

TOWN OF ATKINSON

NEW HAMPSHIRE

ORDINANCES

Updated:

February 11, 2009

INDEX

Alarms

Adopted March 8, 1983

1. Definitions

A. An **Alarm System** is any assembly of equipment and/or devices, or a single device arranged to signal, by any means detectable outside the protected premises, an actual or attempted robbery or actual or attempted burglary or unauthorized entry. Fire alarms and alarms to monitor temperature, humidity, or other condition not directly related to the detection of an unauthorized entry into the protected premises or an actual or attempted robbery at the protected premises, and alarm systems on motor vehicles, are specifically excluded from the provisions of this ordinance.

B. The **Protected Premises** are those premises in/on which the alarm system is installed and which the alarm system is designed to protect.

C. A **Direct Dial Alarm** is any alarm system, which automatically dials or otherwise connects to any telephone line.

D. An **Audible Alarm System** is any alarm system, which incorporates an audible signal device that is audible outside the protected premises.

E. An alarm system is in **Operation** when it is connected in any manner allowing its signal device to be activated.

F. An **Alarm User** is any activation of the alarm system signal device by other than an actual or attempted unauthorized entry to the protected premises at a time when no unauthorized entry or robbery is being committed or attempted at the protected

premises. Upon the failure of the police department to find evidence of actual or attempted unauthorized intrusion or other legitimate need or cause for activation, a conclusive presumption of a false alarm will be made.

2. Direct Dial Alarms Prohibited.

No direct dial alarm shall be installed to the Atkinson Police Emergency line.

3. Permit Required.

No alarm system shall be installed or operated without a valid permit to do so issued by the Chief of Police on forms provided by him.

4. Requirements for Audible Alarms

A. No audible alarm system shall be installed or operated that is not so arranged as to automatically reset or deactivate the audible signal device within 14 minutes after activation of the alarm system.

B. No alarm user shall operate or allow the operation of an audible alarm system unless he has filed with the police department the name(s) and current telephone number(s) of at least one person other than the alarm user who is authorized and has access to enter the premises and turn off or otherwise disconnect the audible signal device.

C. Upon the occurrence of a second false alarm within any 24 hour period, or of a third false alarm within any seven day period, the police department may order that the audible signal device be turned off, disconnected, or otherwise prevented from reactivating. Said order shall be directed to the alarm user or person named by him pursuant to paragraph IV-B above. If the alarm system audible device is not turned off, disconnected, or otherwise prevented from reactivating within one hour of an order by the police department to do so, the alarm user shall be guilty of a Violation as defined by the New Hampshire Criminal Code.

D. An audible signal device ordered by the police department to be disconnected may be returned to operation only with the permission of the Chief of Police after receipt by him of a written report from the alarm user stating the corrective action taken to prevent a recurrent of a false alarm.

5. Penalties for False Alarms

A. Upon the occurrence of a first or second false alarm within any six-month period, no fee shall be charged, but the police department shall

provide written notice to the alarm user of the occurrence of the false alarm and requesting that the alarm user take corrective action.

B. Upon the occurrence of any false alarm that is the third, or greater false alarm within any six-month period, a service charge of \$25.00 shall be assessed by the police department against the alarm user. Said service charge shall be paid within 30 days of the date of assessment.

C. Upon the occurrence of any false alarm which is the sixth or greater false alarm within any 12 month period, the Chief of Police may suspend the permit for operation of the

offending alarm system. Said permit shall be reinstated by the Chief of Police only after receipt by him of a written report signed by a qualified alarm system technician stating the corrective action that has been taken and stating that, in the technician's opinion, the alarm system is properly installed and can be expected to function properly.

6. Grace Period Allowed

A grace period ending three months after the effective date of this ordinance is allowed for alarm systems installed prior to the effective date of this ordinance to meet the requirements herein. Said grace period does not apply to the provisions of Section 5 above.

7. Liability Limited

The Atkinson Police Department shall take every reasonable precaution to assure that alarm signals communicated to the police department originating from alarm systems operated under a valid permit to do so are given appropriate attention and are acted upon with dispatch. Neither the Police Department nor the Town of Atkinson shall be liable for any defects in operation of any alarm system or for failure to respond appropriately upon receipt of any alarm signal.

8. Records Not to Be Public

Records maintained pursuant to this ordinance shall not be public records.

Cemetery

Adopted March, 1994

Amended March 18, 1995

It is ordered that both the old and new cemeteries will be open to the public between sunrise and sunset, seven days a week.

Violations of this town ordinance shall be punishable by fine of not more than \$100.00 for the first offense and \$200 for each and every subsequent offense.

