**PUBLIC HEARING**

**Bethlehem Planning Board**

**Wednesday, January 4, 2023, 6:00 p.m.**

**Hybrid Meeting In-Person/Zoom**

**The Bethlehem Planning Board will hold a public hearing at the Town Hall on Wednesday, January 4, 2023, at 6:00 p.m. to receive public comment on the following amendments proposed for the Zoning Ordinance of the Town of Bethlehem, New Hampshire.**

Proposed Amendment No. 1 would make revisions throughout the Zoning Ordinance to clarify, update, and correct terminology; improve consistency; make editorial corrections; update agency references; remove redundant, unused and unneeded language; improve organization of the document; conform with state laws and court decisions such as regarding accessory dwelling units, signs, and the Zoning Board of Adjustment; and incorporate the stand-alone wind energy ordinance adopted in 2011. Also renumber document accordingly after making changes and incorporating any additional amendments approved by voters.

Proposed Amendment No. 2 would update language in Article XIV Floodplain Development and Article XXI Definitions as required for continued participation in the National Flood Insurance Program.

Proposed Amendment No. 3 would update language in Article II General Provisions and Article XI Multi-Family Dwelling Unit Development in order to make the parking requirements in the Zoning Ordinance consistent with the requirements in the recently updated Site Plan Review Regulations. Detailed requirements would be removed from the Zoning Ordinance and the requirements contained in the Site Plan Review Regulations would be included by reference.

Proposed Amendment No. 4 would add Home Businesses as a Permitted Use (Article V), accessory to any dwelling (Article XXI Definitions), with an application to the Planning Board for Site Plan Review required when the public or certain types of impacts are involved (Article II General Provisions).

Proposed Amendment No. 5 would amend Article IV Nonconforming Uses, Structures, and Lots to allow nonconforming lots to be developed if setbacks can be met and water and wastewater rules met, and would give the Zoning Board of Adjustment the ability to grant Special Exceptions to allow expansion of nonconforming uses under certain conditions.

Proposed Amendment No. 6 would amend Article V Zoning Districts and Uses to bring the Zoning Ordinance into compliance with the provision of RSA 674:32 Manufactured Housing which prohibits requiring a Special Exception for manufactured homes on individual lots unless a Special Exception is also required for single family homes.

Proposed Amendment No. 7 would replace existing language in Article VI Signs with language from the recently updated Site Plan Review Regulations for consistency.

The public can participate in this hearing either in person or by Zoom videoconference by following the link found on the Town of Bethlehem website bethlehemnh.org. The complete text of the amendments is available for review on the Town website and in the Planning and Zoning Office at the Bethlehem Town Hall during regular business hours. Written comments must be received by the hearing to be considered. Mail to: Bethlehem Planning Board, P.O. Box 189, Bethlehem, NH 03574.

**PROPOSED AMENDMENT No. 1**

**For Public Hearing on Wednesday January 4, 2023**

**This amendment would make revisions throughout the Zoning Ordinance to clarify,**

**update, and correct terminology; improve consistency; make editorial corrections; remove**

**redundant, unused and unneeded language; improve organization of the document;**

**conform with state laws and court decisions such as regarding accessory dwelling units,**

**signs, and the Zoning Board of Adjustment; update agency references; and incorporate the**

**stand-alone wind energy ordinance adopted in 2011.**

**Also renumber document accordingly after making changes and incorporating any**

**additional amendments approved by voters.**

**Showing proposed additions like this,**

**and proposed deletions like this.**

**Article XIV Floodplain Development**

The following regulations shall apply to all lands designated as s special flood hazard areas by the

Federal Emergency Management Agency in its “Flood Insurance Study for Grafton County of

N.H., dated February 20, 2008 or as amended, together with the associated Flood Insurance Rate

Maps dDated February 20, 2008 or as amended,, April 15, 1986, which are declared to be a part

of this regulation and are hereby incorporated by reference. If any provision of this **o**rdinance

differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or

regulation, the provision imposing the greater restriction or more stringent standard shall be

controlling.

**ITEM I.**

All proposed development in any special flood hazard areas shall require a permit.

**ITEM II.**

The building inspector shall review all building permit applications for new construction or

substantial improvements to determine whether proposed building sites will be reasonably safe

from flooding. If a proposed building site is in a flood-prone area, all new construction and

substantial improvements shall:

1. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral

movement of the structure resulting from hydrodynamic loads, including the effects of

buoyancy,

2. Be constructed with materials resistant to flood damage,

3. Be constructed by methods and practices that minimize flood damages, and;

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4. Be constructed with electrical heating, ventilation, plumbing, and air conditioning

equipment and other service facilities that are designed and/or located so as to prevent

water from entering or accumulating within the components during conditions of flooding.

