



Town of Nelson, New Hampshire

Zoning Ordinance

Adopted by voters at Town Meeting March 9, 2004

Amended March 8, 2005

Amended March 14, 2006

Amended March 13, 2007

Amended March 8, 2011

Amended March 8, 2016

Amended March 14, 2017

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ARTICLE 1: PREAMBLE

In pursuance of the authority conferred by Chapter 31, Sections 60-89, New Hampshire Revised Statutes Annotated, 1995, as amended, this ordinance is enacted by the voters of Nelson for the purpose of:

- Supporting and promoting the health, safety, and general welfare of its citizens
 - Securing safety against fire, panic, and other dangers
 - Providing adequate areas between buildings and various rights of way
 - Promoting good civic design and arrangements
- Protecting the value of homes and lands
 - Preserving and protecting the quality of the environment
- Encouraging wise and efficient expenditure of public funds
 - Preventing premature development in the absence of necessary utilities and municipal services
 - Preventing unplanned growth which has no relationship to community needs and capabilities

In the event that any regulations in this Ordinance differ from state or federal regulations governing the conditions, the stricter regulation shall apply.

This ordinance was adopted at the 2004 Annual Town Meeting. This document may be updated periodically as deemed advisable by the Planning Board, and as approved by the voters of the Town of Nelson.

This ordinance was amended at the 2005 Annual Town Meeting, with the definition of "Footprint" added.

This ordinance was amended at the 2006 Annual Town Meeting, with a change in the following: the wording of Article 3:1; the wording of Article 3:7; the addition of a new 5:1.1 and changing the present 5:1.1 to 5:1.2; a change in the wording of Article 5:2; a change in the wording of 7:6.7; a change in wording of 9:2; the addition of 12:2; a change in the wording of the definition of "Footprint" in Article 14; and the addition of Article 15, "Roads."

This ordinance was amended at the 2007 Annual Town Meeting, with Section 6:8, "Junk Yards" added.

This ordinance was amended at the 2011 Annual town meeting, with Section 11:3 Workforce Housing added.

ARTICLE 2: Districts

The entire Town of Nelson is hereby designated as containing two districts: the Rural-Residential District, and the Lake District. The Lake District consists of all land from the shoreline of each lake or pond, as noted below, to a distance 600 feet back from the shoreline of each respective lake or pond. The Rural-Residential District is comprised of all land not included in the Lake District. (The term "shoreline" as used in this Ordinance is understood to be the same as "reference line" as defined by the Shoreland Protection act in RSA 483:B)

The bodies of water determining a location to be within the Lake District are:

- Granite Lake
- Silver Lake
- Center Pond
- Woodward Pond
- Rye Pond
- White Pond
- Nubanusit Lake
- Tolman Pond
- Spoonwood Pond

Property in the Lake District is also governed by State Regulations, including the Shoreland Protection Act.

ARTICLE 3: LOT DIMENSIONS AND SETBACK REQUIREMENTS

3:1 There shall be no new lots created that are less than two acres. Building permits for new dwelling units shall only be issued for lots that are a minimum of two acres. Building permits for dwelling units or other structures, that are on lots of less than two acres, must meet the conditions of Article 10 – "Non-conforming Lots and Structures."

3:1.1 For residential purposes, a two acre lot allows for the building of a single-family residence.

3:1.2 For business purposes other than a home business, a two acre lot allows for one main structure for the business. Additional structures are allowed provided that they are ancillary to the business, and provided that they qualify for and receive a building permit. Please see ARTICLE 6 for additional details regarding businesses regulations.

3:2 There shall be a minimum of 50 foot setback of any structure from the street line.

3:2a There shall be a minimum of 50 foot setback of any structure from the street line.

3:2b Fences and retaining walls shall be set back behind the street line as defined in Article 14.

3:2c No fences or retaining walls shall be constructed in such a way as to block sight lines along any town road so as to create a hazard for the passage of pedestrians and/or vehicles.

3:3 A setback between any structure and any lot line other than a street line shall be 25 feet.

3:4 Structures created prior to the adoption of the original Nelson Zoning Ordinance of 1986, whose setback from street lines or lot lines is less than specified in section 3:2 and 3:3 above, shall be considered non-conforming structures. See ARTICLE 10.

3:5 Each additional detached dwelling unit will require an additional two acres of land, plus an additional 50 feet of road frontage on a Class V or better road.

3:5.1 Neither additional road frontage nor additional lot area shall be required for an Accessory Dwelling Unit, as defined in Article 5:5, that is designed and constructed in compliance with Article 5:5 of this Ordinance.