It will be the responsibility of the town's Police Department to enforce and prosecute any and all violations of this ordinance.

Cemetery - Rules and Regulations

Adopted March 13, 1923

Amended March 16, 1991; March 14, 1992; March 22, 1993; March 12, 1994; March 18, 1995,

March 16, 1996; April 8, 1997; March 13, 2001

1. Every town shall provide one or more suitable cemeteries for the interment of deceased persons, within its limits, which shall be subject to such regulations as the town may establish. **(RSA 289:1)**
2. Every town shall raise and appropriate sufficient funds, by taxation or otherwise, to provide for the suitable care and maintenance of all cemeteries within its confines, which are not otherwise provided for, and to provide and maintain around all cemeteries a good and sufficient fence and to supply the same with necessary gates. **(RSA 289:6)**
3. The duty of the Board of Cemetery Trustees is to supervise all cemeteries to the end that funds, raised through taxation or otherwise, may be expended as best to serve the purpose for which they are raised.
4. A plan of each cemetery, with the lots numbered and containing the names of owners as known, shall be kept in Town Hall. The Board of Cemetery Trustees shall indicate in each lot the exact location of graves made in the same. This particular duty of the Sexton shall be completed immediately following a burial.
5. Prices of lots to be purchased shall be set by the Selectmen and all deeds recorded with the Town Clerk. Transfer of ownership may be accomplished only when the original deed is returned to the Board of Selectmen and a new deed is issued. Transfer of ownership from a resident to a non-resident shall be valid only after payment to the Town for the difference in price.
6. No interment shall be made in ground, tomb, or vault, and no disinterment or removal shall be made without a permit issued by the State or Town Clerk, and delivered to the Cemetery Trustees. Upon completion of the interment/removal, the burial permit shall be delivered to the Town Clerk.
7. In the event of a cremation, notice of the location of ashes will be filed with the Town Clerk. No ashes will be interred unless contained within a suitable receptacle.

8. All actual interments, disinterments, or removals shall be made under the direction of the Cemetery Trustees. Funerals within the cemetery proper shall be under the supervision of the Board of Cemetery Trustees as to routes taken.

9. No horses, snowmobiles, bicycles, motorcycles, OHRV's, vehicle with a wheel-base longer than 270 inches, or large trucks - except those authorized by the Cemetery Trustees - shall be permitted in the cemeteries.

10. Interment and disinterment fees shall be determined by the Cemetery Trustees and Board of Selectmen.

11. All interments shall be conducted between spring opening and fall closing dates. The Cemetery Trustees using weather and road conditions, as guidelines shall determine the opening and closing dates.

12. Excavations are to be a depth of five feet for a vault at the low side of the gravesite and three feet for a cremation receptacle and shall be a minimum of 12" from the edge of the traveled portion of the cemetery roadway.

13. Flower arrangements are to be removed from the gravesite no later than one week (7 calendar days) after a burial, by the person hired to perform the burial. That person shall also be responsible to see that the gravesite shall be properly filled, compacted, loamed and seeded immediately following the interment. No fill from any gravesite shall be removed from the cemeteries for any purpose by any person unless directed by the Cemetery Trustees. No payment for interments will be authorized until the new gravesite has been inspected and approved by one or more of the Board of Cemetery Trustees.

14. The care of shrubs and perennial plants already in place on any lot which does not have Perpetual Care coverage shall be the responsibility of the owner, heirs or assigns of that lot. No plants or shrubs shall be planted at the corner points of any lot. All shrubs and plants shall be planted well within the boundaries of individual lots of all sizes. All avenues between two and four grave lots shall remain free of any type of obstructions. Monuments and shrubs placed within avenues prior to 1991 shall not be subject to this regulation. Perpetual Care coverage shall be mandatory if shrubs or plants are to be planted on any lot. The amount of the coverage must provide adequate interest income for their care; the requested amount shall be Two Hundred Dollars (\$200.00) as principle.

15. Perennial plants and shrubs shall not exceed a maximum height of three and one half feet or

a breadth of two and one half feet at the base. Those plants or shrubs that become

detrimental to avenues, paths, lots, or monuments shall be removed after written notification

by the Board of Cemetery Trustees to the owner. Urns may be used on gravesites. If, for

any reason, they become detrimental to the appearance of the cemetery, the Board of

Cemetery Trustees shall remove them and will notify the owners. Any unique fixed additions to any gravesite must receive prior approval from the Cemetery Trustees or they will be removed within 48 hours of notification to the owner of the lot. Additions that the majority of the Board of Cemetery Trustees deem are detrimental to the appearance of the cemeteries or inappropriate in nature will also be removed by the Board of Cemetery Trustees within 48 hours of notification to the owner of the lot. If the addition affects [sic] the safety of the public, it will be removed immediately.