**ITEM III.**

Where new and replacement water and sewer systems (including on-site systems) are proposed in

flood prone areas the applicant shall provide the Building Inspector with assurance that new and

replacement sanitary sewage systems will be designed to minimize or eliminate infiltration of flood

waters into the systems and discharges from systems into flood waters, and on-site waste disposal

systems will be located to avoid impairment to them or contamination from them during periods

of flooding.

**ITEM IV.**

The building inspector shall maintain for public inspection, and finish upon request, any

certification of flood proofing and the as built elevation (in relation to mean sea level) of the lowest

floor (including basement) of all new or substantially improved structures, and include whether or

not such structures contain a basement. If the structure has been flood proofed, the as built

elevation (in relation to mean seal level) to which the structure was flood proofed. The applicant

must furnish this information.

**ITEM V.**

The building inspector shall review proposed developments to assure that all necessary permits

have been received from those governmental agencies from which approval is required by Federal

or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of

1972, 33 U.S.C 1334. It shall be the responsibility of the applicant to certify these assurances to

the Building Inspector.

**ITEM VI.**

In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such

authorization shall notify the Wetlands Bureau of the New Hampshire Environmental Services

Department and submit copies of such notification to the Building Inspector, in addition to the

copies required by the RSA 482-A: 3. Further, the applicant shall be required to submit copies of

said notification to those adjacent communities as determined by the Building Inspector, including

notice of all scheduled hearings before the Wetlands Bureau.

Within the altered or relocated portion of any watercourse, the applicant shall submit to the

Building Inspector, certification provided by a registered professional engineer assuring that the

flood carrying capacity of the watercourse can and will be maintained.

Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new

construction, substantial improvements, and other development are allowed within the floodway

unless it has been demonstrated through hydrologic and hydraulic analyses performed in

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accordance with standard engineering practices that the proposed encroachment would not result

in any increase in flood levels within the community during the base flood discharge.

Until a Regulatory Floodway is designated along watercourses, no new construction, substantial

improvements, or other development (including fill) shall be permitted within Zone AE on the

FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed

development, when combined with all existing and anticipated development, will not increase the

water surface elevation of the base flood more than one foot at any point within the community.

The Building Inspector shall obtain, review, and reasonably utilize any floodway data available

from Federal, State, or other sources as criteria for requiring that all development located in Zone

A meet the following floodway requirement:

“No encroachments, including fill, new construction, substantial improvements, and other

development are allowed within the floodway that would result in any increase in flood levels

within the community during the base flood discharge.”

**ITEM VII.**

1. In special flood hazard areas the Building Inspector shall determine the 100 year base flood

elevation in the following order of precedence according to the data available

a. In Zone AE, refer to the elevation data provided in the community’

Flood Insurance Study and accompanying FIRM.

b. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any 100-

year base flood elevation data available from any federal, state or other source including

data submitted for development proposals submitted to the community (i.e. subdivisions,

site approvals). Where a base flood elevation is not available or not known for Zone A, the

base flood elevation shall be determined to be at least 2 feet above the highest adjacent

grade.

2. The Building Inspector's 100 yearbase flood elevation determination will be used as criteria

for requiring in **Zone(s) A and AE** that:

A. ALL new construction and substantial improvements of residential structures have the lowest

floor (including basement) elevated to or above the 100-yearbase flood level.

B. That all new construction and substantial improvements of non-residential structures have the

lowest floor (including basement) elevated to or above the 100 yearbase flood level: or together

with attendant utility and sanitary facilities, shall:

1. Be flood proofed so that below the 100 year flood elevation the structure is watertight with

walls substantially impermeable to the passage of water;

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2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and

hydrodynamic loads and the effects of buoyancy; and:

3. Be certified by a registered professional engineer or architect that the design and methods

of construction are in accordance with accepted standards of practice for meeting the

provisions of this section.

C. ALL manufactured homes to be placed or substantially improved within special flood hazard

areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured

home is at or above the base flood level; and be securely anchored to resist floatation, collapse, or

lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top

or frame ties to ground anchors. This requirement is in addition to applicable state and local

anchoring requirements for resisting wind forces.