3:6 Lots of less than five acres must possess at least 200 feet of frontage along a Class V or better road. Additional detached dwelling units per lot shall each require an additional 50 feet of frontage on a class V or better road.

3:6.1 Additional road frontage shall not be required for an Accessory Dwelling Unit, as defined in Article 5:5, that is designed and constructed in compliance with Article 5:5 of this Ordinance.

3:7 All proposed development shall incorporate the principles of good design and land use. The amount of frontage along a Class V or better road may be less than 200 feet provided that:

- It is a condition of the subdivision, and so stipulated on the plat, that only one dwelling unit and one Accessory Dwelling Unit, as defined in Article 5:5, that is designed and constructed in compliance with Article 5:5 of this Ordinance, may be constructed on the entire lot;
- No more than two lots having less than 200 feet of road frontage are created, either in one subdivision, or from land which has been previously subdivided in this manner;
- The minimum lot sizes and setbacks are provided per the table below.

Additionally, in this situation, the total area of the lot(s) with less than 200 feet of frontage must be at least five acres, and it shall be stipulated as a condition of the subdivision (and on the plat) that no more than one dwelling unit and one Accessory Dwelling Unit, as defined in Article 5:5, that is designed and constructed in compliance with Article 5:5 of this Ordinance, may be constructed on the lot.

ARTICLE 3 continued

The permitted minimum road frontage shall be determined by the combination of then lot size and setback of the dwelling unit from the street line, as follows:

If the Lot Size is at Least	And the Distance Between the Dwelling Unit and the Street Line is at Least	Then the Permitted Minimum Road Frontage Shall Be
5 acres	75 feet	180 feet
8 acres	95 feet	160 feet
10 acres	115 feet	140 feet
12 acres	145 feet	120 feet
15 acres	165 feet	100 feet
20 acres	195 feet	75 feet
25 acre	225 feet	50 feet

The issuance of a building permit under these conditions shall be contingent on the Selectmen determining that the safety of the driveway, either existing or to be constructed, will not be decreased as a result of the reduced road frontage. In no case shall the minimum frontage be less than 50 feet.

In the Lake District:

3:8 No lake shore lot shall have less than 200 feet frontage on Nubanusit Lake.

3:9 All other lakes and ponds shall have 150 feet frontage required. There shall be a minimum setback of 25 feet from the shoreline for uninhabited buildings, and a 100-foot setback from the shoreline mark for dwelling units.

3:10 An additional detached dwelling unit shall require an additional 50 feet of shore frontage if the additional detached dwelling is set back more than 250 feet from the shoreline. If the additional detached dwelling is set back more than 100 feet but less than 250 feet from the shoreline, an additional 150 feet of shore frontage is required.

3:10.1 Additional shore frontage shall not be required for an Accessory Dwelling Unit as defined in Article 5:5, that is designed and constructed in compliance with Article 5:5 of this Ordinance.

ARTICLE 4: BUILDING DIMENSIONS

4:1 The vertical distance from the mean finished grade of the ground adjoining the dwelling unit to the highest point of the dwelling unit shall not exceed 40 feet on any given side.

4:2 The vertical distance from the mean finished grade of the ground adjoining structures other than dwelling units to the highest point of the structure shall not exceed 45 feet on any given side.

Exclusions: Portions of a structure such as spires, cupolas, chimneys, and non-commercial antennae whose total height, including support structure, is less than 10 feet, shall not be included in the height measurement.

4:3 No sign, opaque fence, hedge, or similar obstruction shall be permitted to block vision at eye level, two and one-half to eight feet above street grade, between streets within 20 feet or less of their intersections.

ARTICLE 5: BUILDING AND SITE CHARACTERISTICS

5:1 No structure shall be erected or externally altered without a building permit having been issued by the Selectmen. No such permits shall be issued for construction in violation of any provision of this Ordinance.

5:1.1 A building permit shall be required when changing the outside dimensions of a house, even when staying within the footprint. (eg. – the addition of a dormer, or increasing the height of the roof.)

5:1.2 Exclusions: Detached structures such as dog houses, garden sheds, or other utilitarian structures, not used for dwelling, with a covered area of less than 100 square feet, shall not require a building permit, however such structures must abide by the setback requirements defined in this ordinance.

5:2 Applications for building permits shall be accompanied by an accurate drawing showing the dimensions of the lot, the location and size (including height) of any existing and proposed structures, streets, right of ways and streams within or adjacent to the lot. Parking areas for vehicles and any required screening shall also be shown.

5:3 The Town of Nelson recognizes manufactured, modular, and mobile homes as buildings and, when used for such, as dwelling units. Such buildings are subject to the same criteria as any other buildings for the purposes of this Ordinance, including the application for and issuance of a building permit.

