas. Any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Also, any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Town.

1251.08 Secondary Use. A use of land or of a building or portion thereof which is unrelated to the principal use of the land or building.

1251.09 Telecommunications Facilities. Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications services (PCS), and common carrier wireless exchange access services.

1251.10 Tower. A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

1252.00 Applicability.

1252.01 Public Property.

Antennas or towers located on property owned, leased, or otherwise controlled by the Town may be exempt from the requirements of this section, except that uses are only permitted in the zones and areas as delineated in Section 1253.02. This partial exemption shall be available if a license or lease authorizing the antenna or tower has been approved by the governing body and the governing body elects, subject to state law and local ordinance, to seek the partial exemption from this ordinance.

1252.02 Essential Services and Public Utilities.

Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunications facilities is a use of land, and is subject to the Town's zoning ordinance and all other applicable ordinances and regulations.

1253.00 Siting Standards.

1253.01 General Provisions.

The uses listed in this section are deemed to be permitted uses in the designated district in accordance with all other applicable ordinances and regulations of the Town including Site Plan Review and approval by the Lyndeborough Planning Board. In addition, all telecommunication facility applications will be technically verified by an independent Town Consultant at the applicant's expense.

- a. Antennas and towers may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- b. For purposes of determining whether the installation of a tower or antenna complies with district development standards, the dimensions of the entire lot shall control, even though the antennas and towers may be located on leased parcels within such lots.
- c. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance, shall not be deemed to constitute the expansion of a nonconforming use or structure.

1253.02 Districts Permitted.

New tower construction and co-location of telecommunication facilities shall be permitted in the Light Industrial, Rural Lands One, Rural Lands Two and Rural Lands Three Districts subject to all applicable local, state and federal regulations and Site Plan Review and approval by the Planning Board.

1253.03 Height Requirements.

Maximum tower heights for each district are defined in the Height Table in the Site Plan Review Regulations, however, towers shall only be constructed to the minimum

height required to provide adequate service. In addition, towers requiring lighting shall not be permitted in any district. These requirements and limitations shall preempt all other height limitations as determined by the Zoning Ordinance and shall apply only to telecommunications facilities.

1254.00 Bonding, Security and Insurance.

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and/or unwilling to remove the tower in accordance with Section 1255.00. Bonding and surety shall be consistent with the provisions in the Subdivision Regulations. Furthermore, the Planning Board shall require submission of proof of adequate insurance covering accident or damage.

1255.00 Removal of Abandoned Antennas and Towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of the tower provides annual certification of structural integrity. The owner shall remove the abandoned structure within ninety (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 according to RSA 676:4, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within ninety (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.

**1260.00 OFF-HIGHWAY RECREATIONAL VEHICLE (OHRV) FACILITIES
ORDINANCE (Adopted March 9, 2004)**

These features are in keeping with the general welfare that the enabling statues have empowered the Town to protect through the passage of Ordinances, including, but not limited to the following:

- 1) Ensuring that land use regulations result in developments that reflect Lyndeborough's existing rural character;
- 2) Protecting the health, safety, welfare and property of Town residents and OHRV participants;
- 3) Ensuring that the rate, type, and location of OHRV Facilities development does not place an unreasonable burden on the Town's financial ability to expand its public services;
- 4) Identifying preferred future land use patterns that shall, among other things, consider the capacity of the roadway system to accommodate additional traffic resulting from large-scale OHRV Facilities development and the physical and fiscal ability of the Town to provide public services, including emergency medical care and fire protection;
- 5) Protection against potential adverse environmental impacts such as soil erosion, water/air quality, noise pollution and wildlife disturbances;

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- 6) Consider and guard against any adverse impact on property values caused by non-commercial OHRV Facilities development;

1261.00 Specific Objectives:

The Town of Lyndeborough may regulate the operation of OHRV Facilities in the Town of Lyndeborough for the following purposes:

- 1) To mitigate the impact of large-scale State-Sanctioned, non-commercial OHRV facilities developed in accordance with RSA 215-A and which are exempt from regulation by the Town of Lyndeborough's Site Plan Review Ordinances.
- 2) To mitigate the impact from increased traffic on local roads, excessive noise, dust, pollution, reduction in neighboring property values or other effects that might detract from the rural characteristics outlined in the Sections "E" through "H" of the Lyndeborough Master Plan (Approved May 16, 2002), which address the need to preserve the environment in ways that are conducive to the preservation of plants, wildlife, views and other characteristics that define the rural character of Lyndeborough,
- 3) To determine appropriate hours of operation that mitigate noise, reduction of abutting property values and other disturbances that adversely affect the enjoyment of those properties,
- 4) To ensure that parking for OHRV Facilities is adequate and in keeping with the rural characteristics of the Town of Lyndeborough,
- 5) To ensure that picnic areas associated with OHRV Facilities are adequate and appropriately sited,
- 6) To Ensure that sanitation facilities associated with OHRV Facilities are adequate and appropriately sited, and
- 7) To ensure that designated access routes to OHRV Facilities are adequate and assure the safety of local residents and OHRV Facility participants.

Lyndeborough Off-Highway Recreational Vehicle (OHRV) Facility Ordinance and Regulations

1262.00 Authority:

This Ordinance is promulgated by the Town of Lyndeborough Town Meeting as an amendment to the existing Zoning Ordinance, pursuant to the authority provided to said Town by **RSA 674:16 (Purposes of Zoning Ordinances) and 676:17 (Fines and Penalties)**.

1263.00 Scope of Regulations:

IT IS INTENDED THAT THIS ORDINANCE WILL APPLY TO ALL LARGE-SCALE, STATE-SANCTIONED, NON-COMMERCIAL (SEE DEFINITIONS) OHRV FACILITIES

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*DEVELOPED IN ANY REGION OR DISTRICT WITHIN THE TOWN OF
LYNDEBOROUGH.*

1264.00 Definitions:

- 1264.01** **Abutter.** Any person whose property adjoins or is directly across the street or stream from the land under consideration by the Board; and affected municipalities and the regional planning commission(s) in the event of developments having regional impact. If an abutting property is under condominium or other collective form of ownership, the officers of the collective or association as defined in RSA 356-B:3, XXIII, shall receive the formal notification. For purposes of receiving testimony only, and not for the purpose of notification, the term “abutter” shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration.
- 1264.02** **Designee.** Person or organization designated by another to represent the landowner in an official capacity in an action, activity or before a regulatory board, Town or State authority.
- 1264.03** **Landowner.** Owner of land with tax payment responsibility for same.
- 1264.04** **Large-scale OHRV Recreational Facility.** A closed or limited access, non-commercial destination trail system open to the public for the express purpose of casual riding, racing, or other activities associated with OHRV use.
- 1264.05** **Noise.** Any sound that would travel beyond property lines and is over and above that normally associated with residential uses allowed in the district.
- 1264.06** **Operator.** Person or organization with primary responsibility for the operation, maintenance and oversight of an OHRV Facility.
- 1264.07** **Picnic Areas.** Areas located within an OHRV facility that is equipped with picnic tables, sanitation facilities or other amenities intended for use by participants to stop, rest, eat, or use sanitation facilities.
- 1264.08** **Pollution.** Excessive noise, fumes, dust, smoke, fuel or oil spills resulting from OHRV activities.
- 1264.09** **Sanitation Facilities.** Permanent rest rooms, portable toilets, portable wash rooms, out houses.
- 1264.10** **State-Sanctioned OHRV Facility.** A non-commercial OHRV trail system on public or private land which has been accepted into the State’s inventory of OHRV trails, is published in written materials and/or on the Internet as a trail open for public OHRV use, and for which no usage fee is charged.
- 1264.11** **OHRV.** All off-highway recreational vehicles as defined by RSA 215-1. **Such vehicles shall not include:**
- 1) Devices typically operated by the handicapped which were not originally manufactured as trail bikes or ATVs;
 - 2) Lawnmowers, maintenance vehicles, construction and/or logging equipment;
 - 3) Any emergency vehicles operated by or under the direction of the Lyndeborough Police, Fire and/or Emergency Management departments,

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along with similar vehicles of local, State or federal government agencies conducting similar activities.

1265.00 Regulated Uses:

In order to mitigate the negative impacts from noise, dust, fumes, pollution caused by fuel and oil emissions that result from the operation of a OHRV Facility, and to ensure the enjoyment of open land by landowners and OHRV participants, owners/operators of OHRV Facilities must adhere to the following minimum standards of operation:

1265.01 Trails regulated by this ordinance will be used in accordance with the State of New Hampshire's best management land use practices and will avoid all wetland areas.