D. For all new construction and substantial improvements, fully enclosed areas below the lowest

floor that are subject to flooding are permitted providing the enclosed areas meet the following

requirements:

1. The enclosed area is unfinished or flood resistant, useable solely for parking of vehicles,

building access or storage.

2. The area is not a basement.

3. Shall be designed to automatically equalize hydrostatic flood forces on exterior walls by

allowing for entry and exit of floodwaters. Designs for meeting this requirement must

either be certified by a registered professional engineer or architect or must meet or

exceed the following minimum criteria: A minimum of two openings having a total net

area of not less than one square inch for every square foot of enclosed area subject to

flooding shall be provided. The bottom of all openings shall be no higher than one foot

above grade. Openings may be equipped with screens, louvers, or other coverings or

devices provided that they permit the automatic entry and exit of floodwaters.

E. ALL recreational vehicles placed on sites within Zone A **or Zone AE** shall either:

1. Be on the site for fewer than 180 consecutive days;

2. Be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect

type utilities and security devices, and have no permanently attached additions and ready

for highway use; or

3. Meet all standards of this OrdinanceSection 60.3 (b) (1) of the National Flood Insurance

Program Regulations and the elevation and anchoring requirements for "manufactured

homes" in this OrdinanceParagraph (c) (6) of Section 60.3.

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**ITEM VIII. VARIANCES AND APPEALS:**

**1. The Zoning Board of Adjustment shall notify the applicant in writing that:**

1. The issuance of a variance to construct below the base flood level will result in

increased premium rates for flood insurance up to amounts as high as $25 for $ 100

of insurance coverage and;

2. Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.

1. Any order, requirement, decision or determination of the Building Inspector made

under this Ordinance may be appealed to the Zoning Board o Adjustment as set

forth in RSA 676:5.

2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33,

I(b), the applicant shall have the burden of showing in addition to the usual variance

standards under State Law:

a. That the variance will not result in increased flood heights,

additional threats to public safety, or extraordinary public

expense.

b. That if the requested variance is for activity within a designated

regulatory floodway, no increase in flood levels during the base

flood discharge will result.

c. That the variance is the minimum necessary, considering the

flood hazard, to afford relief.

32. The Zoning Board of Adjustment shall notify the applicant in writing that (i)

the issuance of a variance to construct below the vase flood level will result in

increased premium rates for flood insurance up to amounts as high as $25.00 for

$100.00 of insurance coverage and (ii) such construction below the vase flood level

increases risks to like and property. Such notification shall be maintained with a

record of all variance actions.

43. The community shall (i) maintain a record of all variance actions, include their

justification for their issuance, and (ii) report such variances issued in its annual or

biennial report submitted to FEMA’s Federal Insurance Administrators.

**2. The community shall:**

A. Maintain a record of all variance actions, including their justification for their

issuance, and;

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B. Report such variances issued in its annual or biennial report submitted to FEMA's

Federal Insurance Administrator.

**3. The Zoning Board of Adjustment shall notify the applicant in writing that:**

A. The issuance of a variance to construct below the base flood level will result in

increased premium rates for flood insurance up to amounts as high as $25 for $100

of insurance coverage and;

B. Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.

**4. The community shall:**

A. Maintain a record of all variance actions, including their justification for their

issuance, and;

B. Report such variances issued in its annual or biennial report submitted to FEMA's

Federal Insurance Administrator.

**In Article XXI Definitions:**

**Area of special flood hazard:** is the land in the floodplain within the Town of Bethlehem subject

to a one percent or greater chance of flooding in any given year. The area is designated as Zone

A and AE on the FIRM, as the current definition relates to maps and Special Flood Hazard Areas

(SFHA) that do not apply to Bethlehem.

**Base Flood Elevation (BFE)**: means the elevation of surface water resulting from the base

flood.

**Development:** means any man-made change to improved or unimproved real estate, including

but not limited to other structures, mining, dredging, filling, grading, paving, excavating, or

drilling operations, or storage of equipment or materials.

**Flood Hazard Boundary Map (FHBM):** means an official map of a community, issued by the

Federal Emergency Agency, where the boundaries of the: flood, mudslide (i.e., mudflow) related

erosion areas having special hazards have been designated as Zones A, M, and/or E.

**Flood Insurance Study (FIS):** means an examination, evaluation and determination of flood

hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation

and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

**Flood Opening** means an opening in a foundation or enclosure wall that allows automatic entry

and exit of floodwaters. See FEMA “Technical Bulletin 1, Openings in Foundation Walls and

Walls of Enclosures.