5:4 Site Design. The site design shall make the most effective use reasonably possible of the site Topography, existing landscaping, and structure placement so as to preserve existing trees and natural features, minimize disruption of existing vistas and water views, and minimize intrusion into the character of existing development.

5:5 Accessory Dwelling Units

5:5.1 Definitions: As used in this article , the following terms shall have the meaning indicated:

Accessory Dwelling Unit- An "accessory dwelling unit" or "ADU" is a residential living unit that is within or attached to a single-family dwelling, and 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.

Lot Coverage- The percentage determined by dividing (a) the area of a lot covered by the total (in square feet) of: (1) the footprint of the main building; and (2) the footprints of accessory buildings and (3) parking pads and driveways; by (b) the gross area of the lot.

5:5.2 Provisions

An accessory dwelling unit (ADU) shall be permitted in all zoning districts that permit single family dwellings. All of the following criteria must be met in order for the Select Board to approve the construction of an Accessory Dwelling Unit.

- a. Only one (1) ADU shall be permitted for each single-family dwelling. The application for the building permit for the ADU must certify that the structure is to be used as an ADU and clearly identify its size and its location relative to the boundaries of the property. The certification, that the structure is an ADU, shall be recorded at the Registry of Deeds upon approval of the building permit.
- b. Either the ADU or the principal dwelling unit shall be the principal residence and legal domicile of the owner of the property.
- c. The ADU must provide independent living facilities for one or more persons containing the four elements of sleeping, eating, cooking and sanitation and comply with all State standards for water supply and sewage disposal. See Section 5:5.2h.
- d. The ADU shall have an independent means of ingress and egress, or shall have ingress and egress through a common space such as a shared hallway to an exterior door.
- e. The ADU shall be attached to the principal dwelling unit. In order to be an ADU there must be a common wall, with a connecting door, between the principal dwelling unit and the ADU.
- f. The habitable floor area of the ADU shall not exceed 800 square feet.
- g. An ADU shall be provided with a minimum of one (1) off-street parking space.
- h. An ADU shall make provision for adequate water supply and sewage disposal service in compliance with RSA 485-A:38 and regulations adopted by the New Hampshire Department of Environmental Services.
- i. Lot Coverage for all properties, both those with and those without ADU's shall not exceed 25%.

5:5.3 Minimum Lot Dimension Requirements: An attached ADU shall not be required to meet additional lot area requirements other than already provided for the principal dwelling unit. An ADU shall comply with all lot setback requirements.

5:5.4 Discontinuance: A property owner shall notify the Board of Selectmen in writing of discontinuance of an Accessory Dwelling Unit, including by reason of the failure of the property owner to reside on the property as a principal residence and domicile. The failure of the property owner to maintain the right to use the Accessory Dwelling Unit shall be a violation of the Zoning Ordinance for which the Board of Selectmen shall have the rights and remedies under RSA 676 and the Zoning Ordinances.

ARTICLE 6: PERMITTED USES OF PROPERTY

6:1 Property may be used for residential purposes

6:1.1 There shall be no unusual visual, auditory, light, or air quality impact, or other environmental impact creating a disturbance on an ongoing basis.

6:2 Growing of agricultural products.

6:2.1 Roadside stand for sale of agricultural products grown on the premises.

6:3 Home Occupations: Use conducted entirely within the dwelling and carried on by an inhabitant of the dwelling, which is clearly incidental and secondary to the use of the dwelling for living purposes, and which does not change the character thereof. Home occupations shall not include the regular employment of a non-resident of the premises.

6:4 Home Businesses:

6:4.1 Such business will not employ more than three persons who are not residents of the premises.

6:4.2 There shall be no exterior indication of non-residential activity other than a permitted Sign (See ARTICLE 8).

6:4.3 There shall be no unusual visual, auditory, light, or air quality impact, or other environmental impact that would significantly differentiate this business from normal domestic activity.

6:4.4 The additional traffic resulting from a Home Business will not exceed 3 vehicles per hour on average during business hours.

Examples of home businesses include, but are not limited to: woodworking, metalworking, upholstery, pottery, and weaving.

6:5 Commercial Businesses

Any business which exceeds the conditions of a Home Business shall be defined as a commercial business. A commercial business requires a special exception from the Zoning Board of Adjustment. Upon receiving a special exception, the Business will qualify for a business permit to be issued by the Selectmen.

Applicants will be expected to submit details regarding anticipated traffic impact, how they will accommodate off-street parking, potential environmental impact (visual, auditory, and ecological), and intended hours of operation. The permit will apply only to the business as described, and will not be transferable to other types of business operations which are significantly different.