16. The Cemetery Board of Trustees shall have the authority to grant permission to erect, to build

monument foundations, to clean and to letter all monuments, and to install flush corner stones

and flush type markers. The request for permission shall be submitted in writing

to the Cemetery Board of Trustees using the authorized form, which also lists the "Rules and

Regulations Governing Monuments and Markers". Lot owners and monument dealers shall

both sign each request. Contact the Chairman of the Cemetery Board of Trustees to request

permission forms.

17. Lots, paths and roadways shall be mowed and trimmed as often as is necessary to keep the

appearance of the cemeteries neat and orderly. This work will be supervised by the Board of

Cemetery Trustees, taking into consideration the weather conditions and budget money

available. Leaves and debris shall be raked and removed in the fall or spring of each year.

18. Funds for "Perpetual Care" lots may be received by the Town. The Trustees of the Trust Funds will administer these funds. The Board of Cemetery Trustees will make the determination of the care to be given each individual lot, and to the cemetery proper, when interest funds are applicable.

19. Veteran's markers shall be kept free of grass, weeds, and grass clippings so that each is

completely readable.

20. Wells for each cemetery shall be maintained during the summer months and two barrels shall be placed in each cemetery for the disposal of all types of trash. Barrels and water pumps shall be removed from cemeteries and stored in either hearse house during the winter months.

Commercial Fire Safety Inspections

Adopted March 16, 1996

The purpose of this ordinance is to require all commercial businesses in the Town of Atkinson to submit to an annual fire safety inspection by the town's Fire Inspectors under guidelines developed and approved by the Code Enforcement Committee. The annual fee for these inspections shall be \$35.00. This fee shall be borne by the owner of the business being inspected.

Failure to allow the yearly inspection of said commercial business may result in a fine of not more than Ten Dollars (\$10.00) per day for every day (excluding weekends and holidays) that the Fire Inspectors are not allowed to enter the commercial business to perform this inspection.

A fine of Ten Dollars (\$10.00) per day may be assessed to the owner of the commercial property for failure to correct any violations that are found, following the five (5) day grace period allowed by the Fire Inspectors.

The Board of Selectmen will determine assessment of fines

Dogs - Leash Law

Adopted March 6, 1976

Section I. No dog shall at any time leave the property of its owner or keeper unless under the control of its owner or keeper.

Section II. A dog will be deemed to be under control if

the dog is attached to a leash held by a person capable of controlling the dog by such means **or**

the dog is accompanied by a person capable of controlling the dog by command.

Section III. Upon violation of this ordinance, the dog may be impounded by a dog officer or other person appointed by the Selectmen to enforce this ordinance. The Dog Officer shall make all reasonable efforts to notify the owner or keeper if the dog is

impounded.

Section IV. No impounded dog shall be released by the Dog Officer until the reasonable costs of impoundment have been paid.

Section V. If, after all reasonable efforts to do so, the owner or keeper cannot be notified by the Dog Officer within five (5) days of impoundment, or if the owner or keeper does not pay the reasonable costs of impoundment within two (2) days after being informed of such costs, the dog may be destroyed.

Section VI. The owner or keeper of a dog violating the provisions of Section I shall be subject to a fine of not more than Ten Dollars (\$10.00) for each such occurrence.

Section VII. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions.

Section VIII. This ordinance shall take effect upon passage.

Drinking

Adopted March 17, 1979

It shall be unlawful for any person to consume any alcoholic beverage, or have in his possession any open container of alcoholic beverage while upon any public park, playground, sidewalk, common or any public highway or any town-owned property within the town limits of Atkinson.

It shall be unlawful for any person to consume any alcoholic beverage while in any vehicle while upon any Public Park, playground, sidewalk, common, or any public highway or any town-owned property within the town limits of Atkinson.

Any violation of this ordinance shall be punishable by a fine of not more than One Hundred Dollars (\$100.00).

Exceptions to the provisions of the ordinance may be granted by permission of the Board of Selectmen and/or the Chief of Police of the Town of Atkinson.

Dump Regulations

Adopted June 16, 1981

Amended June 5, 2000

Use of the Atkinson Brush Dump shall be limited to Atkinson residents, dumping brush materials removed from their residences and carried to the dump in their vehicles. No brush materials so dumped may be in excess of 5 inches in diameter. Any dumping of materials not included in the list of acceptable materials shall receive a fine of no less than \$250.00 and no more than \$1,000.00. All non-authorized personnel that dump after hours shall also receive a fine of no less than \$250.00 and no more than \$1,000.00. The Board of Selectmen shall determine the fine.