1265.02 A maximum of seventy-five (75) OHRVs may be allowed to operate on any OHRV non-commercial, State Sanctioned facility, located in the Town of Lyndeborough, at one time.

1265.03 Hours of Operation for OHRV Facilities are from 9:00 am to one hour before sunset. This shall apply all 12 months of the year, including periods of complete or partial snow cover.

1265.04 Speed limits shall be observed to assure the safety of participants and others. OHRV operators must post and enforce speed limits so that no person shall operate a OHRV at a speed greater than is reasonable and prudent under the existing conditions and without regard for actual and potential hazards. In all cases speed shall be controlled so that the operator will be able to avoid colliding with any person, animal, vehicle, or object.

1) Speed limits for OHRV Facilities within the boundaries of Lyndeborough shall be as follows:

- a. 10 miles per hour within 150 feet of any house or property boundary;
- b. 10 miles per hour within any established rights-of-way or adjacent to town roads, highways, or other public ways;
- c. 10 miles per hours on any class IV, V, and VI highways or bridges designated as open for OHRV operation by the Town;
- d. 10 miles per hour at trail junctions or parking lots;
- e. 25 miles per hour on all other areas within the OHRV Facility.

1265.05 Parking areas must be accessible from approved access roads, must have at least two (2) means of entry and egress and must also be easily accessible by Fire and Emergency Management personnel and their equipment. Ample area must be allowed for turning and maneuvering of OHRV tow vehicles, fire and emergency management vehicles at all times, including when the facility is at maximum site capacity. High intensity outdoor lighting whenever needed to assure the safety and welfare of OHRV participants is permitted only in parking areas. Parking area lighting and lights from vehicular traffic associated with this non-residential use shall be shielded or buffered to prevent off-site glare, sky-glow and light trespass.

1265.06 Designated Refueling Areas, where all refueling must take place, must be available and identified for all OHRV Facility participants. Refueling areas must consist of a non-permeable fueling pad made of concrete or another non-permeable material. Refueling areas must be available in adequate numbers to accommodate the facility

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at maximum site capacity and must be sited convenient to major trails, parking and picnic areas, and other likely fueling locations.

1265.07 Picnic Areas must be located in areas that are accessible for fire and emergency management purposes as determined by the Lyndeborough Fire and Emergency Management Departments. The areas must not interfere with views or ridgelines and must be sited at least 1000 feet from abutting property boundaries.

1265.08 Sanitation Facilities must be available at all picnic areas. Landscaping and plantings shall be used to screen sanitary facilities in open or prominent areas so as not to interfere with views, ridgelines or other vantage points and must be sited at least 1000 feet from abutting property boundaries. Landscaping and plantings shall be compatible with native vegetation. Trees should be planted in random clusters, not in rows, to complement the appearance of natural tree stands. The height of trees at planting should be sufficient to completely obscure any sanitation facility on the site.

1265.09 All roadways proposed for access to and from an OHRV recreational facility must be adequate to accommodate any increase in traffic resulting from the OHRV development and allow for safe passage for both local and related OHRV traffic. Costs for any road improvements required to bring an access road into compliance would be borne by the OHRV Facility Operator.

1265.10 In accordance with state law RSA 215-A:6 (IX), OHRVs are prohibited from traveling on all roads, including, but not limited to, Class V and Class VI roads, unless otherwise approved by the Town of Lyndeborough.

1266.00 *Conflicting Provisions:*

Where these regulations are in conflict with other local, state or federal ordinances or regulations, the provision that imposes the greater restriction or higher standard shall apply.

1267.00 *ENFORCEMENT, FINES AND PENALTIES:*

THE PROVISIONS OF THIS ORDINANCE SHALL BE ENFORCEABLE IN ACCORDANCE WITH SECTIONS 1503.00 AND 1504.00 OF THE LYNDEBOROUGH ZONING REGULATIONS.

1300.00 *NON-CONFORMING USES*

1301.00 *Non-conforming Uses and Buildings:*

Any non-conforming uses of land or buildings may continue in their present use, except that any non-conforming use of land or building may not be:

- 1) changed to another non-conforming use;
- 2) re-established after abandonment for one year;
- 3) extended or enlarged;
- 4) rebuilt after damage exceeding fifty (50) percent of its former market value.