6:5.1 Earth Removal. The removal of sod, loam, sand and gravel, mineral aggregate or rock

from any premises shall be allowed only by Permit from the Planning Board pursuant to the provisions of Chapter 155-E, N.H. Revised Statutes Annotated. Such Permit shall require restoration of removal areas through re-grading, replacement of topsoil, and planting, and shall not allow removal to create hazards or destroy future utility of the land.

6:5.2. Sawmills and Logging. All applicable state regulations respecting sawmill and logging operation shall be followed.

6:5.3 Raising or harboring of animals for profit shall be limited as follows:

6:5.3.1 Housing. Structures for housing animals for commercial purposes shall not be within 50 feet of a street line, 100 feet of any other property line or 200 feet of any residence not on the premises.

6:5.4 Uses likely to generate more than 25 auto trips per hour to and from the premises in the busiest hour of the day, in the month with the highest average use, shall be permitted only on Class II or better roads. Such roads would include portions of Granite Lake Road, and Nelson Road between the intersection of Henderson and Murdough Hill Roads, and Granite Lake Road.

6:5.5 Businesses which this Ordinance defines as a commercial, where such use has existed prior to the adoption of this Ordinance, shall not be required to obtain a permit. This exception applies only to an existing use; if the type or nature of the use is altered, then a special exception and a business permit will be required, as noted above. The Selectmen have the authority to enforce any State Regulations concerning health, fire, safety, or environmental regulations on any property where such regulations are being violated.

6:6 Apartments and Rental Property

6:6.1 Dwelling units may be added for the purpose of rental or in-law apartments. Such additions require a building permit and must be in compliance with the terms of this Ordinance.

6:6.2 Property owners may apply to the Zoning Board of Adjustment for a variance if a proposed addition does not meet the terms of this Zoning Ordinance. Special consideration will be given to in-law apartment-type situations where it can be demonstrated that the additional dwelling unit will not produce a significant impact on traffic, demand for school services, or other town services.

6:6.3 The selectmen have the authority to intervene, at the request of a tenant, to enforce minimum housing standards in accordance with the State of New Hampshire RSA Chapter 48 – A:14.

6:6.4 The Selectmen have the authority to enforce any State Regulations concerning health, fire, safety, or environmental regulations on any rooms or separate dwelling units rented for short-term use, such as a bed and breakfast, motel, or seasonal cabins. Rental situations such as motels, where the impact exceeds the definitions of a home business, will be considered commercial businesses, and will be required to meet the regulations for commercial business as defined by this Ordinance.

6:6.5 All rental property must meet current fire-safety code standards, and must be in compliance with the State of New Hampshire Department of Environmental Services septic regulations, and with any other relevant state or federal regulations.

6:7 Sanitation: Any changes to lots or structures likely to increase the sewerage load, such as the

addition of a bedroom or the conversion of a seasonal dwelling to year-round use, shall require evidence of prior approval by such State agencies as may be required by law.

6:8 Junk Yards: The Town of Nelson shall regulate the existence of junk yards in accordance with New Hampshire RSA 236:111-129

ARTICLE 7: VEHICLES AND TRAFFIC

7:1 All parking demand created by new structures or uses, additions to existing structures or uses, and change of use in existing structures shall be accommodated on the premises entirely off-street. This will require two parking spaces for the primary dwelling unit. One additional parking space is required for:

- 7:1.1 Each additional dwelling unit.
- 7:1.2 Each employee of a business, other than a family member
- 7:1.3 Each motel or other commercial guest unit (such as a B&B)
- 7:1.4 Each 150 square feet of retail store space

7:2 Off-street parking areas shall be designed in such a way that cars are parked at least ten feet from the street line. In no case shall a new parking area require the backing into a public way.

7:3 Motorized campers and camping trailers may be occupied by nonpaying guests accessory to a residence up to 120 days in any calendar year.

7:4 The egress for new driveways, or modifications to the egress for existing driveways, must be designed in consultation with the Selectmen and the Road Agent. When the plan has been approved, the Selectmen shall issue a permit for the driveway egress. One egress is permitted per dwelling unit unless a second egress can be created a minimum of 300 feet from the primary egress. Where there is more than one dwelling unit per lot, shared egress shall be encouraged unless the second egress is a minimum of 300 feet from the first.

7:5 An egress likely to be used more than 100 times per day shall provide 250 feet all-season safe-sight distance visibility in each travel direction on a Class V road and shall provide 400 feet of visibility on a state road.

7:6 All driveway construction shall conform to the following specifications, unless a special exception is granted as provided in this Ordinance:

7:6.1 Driveways shall be 30 feet wide at their intersection with the road, and for a distance of at least 20 feet from that point.