Excavation

Adopted January 4, 1988

Ordinance for the Opening or Digging Up of Ways

I. Excavation of Public Streets

A. Any person, company or corporation, excavating town-owned streets or ways for sewers, drains, water pipes, driveways, conduits or any other purpose, before starting work shall apply in writing, on forms provided for the purpose, to the Board of Selectmen for a permit for the same. Such person shall execute and deliver to the Town Treasurer an indemnity bond in a sum satisfactory to the Board of Selectmen to insure against all damages and loss to the town or any third party therefrom, and for the performance of the work in accordance with said permit and for the payments hereafter set forth.

B. Any person, company or corporation, excavating privately-owned public ways or streets for sewers, drains, water pipes, driveways, conduits or any other purpose, before starting work shall apply in writing on forms provided for the purpose to the Board of Selectmen for a permit for same. Such person shall be exempt from the provisions requiring an indemnity bond, but will be required to comply with all other requirements of this ordinance.

All excavating shall be filled in and finished as directed by, and to the satisfaction of, the Board of Selectmen or other person designated as having authority for such inspection by the town. The requirements of this section shall not be deemed met until the Board of Selectmen or person acting at their direction signs or by other means denotes on the excavation permit that such work has been completed to the satisfaction of the municipality.

C. Any person excavating land, or any person in charge of such excavation and any owner of land which has been excavated shall erect barriers or take other suitable measures within two (2) days after such owners have been notified in writing by the Board of Selectmen that, in their opinion, such excavation constitutes a hazard to public safety.

The penalty for violation of this ordinance shall be a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) per day for every day such person is in violation of such notice.

D. The surfaces of such street or way paved shall not therefore for a period of five years from the completion of such paving be opened or dug up without a special license therefore granted by the Board of Selectmen after the applicant has filed a bond of the kind and manner hereinafter described. The Selectmen, however, may issue such license in a clearly defined emergency situation.

II. Surface Restoration

If a street, way, sidewalk or common in which the excavation is made has been paved or improved; the person making the excavation shall cause the same to be refilled in the following manner:

A. Town. A total of twenty-one inches of processed gravel, mechanically compacted, shall be placed to the finished grade. The first twelve (12) inches shall contain no stone larger than six (6) inches in length and diameter. The last nine (9) inches shall contain no stone larger than two (2) inches in length and diameter. Gravel shall be fine-graded and compacted

to a 95% density. Within three weeks after the excavation has been completed, the contractor shall return and excavate to three (3) inches below the finish grade and form a permanent patch with three (3) inches of bituminous concrete. The trench shall be maintained by the contractor for a period of two (2) years after completion of the permanent patch.

B. State Roads. They shall conform to the state permit issued for the job.

The provisions of this section shall be determined and enforced by the Board of Selectmen or they're designed as they may from time to time prescribe by regulation.

III Backfilling.

All material used for backfilling shall be reasonably free from stones, mulch, rubbish or other unsuitable material, shall be deposited by hand in layers not over six (6) inches in depth to a point one (1) foot over the pipe and each layer thoroughly compacted mechanically. The following section of trench shall be backfilled on one (1) foot layers and thoroughly compacted mechanically to a point twenty-one (21) inches below the existing road grade. Backfilling shall be prosecuted as the work progresses, and shall be kept complete up to such point of open excavation as shall be determined by the Board of Selectmen or their designed.

IV Bond.

If the surface of the street or public place is not to be disturbed by the occupancy or

obstruction under such a permit, the applicant for a permit under this section may deposit with

the Board of Selectmen, in place of the indemnity bond called for, a public liability insurance

policy, approved as to form by Town Counsel, and issued by an insurance company authorized

to do business in the State of New Hampshire, insuring the town for not less than Twenty five

Thousand (\$25,000.00) Dollars, or such other amount as determined by the Board of

Selectmen, against all claims, loss, costs, damage to persons or property and expense arising

out of any action under such permit.

V Barriers and Railings.

Whenever any public street, way, sidewalk or common shall, under any license granted as

provided in the preceding sections, be broken, disturbed, dug or turn up, or in any other manner occupied, obstructed, encumbered or rendered unsafe or inconvenient for travel, the

person so licensed shall place and at all times maintain until the completion of the work or

termination of the occupancy or obstruction a suitable railing, barrier, warning sign or light

around the portion of the street, way, sidewalk or common so opened, occupied, obstructed or

encumbered, and shall keep one or more barriers, placed in some safe and suitable manner,

through the whole of every night so long as such opening, occupancy, obstruction or

encumbrance shall continue. The licensee shall place signs and cones for the protection of the

workers and the motoring public.