1302.00 *Lots of Record:*

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Where a lot of record at the time of the effective date of this Ordinance has less area and/or frontage than herein required in the District in which it is located:

- 1) The lot may be used for a single family dwelling if permitted in that district subject to New Hampshire Water Supply and Pollution Control Division approval and subject to all district regulations applicable to lots within the District wherein the lot is located with the exception of lot size and/or frontage.
- 2) The lot may be used for any non-residential use permitted in the District in which it is located subject to New Hampshire Water Supply and Pollution Control Division approval and subject to all district regulations applicable to lots within the District wherein the lot is located with the exception of lot size and/or frontage.

1303.00 Special Exceptions for Non-conforming Buildings. (3/10/98)

Additions to existing residences or accessory buildings that lie wholly or in part within the lot setbacks designated for the zoning district may be permitted by Special Exception when no alternative is deemed reasonable by the Zoning Board of Adjustment, in accordance with any or all of the following:

- 1) the proposed addition will not be constructed in the setback area; or
- 2) the proposed addition will not be closer to the lot line than the most intrusive portion of the existing building; or
- 3) the proposed addition is necessary for the health or safety of the occupants of the building as determined by the Building Inspector at the time of permit application.

1400.00 BOARD OF ADJUSTMENT (3/13/07)

The Zoning Board of Adjustment shall consist of five (5) elected members, whose duties shall conform to the provisions of Chapters 672-677 NH RSA. Members shall be elected for three (3) year terms as terms expire or vacancies occur. Appointments to fill vacancies shall be only for the unexpired portion of the term.

The ZBA may act upon appeals from administrative decisions, special exceptions to the Zoning Ordinance and variances from the Zoning Ordinance.

1500.00 ENFORCEMENT AND ADMINISTRATION

1501.00 Board of Selectmen:

It shall be the duty of the Board of Selectmen to enforce the provisions of this Zoning Ordinance.

1502.00 Building Inspector:

It shall be the duty of the Building Inspector to administer the provisions of this Zoning Ordinance.

The Building Inspector shall issue any and all building permits requested when such permits are in accordance with the provisions of this Ordinance.

1503.00 Violations of the Ordinance:

Upon any well founded information that this Ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of this Ordinance as provided in RSA 676:17 by taking the appropriate legal action and/or seeking an injunction in the Hillsborough County Superior Court.

1504.00 Fines and Penalties:

Any person, firm or corporation violating any of the provisions of this Ordinance, or Subdivision regulations adopted hereunder, or any provision or specification of any application, plat or plan approved by, or any requirement or condition of a permit or decision issued by the Board of Selectmen, Code Enforcement Officer or Land Use Board acting under its authority:

- 1) shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person;
- 2) shall be subject to a civil penalty not to exceed \$100.00 for each day that such violation is found to continue after the conviction date or after the date on which the violator received written notice from the Town of Lyndeborough that he is in violation of any such Ordinance, whichever is earlier;
- 3) the Board of Selectmen or its designated agent, the Code Enforcement Officer, shall be further authorized to take whatever action against violators as may be otherwise provided for in NH RSA 676:17, as may be amended.

1600.00 APPEALS

Any person aggrieved from the decision of the Code Enforcement Officer may appeal to the Zoning Board of Adjustment (ZBA) provided that such appeal must be made in writing within thirty (30) days from the date of the order or decision complained of and submitted to the clerk of the Zoning Board of Adjustment. That such appeals may also be taken by any officer, department or bureau of the Town of Lyndeborough affected by any decision of the Code Enforcement Officer. The Code Enforcement Officer shall transmit forthwith to the Zoning Board of Adjustment all of the papers constituting the record upon which the action appealed from was taken. The Zoning Board of Adjustment shall have the power to hear only those matters as set forth in RSA 674:33, as amended.

1700.00 CONFLICT AND SEVERABILITY

If any section of this Ordinance is found to be in conflict with any other section of the Ordinance or with any local, state, or federal regulation, the more stringent standard shall apply. The invalidity, unconstitutionality or illegality of any Section or provision of this Ordinance or of any zoning district boundary shown on the zoning map shall not have any affect upon the validity, constitutionality or legality of any other Section, provision or zoning district boundary. (March 1994)

#230-18 (6-23-2000)

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ADDENDA:

Home Business Application

Home Business Exemption