7:6.2 Driveways shall be constructed to slope away from the road's surface at a grade of one-half inch per foot for a distance of at least ten feet back from the ditch line.

7:6.3 Driveways shall intersect the road at an angle of 90 degrees, unless the driveway is located at the end of a road.

7:6.4 In cases where the road is paved, the driveway must be paved for a distance of at least 10 feet from its intersection with the road.

7:6.5 There shall be unobstructed visibility from the driveway's intersection with the road for at least 100 feet in each direction along the road in all seasons of the year.

7:6.6 Driveways shall not interrupt the natural or ditch-line flow of water. Appropriately sized culverts (15 inches minimum diameter) shall be installed and maintained by the landowner in locations deemed necessary by the Town. In cases where a shallow ditch line or natural drainage courses already exist, an alternative drainage plan better suited to the driveway's location may be permitted.

ARTICLE 7 Continued

7:6.7 A driveway may not serve more than four dwelling units. Special exceptions may be applied for with the Zoning Board of Adjustment which may, with the recommendation of the Road Agent and Selectmen, approve such an exception in the case of apartments or condominiums, or other situations where it can be demonstrated that such an exception represents a superior solution.

7:7 Special exceptions to the above specifications may be approved by the Planning Board (if a new subdivision) or by the Zoning Board of Adjustment (if an existing lot):

7:7.1 if the resulting driveway would promote proper drainage, be better suited to the topography and location, and permit a safe and controlled access to and from the road, in all seasons of the year, under projected local road and traffic conditions, OR

7:7.2 if strict compliance would preclude access to a pre-existing lot of record.

7:7.3 In determining if the above criteria for a special exception exists, the appropriate board may require an on-site inspection and recommendation by the Nelson Road Agent and/or other qualified experts. Based on their findings, the appropriate board may require, as a condition of approval, that the landowner comply with such terms and conditions as may be necessary to protect public safety and preserve abutting property.

7:7.4 The terms and conditions of all special exceptions granted under this Ordinance shall be described fully on the final plat prior to subdivision approval (for new subdivisions), and on all permits.

7:7.5 Landowners failing to comply with this Ordinance, or with the conditions specified on any subdivision plat or permit issued hereunder, shall be liable for all costs incurred by the Town of Nelson to correct the non-conformance and restore the road and right-of-way to their pre-existing condition.

ARTICLE 8: SIGNS

Signs promoting products, accommodations, or services on the premises are permitted as follows:

8:1 One freestanding sign, plus one sign mounted on a building is allowed per business.

8:2 No building sign shall project above the roof or exceed 15% of the area of the wall to which it is attached. No freestanding sign shall exceed 16 square feet.

8:3 Signs shall not be located upon the roof of any building.

8:4 Signs shall be placed so as not to obscure a driver's vision, as per sections 4:3 and 7:6.5 of this Ordinance.

8:5 Unlighted directional signs of two square feet or smaller are not limited, nor are subsidiary signs such as travel club and credit card signs if incorporated within an approved on-premise sign framework.

8:6 No sign shall flash or move, or cause glare on any public way or adjoining property, or be illuminated between the hours of 11:00 PM and 7:00 AM.

8:7 Signs whose content does not relate exclusively to the premises on which they are located, or to products, accommodations, services, or activities on those premises:

8:7.1 Shall not exceed 10 square feet.

8:7.2 Shall not be more than 12 feet off the ground.

8:7.3 Shall not be located on the roof of any building.

8:7.4 Shall not obscure a drivers' vision (see 8:4, above).

8:7.5 Shall be placed only with the permission of the landowner.

8:7.6 In the event that such a sign is intended to be placed in a public right-of-way, such as at a road intersection, the owner of the sign must secure permission of the Selectmen to place the sign.

8:8 Temporary signs must be located so as not to interfere with traffic visibility (see 8:4 above) and must not create a safety concern. Temporary signs must comply with the size limitations defined in 8.2, above.

8:8.1 Temporary signs for events may be displayed no more than two weeks before the event, and must be removed immediately following the event. This does not include small posters on established bulletin boards.

8:8.2 Temporary signs for other purposes, such as fundraising, shall also be subject to the size and safety regulations referred to in this article. Such signs may be displayed for up to three months, and shall bear the name and phone number of the person to be if there is a concern about the sign. Temporary signs may remain longer than three months pending approval of the selectmen. Their decision shall be based on whether the public is served by the purpose which the sign represents.

ARTICLE 9: ENVIRONMENTAL CONTROLS

9:1 Disturbances. No use shall be allowed if it will cause sound, noise, vibration, odor or flashing perceptible without instruments more than 200 feet from the boundaries of the originating premises, except for warning devices, construction work, maintenance or other special circumstances of a temporary nature.