VI Conditions of Bonds.

The bond to be given by any person for the replacing in proper and safe conditions of streets, ways, sidewalks, or commons broken, disturbed, dug or torn up shall remain in force for two years after such work has been completed.

Instead of the bond required of any person under the provisions of all or any of the preceding sections, such persons may, by special arrangement with the Selectmen, file a blanket bond, so called, in form approved by town Counsel, with surety satisfactory to

the Selectmen. such bond shall comprehend and include the various provisions of this code under which permits shall be granted and to which permits it purports to relate as fully and completely as if a separate bond were given for each such permit, and the conditions thereof and obligation of the principal and surety thereunder shall be in all respect the same as if separate bonds were given for each such permit, except that the aggregate sums required accordingly will be as determined by the Selectmen.

Fire Department By Laws

Adopted April 8, 1944

1. Authorize the Firemen to manage the Fire Department, providing the firemen form an association, keep a record of all finances and expenditures, same to be audited annually by the Town Auditors and printed in the annual Town Report.
2. The Association to elect the chief and all other officers of the Fire Department; also all new members of the Association.
3. All bills against the Fire Department shall be subject to the approval of a majority of the Board of Engineers before payment and an order for payment of same shall be signed by a majority of the Board of Engineers and presented to the Board of Selectmen for payment. Expenditures not to exceed the appropriations made at a regular or special Town Meeting.

Hawkers and Peddlers

Adopted December 14, 1981

The provisions of Chapter 320 of the NH RSAs shall be the prevailing rules for persons engaged in the businesses as defined in Chapter 320, "Hawkers and Peddlers". No person shall engage in such a business in the town of Atkinson unless they have met the provisions of Chapter 320 and possess a valid Hawkery and Peddlery permit issued by the Secretary of State.

Solicitation.

No person, firm, corporation or charitable organization, religious group or church shall solicit funds or sell any wares, goods, or merchandise on any street, sidewalk public way, town property or parking lot without the permit of the Atkinson Police Department.

No person, firm, corporation or charitable organization, religious group or church shall travel door to door in the Town of Atkinson for the purpose of soliciting funds or selling

any wares, goods or merchandise without receiving prior permit of the Atkinson Police Department.

Permit Required.

Upon the issuance of a permit to any person, firm, corporation, religious group or church, said group shall notify the Police Department of the name of such group, the solicitors' names, the purpose of the solicitation or sales and the areas to be canvassed, the dates of operation and a description of vehicles or sales items used.

Times.

No person, firm, corporation or charitable organization, religious group or church shall solicit funds or sell any wares, goods, or merchandise on any street, sidewalk, public way, town property or parking lot before 9:00 a.m. or after 7:00 p.m., Monday through Saturday, or on Sunday,.

Identification Required.

Any person, firm, corporation or charitable organization, religious group or church, granted such a permit shall, upon demand, show suitable identification to any person demanding same and shall, at each solicitation or inquiry, identify the unit benefiting from the funds received.

Complaints.

Upon receipt of any complaint concerning nuisance, hazard annoyance or disorderly conduct, any or all solicitors may be asked to stop solicitation and a petition to revoke the permit may be filed with the Police Department.

Indemnification

Adopted March 10, 1975

"To see if the Town will vote from this date forward to indemnify and save harmless from loss or damage any person employed by it and any member or officer of its governing board, administrative staff or agencies including but not limited to Selectmen, from personal financial loss and expense including reasonable legal fees and costs, if any,

arising out of any claim, demand, suit or judgment by reason of negligence or other act resulting in accidental injury to a person or accidental damage to or destruction of property if the indemnified person at the time of the accident resulting in the injury, damage or destruction was acting in the scope of his employment or office."

Parking Ban

Adopted September 12, 1984

Fred E Galietta, Charles George, Jr., Roger R Stork

Parking will be prohibited on town rights-of-way between November 15 and April 1, so as not to obstruct the sanding and plowing of the roads. This parking ban will also be in effect whenever sanding and plowing operations are in progress at other times of the year.

Snow Removal

Adopted September 17, 1974

Fred E Galietta, Charles George, Jr., Roger R Stork

Amended June 5, 2000

During or after a snow storm, any person who shall put or place snow or ice upon the right of way of any town road in such a manner as to create a hazard to a traveler or the road shall be subject to a fine of not less than \$50.00 as provided in **RSA 236:20**.

Sprinklers

Adopted March 16, 1991

This Ordinance constitutes an exercise by the Fire Chief of the Town of Atkinson, New Hampshire, of powers granted to him by RSA 154:18.