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**Functional dependent use:** means a use, which cannot perform its intended purpose unless it is

located or carried out in close proximity to water. The term includes only docking facilities, port

facilities that are necessary for the loading and unloading of cargo or passengers, and ship building

and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Lowest Floor** means the lowest floor of the lowest enclosed area (including basement). An

unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or

storage in an area other than a basement area is not considered a building's lowest floor;

provided, that such an enclosure is not built so as to render the structure in violation of the

applicable non-elevation design requirements of this ordinance.

**Manufactured Housing:** Any structure, transportable in one or more sections, which, in the

traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected

on site, is 320 square feet or more, and which is built on an permanent chassis and is designed to

be used as a dwelling with or without a permanent foundation when connected to required utilities,

which include plumbing, heating and electrical heating systems contained therein. Manufactured

housing as defined in this section shall not include presite built housing as defined in RSA 674:3

1 -a. For floodplain management purposes the term "manufactured home" includes park trailers,

travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This

includes manufactured homes located in a manufactured home park or subdivision.

**Mean Sea Level** means, for the purposes of the National Flood Insurance Program , the National

Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988,

or other datum to which base flood elevations shown on a community’s Flood Insurance Rate

Maps are referenced.

**New Construction** means, for the purposes of determining insurance rates, structures for which

the “start of construction” commenced on or after the effective date of an initial FIRM or after

December 31, 1974, whichever is later, and includes any subsequent improvements to such

structures. For floodplain management purposes, *new construction* means structures for which the

*start of construction* commenced on or after the effective date of a floodplain management

regulation adopted by a community and includes any subsequent improvements to such structures.

**Special flood hazard area:** means an area having special flood, mudslide (i.e. Mudflow) and/or

flood-related erosion hazards, and shown on an FIRM as Zone A, (See Area of Special Flood

Hazard).

**Substantial Improvement:** means any reconstruction, rehabilitation, addition, or other

improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of

the structure before the “start of construction” of the improvement. This term includes structures

which have incurred “substantial damage,” regardless of the actual repair work performed. The

term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local

health, sanitary, or safety code specifications which have been identified by the local code

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 **PROPOSED AMENDMENT No. 3**

**For Public Hearing on Wednesday January 4, 2023**

**This amendment would update language in Article II General Provisions and Article XI Multi-Family Dwelling Unit Development in order to make the parking requirements in the Zoning Ordinance consistent with the requirements in the recently updated Site Plan Review Regulations. Detailed requirements would be removed from the Zoning Ordinance and the requirements contained in the Site Plan Review Regulations would be included by reference.**

**Article II General Provisions- H. Parking Requirements, the following language would be removed:**

a. In Districts I, II, III and IV, off-street parking, either by means of open air spaces, each having an area of ten (10) feet wide by twenty (20)feet long, or by garage space, shall be provided in accordance with this section whenever any new use is established or any existing use is enlarged. Requirements shall be as follows:

Single and two-family dwellings: 2 spaces per units.

Multi-family dwellings: 1.5 spaces per unit.

Motels, hotels, guesthouses, and mobile homes: 1 space per unit.

Theaters, restaurants, churches: 1 space per 3 seats.

Retail floor space, community buildings, clubs, halls: 1 space per 200 square feet of principal use area.

Public, commercial, or professional offices: 1 space per 400 sqft

1 space for each employee on major shift, or 1,000 s.f. of principal use whichever

Is greater.

b. In Districts I, II, III and IV, additional parking requirements for motels, hotels, theaters, restaurants, retail stores, professional offices and all other commercial

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uses: one parking space required for every two employees, based on the time period that the maximum amount of employees are working.

c. Given the unique nature of District I – Main Street, there are no parking requirements for this district in the zoning ordinance. Parking requirements for this district are instead set forth in the Site Plan Review Regulations.

**The following language would be added and remaining items renumbered accordingly:**

1. Single family dwellings, single family dwellings with an accessory dwelling unit, and two-family dwellings shall provide 2 spaces of off-street parking per dwelling unit, either by means of open air space or garage space, each having an area of ten (10) feet wide by twenty (20) feet long.

2. Parking for multi-family dwellings and nonresidential uses shall be provided as required by the Town of Bethlehem Site Plan Review Regulations.

**In Article XI Multi-Family Dwelling Unit Development**

**6. Parking as it reads now:** The parking requirements found in the General Provisions Article II-H shall apply.

**6. Parking as it would read with Amendment No. 3:** The parking requirements found in the Town of Bethlehem Site Plan Review Regulations shall apply.