9:2 Pollution.

9:2.1 No sewage effluent leaching field shall be located within 100 feet of the normal bank of any year-round stream or of any pond. All requirements of the New Hampshire Water Supply and Pollution Control Commission shall be strictly complied with by all users, and evidence of compliance shall be required in issuing permits. Satisfying health requirements may, in some cases, require land area in excess of the minimum requirements of this Ordinance.

9:2.2 Landowners are responsible for any types of pollution to land, air and water that are a result of activity or negligence. Such pollution includes, but is not limited to, the burning of toxic substances, or the release of contaminants such as oil or gasoline into the ground or water. The Selectmen will have the responsibility to report any polluting activity to the New Hampshire Department of Environmental Services, who may require corrective action and issue penalties.

9:3 Screening. Open storage and loading or service areas shall be screened from any adjacent dwelling or public way by plantings and/or fencing. Junk, trash or debris shall be confined out of sight of any roadway or adjacent property.

9:4 Hazard. No use shall be allowed which would create hazard due to explosion, fire, or other causes. Potentially hazardous conditions shall be fenced, covered, or otherwise rendered safe. Toxic waste dumping and storage is specifically prohibited.

9:5 Junk Yard. Junk yards shall be screened from the road by plantings and/or fencing. The Selectmen shall have the authority to remove, at the owner's expense, any junk-yard contents which are not concealed from view, or whose condition is such that oil or other toxic wastes are being released into the soil.

9:6 The Selectmen shall have the authority to remove, at the owner's expense, any vehicle, machinery, storage container, or any other item whose condition is such that oil or other toxic wastes are being released into the soil. The Selectmen shall likewise have the authority to close any business, or to otherwise require the termination of any activity which is resulting in the release of toxic substances into the soil, or water.

ARTICLE 10: NON CONFORMING LOTS AND STRUCTURES

10.1 A building permit for nonconforming structures to be modified or expanded may be granted by the Selectmen provided that:

10.1.1 The proposed changes would not extend the structure closer to a lot line whose distance from the existing structure is already less than the minimum setback requirements of this Ordinance.

10.1.2 The proposed changes would not result in a non-conforming use which is new or substantially different from the structure's existing use;

10.1.3 The proposed changes would not adversely impact or diminish the value of abutting property or the neighborhood, or create a hazard to individual or public health, safety, or welfare;

10.1.4 The proposed changes would conform with all other provisions of this Ordinance, and with such other Town regulations as may apply.

10.1.5 If it is not clear to the Selectmen that the above conditions have been met, or are achievable, they may reject the application for a building permit. The applicant may then apply to the Zoning Board of Adjustment for a variance.

10:2 Restoration of Non-Conforming Structures. Unless otherwise prohibited by law, and upon the granting of a building permit from the Selectmen, non-conforming structures lawfully existing prior to the effective date of this Ordinance may be reconstructed, provided that the proposed reconstruction:

10:2.1 Would not result in a non-conforming use which is new or substantially different from the structure's pre-existing use;

10:2.2 Would conform with all other provisions of this Ordinance, and with such other Town regulations as may apply;

10:2.3 Would be completed within three years of the date that the pre-existing structure was either destroyed (in the event of fire or other accidental or natural catastrophe) or deliberately torn down and removed.

10:2.4 If it is not clear to the Selectmen that the above conditions have been met, or are achievable, they may reject the application for a building permit. The applicant may then apply to the Zoning Board of Adjustment for a variance.

10:3 Abandonment. A nonconforming use that has been abandoned for a period of one year or more shall not be reestablished, and any future use of the premises shall conform with this Ordinance.

10:4 Lots of less than two acres, or which lack the required amount of road frontage on a Class V or better road, shall be considered non-conforming lots. Structures on non-conforming lots may be improved, modified, or replaced, pending the issuance of a building permit by the Selectmen.

Article 10 Continued

10:5 Sanitation: Any changes to a conforming or nonconforming lot or structure likely to increase the sewerage load, such as the addition of a bedroom or the conversion of a seasonal dwelling to year-round use, shall require evidence of prior approval by such State agencies as may be required by law.

10:6 Nonconforming uses. Any use not conforming with this Ordinance may be continued if the use was lawfully existing at the time that it became nonconforming. The Selectmen shall have the authority to forbid any pre-existing nonconforming use which is in violation of current state or federal environmental laws, or which otherwise represent a safety or health hazard to the community.

10:6.1 Any change in nonconforming use must, in the judgment of the Selectmen, be no less conforming. Should the Selectmen feel they are not able to determine whether a use is less conforming or not, they shall have the authority to refer the case to the Zoning Board of Adjustment, which may require a public hearing on the matter.