Regulations Relative to Fire Hazards. RSA 154:18.

Establishment by the Fire Warden or Fire Chief. The Fire Warden, Engineer or Fire Chief may establish such regulations respecting the kindling, guarding, safe-keeping,

prevention and extinguishments of fires, and for the removal of combustibles from any building or place as he shall think expedient, which shall be signed by him and recorded by the town clerk and posted in two or more public places in the town 30 days before they shall take effect. Each breach of such regulations shall constitute a violation. Said Fire Ward, Engineer, or Fire Chief shall confer with recognized authorities and the State Fire Marshal, in the promulgation of such regulations. Where regulations have not been promulgated pertaining to electric wiring and equipment, all electric installations and safeguards shall be installed in a standard, modern and approved manner. Compliance with the standards of the National Electrical Code or such code specified by the local ordinance shall be prima facie evidence of such approved manner.

Installation of Sprinkler Systems.

Residential buildings. All living units within a rural residential cluster development shall be sprinkled in accordance with the provisions of NFPA 13-D, adopted by the State Fire Marshal on November 8, 1984.

Street Numbering

Adopted March 18, 1995

In the interest of public safety, all homes, buildings and other structures shall clearly display, at a location that provides for unobstructed view from the street, the identifying building name and/or house number as recorded in the Town Assessor's Office. Such building identification shall conform to the following conditions as prescribed by the Atkinson Fire Chief:

1. Building identification name or house number shall be located in the vicinity of the front door.
2. In the event the front door does not face the street, the building identification number shall appear on the corner of the building nearest the driveway.
3. Building identification shall be no smaller than 4 inches in height.
4. Buildings, which are not visible from the road, shall display the building identification name and/or house number at a location approved by the Atkinson Fire Chief.

Effective January 1, 1995, all homes, buildings or other structures will have building identification in place, or face fines of up to \$10.00 per day for every day the violation continues.

Effective April 1, 1995, any home, building or other structure, which requires a permit from the Building Inspector, shall be required to comply with the building identification requirements.

The Code Enforcement Officer of the Town of Atkinson shall enforce the provisions of this ordinance.

TOWN OF ATKINSON HEALTH ORDINANCE

Adopted July 31, 2000 (BLS,MCT,JAD)

Tattoo, Body Piercing, Branding, Scarification, Perm Make-up

Town of Atkinson, New Hampshire

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7/31/2000

ARTICLE I

Statutory Authority and Interpretation of Terms

200-1 Statutory Authority

This chapter has been enacted pursuant to the authority granted the Town by NH RSA 31:39m, which allows the Board of Selectmen to adopt ordinances to regulate tattoo parlors and NH RSA 147:1 which allows the Health Officer to make regulations relating to the public health as in his/her judgement the health and safety of the people require. These regulations shall take effect when approved by the Board of Selectmen, recorded by the Town Clerk, and published in some newspaper, or when copies thereof have been posted in 2 or more public places in the town. Ordinance approved JULY_31, 2000. Recorded by Town Clerk AUGUST 14, 2000. Effective on JULY 31,2000.

The purpose of this ordinance is to protect the safety, health, and welfare of the general public and not to protect the personal or property interests of individuals. Nothing in this ordinance shall be deemed to be the making of a promise, or the undertaking of a special duty towards or relationship with any person who gets a tattoo or is body pierced; nor shall the provision of, or failure to provide such licenses or to undertake particular inspections or types of inspections, be deemed to create a special relationship or duty towards any person upon which any action in negligence or other tort might be founded.

200-2 Interpretation of Terms

For the purpose of this Chapter, the following words and phrases when used herein shall be constructed as follows:

Board of Health – As defined in NH RSA 128:3 whereas the Health Officer shall be the Secretary and Executive Officer of and, with the Board of Selectmen, shall constitute the local Board of Health for the Town.

Body Piercing – Technique whereby various body parts are pierced and surgical steel rings or studs are inserted. Body sites may include but may not be limited to: ear, nose, cheek, tongue, navel, forehead, nipples and genitalia.

Branding – Technique whereby a heated metal form is placed on the skin for the purpose of inducing permanent scarring in the shape of the design attached to the end of the branding iron handle.

Certificate of Inspection – Inspection report made by the Health Officer or his/her duly appointed agent prior to issuing a Tattoo Establishment License indicating that the establishment complies with the requirements of the ordinance.

Communicable Disease – Shall mean any disease caused by an infectious agent, which may be transmitted directly or indirectly, from one individual to another.