 **PROPOSED AMENDMENT No. 4**

**For Public Hearing on Wednesday January 4, 2023**

**This amendment would add Home Businesses as a Permitted Use, as an accessory use to any dwelling, with an application to the Planning Board for Site Plan Review required when the public or certain types of impacts are involved.**

**Would add the following new language at the end of Article II General Provisions:**

Home businesses shall apply for Site Plan Review from the Planning Board when involving any of the following: a. On-site customers or employees

b. Outdoor storage or activity

c. Signage or outdoor lighting

d. Noise, vibration, fumes, smoke, dust, glare, heat, or odors that may be perceptible at the property boundary

e. Use or storage of heavy equipment

f. Truck traffic in greater than typical residential volumes

**In Article V Zoning Districts and Uses**

Would add “Home Business” as a Permitted Use in District I – Main Street, District I, District II, District III, and District IV.

**In Article XXI Definitions**

Would add the new term “HOME BUSINESS” with the following Definition:

An accessory use of a dwelling or accessory structure on a residential lot that involves the on-site manufacture of goods, provision of services, or outdoor storage or activity, which use is clearly incidental and secondary to the use of the dwelling as a residence and shall not change the residential character thereof, with any retail sales only incidental and occasional, operated by a resident of the same premises.

 **PROPOSED AMENDMENT No. 5**

**For Public Hearing on Wednesday January 4, 2023**

**This amendment would give the Zoning Board of Adjustment the ability to grant Special Exceptions to allow expansion of nonconforming uses under certain conditions, and would allow nonconforming lots to be developed under certain conditions.**

**Would add the following two new paragraphs to Article IV Non-conforming Uses, Structures, and Lots**

Nonconforming uses may be expanded only by Special Exception from the Zoning Board of Adjustment. The Board shall determine that: a) the proposed change arises naturally (such as the application of new and better technology to the fundamental use) out of the nonconforming use; b) the change or expansion will not increase the nonconformity of the lot, building or use with the requirements of the Zoning Ordinance; and c) the change or expansion will not have a substantially different or adverse impact on surrounding properties.

All nonconforming lots on record at the Grafton County Registry of Deeds prior to the enactment or amendment of this Ordinance affecting the lot shall be considered buildable lots provided:

1. All required setbacks are met.

2. A NHDES septic system permit has been obtained if not on municipal sewer.

3. A source of water is available on the lot with a protective radius required by NHDES unless on a public water supply.

 **PROPOSED AMENDMENT No. 6**

**For Public Hearing on Wednesday January 4, 2023**

**This amendment would bring the Zoning Ordinance into compliance with the provision of RSA 674:32 Manufactured Housing which prohibits requiring a Special Exception for manufactured homes on individual lots unless a Special Exception is also required for single family homes.**

**In Article V – Zoning Districts and Uses**

In District I, II, II and IV, would change Manufactured Homes on single lots from a use requiring a Special Exception to a use that is Permitted.

 **PROPOSED AMENDMENT No. 7**

**For Public Hearing on Wednesday January 4, 2023**

**This amendment would replace existing language in Article VI Signs with language from the recently updated Site Plan Review Regulations for consistency.**

**In Article VI Signs**

**Remove the following language:**

B. Signs shall not project over public rights-of-way.

C. Signs and structures shall not be illuminated in any manner, which causes undue distraction, confusion or hazard to vehicular traffic.

**And replace with the following language that is also contained in the Site Plan Review Regulations:**

B. Signs shall be designed and placed so as to avoid undue distraction, confusion or hazard to the surrounding area or vehicular traffic; or undue adverse impact on the aesthetics or scenic beauty of the community. This means:

1. Signs shall not project over street rights-of-way or be placed in a location which may interfere with the line of sight or visibility or passage of drivers, bicyclists or pedestrians.

2. Signs involving movement, whether mechanical or air activated, shall not be sited in a manner in which they would cause a distraction for drivers.

3. Blinking or fluttering sign content is prohibited.

4. Lighting must be located, aimed and shielded so as to minimize glare perceptible to drivers, pedestrians, bicyclists, and other passersby on adjacent streets and properties.

5. Lighting must be aimed and shielded so that light is directed only upon the sign face and does not trespass onto adjacent streets, properties or into the night sky.

6. Lighting must be continuous, uninterrupted illumination designed primarily for night-time informational purposes.

7. All signs intended for use for more than 4 weeks shall be of solid, durable construction.