10:7 Changes in Non-Conforming Use. Unless otherwise prohibited by law, and upon the granting of a special exception by the Zoning Board of Adjustment, one non-conforming use may be changed to another non-conforming use, if:

10:7.1 - the proposed new use would comply to a greater extent with the provisions of this Ordinance than the pre-existing use; OR

10:7.2 - the proposed new use would not adversely impact or diminish the value of abutting property or the neighborhood, create a hazard to individual or public health, safety, or welfare; or violate any other provisions of this Ordinance.

ARTICLE 11: ALTERNATIVE DEVELOPMENT

11:1 Alternative development and other methods of preserving open space are specifically allowed. Alternative development will require that the landowner provide a minimum of 2 acres per dwelling unit. In the determination of such additional acreage requirement, wetlands shall not be calculated. Under such development plan, individual lot size may, at the discretion of the Planning Board, be less than two acres, but only in such circumstances as ownership of additional land held in common, and adjacent to the subject lot provides a minimum of two acres per dwelling unit.

11:2 Such alternative development shall be granted only where the Planning Board finds that such development will be superior to conventional development in preserving open space for conservation or recreation, utilizing natural features of the land, and allowing more efficient provision of public services; and at least equal to a conventional plan in other respects.

11:3 Workforce Housing: Nelson shall not prohibit reasonable and realistic opportunities for affordable workforce housing to the extent permitted by the Nelson Zoning Ordinance, or as required by RSA 674:59 using whichever standard is more favorable to such opportunities. (adopted March 2011 at Town Meeting)

ARTICLE 12: PRIVATE ACCESS

12:1 Because of the value to the preservation of the unique character of the town, and because of the rough topography of the land, private access to dwellings which lack frontage on Class V or state roads is not specifically prohibited. However, for private access to be allowed in such case, each of the following conditions must be met:

12:1.1 The private access shall have a fifty foot right of way on a Class V or better road, deeded with the land to be developed, and of such nature in respect to grade and curvature as to allow tandem axle truck access and turn-around. The Planning Board may require a registered engineer's survey to be completed before consideration of an application under this section.

12:1.2 There shall be a minimum of 25 acres per dwelling unit on any such private access (i.e., to a site which lacks road frontage).

12:1.3 The plan identifying such lot(s) shall clearly indicate on it the private character of said access, and shall be so recorded.

12:1.4 Planning Board approval for any such lot(s) is conditional upon the landowner's recording of a deed restriction in perpetuity guaranteeing the private character of said access. Such guarantee shall indicate that the town neither assumes responsibility for maintenance of said access, nor liability for any damages resulting from the use thereof. Prior to the issuance of a building permit the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the Cheshire County Registry of Deeds.

12:2 The meeting of each of the above conditions does not guarantee that a subdivision is qualified for approval. The Planning Board must determine that such development will be superior to conventional development in preserving open space for conservation or recreation, utilizing natural features of the land and allowing more efficient provision of public services; and at least equal to a conventional plan in other respects.

ARTICLE 13: ADMINISTRATION AND PROCEDURE

13:1 This Ordinance shall be administered by the Board of Selectmen.

13:2 Any person violating any of the provisions of this Ordinance shall be fined an amount up to the maximum allowed by applicable state law for each offense. Each day that violation continues shall constitute a separate offense. The Selectmen may require that an applicant for a facility whose future compliance with performance standards in this Ordinance is questionable furnish evidence of probable compliance, whether by example of similar facilities or by engineering analysis. Issuance of a permit on the basis of that evidence shall certify the town's acceptance of the conformity of the basic structure, and equipment changes and operation procedures must be such as to comply with these standards.

13:3 The Town of Nelson shall provide a Zoning Board of Adjustment whose function is to consider requests for special exceptions for any proposed changes to property (land or structures) which do not meet the conditions of this Ordinance.

13:3.1 The Zoning Board of Adjustment shall consist of five elected members, plus three alternate members, who shall be appointed by the Selectmen.

13:3.2 The Zoning Board of Adjustment shall have and exercise all the powers granted to it by RSA 674:33, and by this Ordinance. Those powers are to hear and decide appeals, to hear and decide applications for Special Exceptions as provided for in this Ordinance, and to authorize variances from the requirements of the Ordinance, consistent with the requirements of RSA 674:33(b).

13:4 The procedures and actions of the Zoning Board of Adjustment are governed by Chapter 673 of the State of New Hampshire Revised Statutes Annotated.

13:5 Amendments

This Ordinance may be amended from time to time at an annual or special town meeting by majority vote, as provided in RSA 675.