Health Certificate – Shall mean a card or letter valid for one (1) year issued to a tattoo artist by a medical physician, licensed to practice in NH or MA, after satisfactory tests for tuberculosis and after a satisfactory examination for apparent communicable diseases particularly in respect to arms and hands. Administration of the Hepatitis B vaccine series

shall not be required but is strongly recommended.

Permanent Make-up – The tattooing of permanent make-up onto the face of a client to include but not necessarily limited to: eyebrows, eyeliner, lip liner, lip color, cheek blush, eye shadow and beauty marks.

Qualified Physician – Shall mean a medical doctor licensed to practice medicine in the State of New Hampshire.

Scarification - Shall mean a type of tattooing as defined in RSA 314-A:1, III which produces scars on the body instead of utilizing pigment to implant a lasting pattern in the skin.

Tattoo – Shall mean to mark or color the skin by pricking, scratching or cutting in coloring matter so as to form indelible marks or figures or by the production of scars.

Tattoo Artist – Shall mean any person who actually performs the work of tattooing.

Tattoo Establishment – Shall mean any room or space where tattooing is practiced or where the business of tattooing is conducted or any part thereof.

Tattoo Owner or Operator – Shall mean any person who controls, operates, conducts, or manages any tattoo establishment, whether actually performing the work of tattooing or not.

Universal Precautions – Precautionary guidelines issued by the National Centers for Disease Control (CDC) for use in the prevention of transmission of infectious diseases from contact with potentially infected body fluids. Universal precautions apply to blood and other body fluids containing visible blood. Universal precautions also apply to semen and vaginal secretions, tissues and body fluids such as cerebrospinal fluid and pleural fluid. Universal precautions do not apply to feces, nasal secretions, sputum, tears, urine, and vomitus unless they contain visible blood. Requires the use of, but not limited to, protective clothing, goggles, masks and latex or other approved gloves.

ARTICLE II

Restrictions

200-3 Prohibitions

No person, not being registered as a qualified physician, shall mark the body of any

person by means of a tattoo.

Tattooing of Minors: Pursuant to NH RSA 639:3 II, the tattooing of any person under the age of 18 is prohibited and constitutes endangering the welfare of a minor. Parental consent does not constitute an exemption to this requirement.

Body Piercing shall be prohibited in the Town of Atkinson unless performed by a qualified physician.

Branding shall be prohibited in the Town of Atkinson unless performed by a qualified physician.

Permanent Make-up shall be prohibited in the Town of Atkinson unless performed by a qualified physician.

Scarification shall be prohibited in the Town of Atkinson unless performed by a qualified

physician.

200-4 Exemptions

These regulations shall not apply to those novelty or jewelry stores in the business of ear piercing the fleshy part of the earlobe with the use of a piercing gun. These establishments shall use proper procedures and sanitation practices as required by OSHA (Occupational Safety and Health Administration) regulations. These establishments shall be prohibited from performing body piercing at other sites except the fleshy part of the earlobe without satisfying all the requirements of this chapter.

ARTICLE III

Licensing Procedure

200-5 Licenses Required

A. Establishment License

No person shall own or operate a tattoo establishment or engage in the practice or business of tattooing without first obtaining an Establishment License for the location from the Health Officer or the Health Officer's duly authorized agent. Applications for establishments licenses shall include, at a minimum, the following:

The name of the owner;

The name of the establishment;

The street address of the tattoo establishment;

Mailing address of tattoo establishment if it is different from the street address;

Telephone number of owner;

Telephone number of tattoo establishment;

Name, address, and copy of current license of all tattoo practitioners who work at the establishment;

The fee required by this Ordinance; and

The signature of the owner.

B. Artist License

No person shall engage in the practice or business of tattooing in a licensed establishment without first obtaining an Artists License from the Health Officer or the Health Officer's duly authorized agent.

The completed application form shall include at a minimum the following:

Applicants name;

Applicant's address;

Applicant's telephone number;

Applicant's date of birth;

A statement as to the experience the applicant has had in performing tattooing or body piercing, including apprenticeship served, or the licenses held, with a copy of such licenses attached; and

A listing of the type of procedure the applicant intends to perform;

A Health Certificate signed by a licensed physician, licensed advance registered nurse practitioners, or licensed physician's assistant stating that they have examined the applicant no more than 90 days prior to the submission of the application and found him/her to be in good mental and physical health;

Two-inch by two-inch signed passport photograph or an equivalent identification of the applicant; and

The fee required by this ordinance.

Applications for such Licenses shall be made in writing on a form prescribed by the Town of Atkinson, wherein the applicant shall agree to conform to all rules and regulations governing such places now in effect or as subsequently enacted, and to authorize and permit such examinations and inspections as may be deemed necessary by the Health Officer.