13:6 Separability

The invalidity of any section or provisions of this Ordinance shall not invalidate any other section or provisions of this Ordinance.

13:7 Applicability

Where the application of this Ordinance imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this Ordinance shall control.

13:8 Adoption

With the adoption of this Ordinance, all prior zoning ordinances of the Town of Nelson shall be superceded.

13:9 Numbering and Titles.

The Planning Board shall have the authority to re-number the sections of the Ordinance and modify the wording of section titles in order to improve the sequence and clarity of their printed format.

ARTICLE 14: DEFINITIONS

In this Ordinance the following terms shall have the following meanings, unless a contrary meaning is required by the context or is specifically prescribed. In the event that a term not included in these definitions is not clear in the context of a subdivision application, building permit application, or any other interaction between a property owner and town officials, the participants of the discussion will consult a standard comprehensive dictionary for the purpose of arriving at an agreed-upon definition.

Building (see end of section)

Building Height - The vertical distance from the mean finished grade of the ground adjoining the building to the highest point on the roof for flat or shed roofs, to the deck line for mansard roof, and to the mean height between eaves and ridges for gable, hip and gambrel roofs. Not included are spires, cupolas, TV antennae, or other part of structures which do not include potentially habitable floor space.

Camper - A portable dwelling, eligible to be registered and insured for highway use, designed to be used for travel, recreational and vacation uses, but not for permanent residence. This shall include equipment commonly called travel trailers, pick-up coaches or campers, motorized campers, and tent trailers, but not mobile homes.

Dwelling (see end of section)

Dwelling Unit (see end of section)

Family - Any number of individuals related by blood or marriage, or not more than four persons not related, living and cooking together in a single housekeeping unit.

Floor Area - The total of the interior area on all floors of a building excluding basements 50% or more below grade or areas with less than six feet ceiling height.

Footprint - The horizontal area as seen in the plan view, measured from outside of all exterior walls and support columns. It includes residences, garages, covered carports and accessory structures, but not trellises, patios, courtyards and areas of porches, decks and balconies. In the absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projection of the roof. Unattached stone steps and patios are considered landscaping and are not included in the footprint.

Junk Yard - A collection of three or more unregistered vehicles, or parts of vehicles, or unused machinery or appliances that have remained on the property for more than three months.

Lot - A continuous parcel of land in single ownership, with legally definable boundaries.

Non-conforming structure - A structure which does not conform with the current dimensional, setback, site design, and/or environmental provisions of this Ordinance, or with any other provision of the Ordinance by reason of the structure's existing physical characteristics or location.

Premises - A lot plus any structures thereon.

Article 14 Continued

Street Line - A street line shall be defined by the location of an established stone wall bordering the road, such wall being clearly an indication of the original right-of-way. In the absence of a stone wall, a right of way documented by a lawfully registered survey may serve to indicate the location of the street line. In the absence of either a stone wall or a right of way documented by a survey, the street line shall be 20 feet from the center of the road.

Structure - Any man-made thing constructed or erected, the use of which requires fixed location on the ground, or attachment to something located on the ground, including but not limited to:

- 1 swimming pools having capacity of 4,000 gallons or more
- 2 fuel tanks or other storage tanks in excess of 1000 gallons capacity
- 3 satellite dishes or antennae and support structures for such devices

but not including:

- 1 paving
- 2 usual lawn accessories
- 3 fences or retaining walls

Building – A structure containing roof and/or walls

Dwelling – A building intended as a place for people to live. Any structure containing one or more dwelling units.

Dwelling unit – A building or portion of a building which is equipped in such a way as to be self-contained relative to kitchen and bathroom facilities, designed for a single family plus not more than four boarders.

ARTICLE 15: ROADS

This document makes references to Class V, and Class V or better roads. Within this document the term "or better" refers to lower numbers (Class I – IV). The term Class V does not refer to a standard of construction. The following explains New Hampshire's Highway classification system, and is provided from A Hard Road to Travel, published by New Hampshire's Local Government Center. The highway system in New Hampshire is broken down into seven distinct classes. They are I, II, III, III-a, IV, V and VI. Class I, II and III highways are state highways, controlled and maintained by the New Hampshire Department of Transportation (DOT), except for the "unimproved" sections of Class II highways, which are still maintained by towns. Class I and II highways are laid out by a commission appointed by the governor and council. RSA 230:8. Class III-a highways are state boating access highways under the authority of the New Hampshire Fish and Game Department. Class IV, V and VI are local highways. Class IV are highways within the urban compact section of a city or town. Urban compact sections are designated by the NH DOT, and are restricted to certain cities and towns, of which Nelson is not one. Class III roads are state controlled boating access roads.