No person shall operate a mobile tattoo business in the Town of Atkinson.

No person shall be granted a Tattoo Artist License or renewal in the Town of Atkinson without a current Health Certificate from a physician submitted at the time of license application and/or renewal.

200-6 Terms of License; Renewal of License; Fees

All Licenses issued pursuant to this chapter shall, unless revoked as set forth hereafter, expires on March 31st following their date of issue. The requirements for the renewal thereof shall be the same as for new Licenses.

A fee of \$100 per tattoo establishment shall be charged. The owner(s) of the establishment shall be listed as the licensee and the license shall not be transferable.

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Artist License – A fee of \$50/per year/per tattooist shall be charged for the issuance of a license to operate from a licensed establishment. Each applicant shall, upon paying the \$50 fee, and submitting the Health Certificate and meeting the requirements of this Chapter, shall be issued a separate license.

Form and Transfer of Permit. All Licenses shall be issued in the name of the individual person applying, shall give the location and name of the establishment where said applicant will operate and shall not be transferable to another owner, operator, artist or location.

Public Display of Permit. It shall be the duty of the owner of the establishment to display the current Establishment and Artist Licenses of everyone working at the site in a conspicuous place where they may be readily observed by the public.

200-7 Inspection Schedule

It shall be the duty of the Health Officer/or designee to cause inspections to be made on a quarterly basis at all establishments and the equipment thereof. If said place of business is not maintained, conducted or operated in conformity with the requirements of this ordinance as now enacted or as subsequently amended, then the Health Officer

may suspend or revoke the Establishment License as described in 200-20 and 200-21 until said establishment and the operation thereof is made to conform to the requirements of this Chapter. No owner, operator or artist shall operate without a valid Establishment License.

200-8 Record Required

Records for each patron or customer shall be kept and maintained by the operator of each establishment. The record shall contain the name, address, signature and form of positive identification in the form of a government photo ID with ID number of each patron or customer. All records shall be available for inspection upon request of the Health Officer, Police Chief or their authorized representative(s). Records shall be maintained a minimum of two years.

The operator and/or artist shall inquire if the patron has at any time experienced a jaundiced condition or been infected with hepatitis. Those indicating a history of jaundice or hepatitis shall not be tattooed or pierced.

ARTICLE IV

Tattoo Operating Room Facilities

200-9 Separate Operating Room

Each tattoo establishment shall have an operating room, which shall be separate, and apart from a waiting room or public room that may be used for other than tattooing purposes. Patrons or customers shall be tattooed only in the said operating room.

The operating room shall be equipped with hot and cold running, potable water together with such sinks and basins as may be necessary.

Furniture and furnishings used within the operating room shall be constructed of such material as to permit proper cleansing with hot water and disinfecting solutions.

There shall be no overhead or otherwise exposed sewerage lines so as to create a potential hazard to the sanitary environment of the establishment.

All operating tables shall be constructed of easily cleanable material with a smooth washable finish and at least 6' from any observer or waiting customer and/or separated by a panel at least four feet high. Observers shall not be allowed in the Operating Room during the tattooing process.

The operating room shall have proper and sufficient lighting as needed to perform the tattooing process.

200-10 Personal Cleanliness of Tattoo Artists; Required Equipment

The practice of Universal Precautions shall be used during the tattooing process as required by the Occupational Safety and Health Administration's Blood Borne Pathogen Rule (OSHA). This rule applies to any workplace in which one or more employees is engaged in practices that may present a risk for transmission of HIV (AIDS) or HBV/HCV (Hepatitis B or C) to the worker.

There shall be available within said tattoo establishment adequate hot and cold potable running water; soap; germicidal solution; individual hand scrub brushes; and fingernail files or orange sticks for each tattoo artist.

Each tattoo artist shall scrub his hand and forearms with soap and hot water using individual hand brush, clean his fingernails with an individual file or orange stick and thoroughly rinse his hands in germicidal solution before working on each patron or customer. An individual disposable towel or napkin shall be used for drying the tattoo artist's hands and arms after rinsing.

Each tattoo artist shall wear clean cloths or lab coat. Surgical gloves shall be worn during the tattooing process and shall be changed for each patron.

There shall be no smoking, eating or drinking in the operating room during the tattooing process.

The following table summarizes the use of disinfectants in the tattooing procedure:

<u>AGENT</u>	<u>PREPARATION</u>	<u>USES</u>
1. Hypochlorite 5.25% bleach	Make up daily 1 part bleach to 10 parts water	Corrodes metals. Use for disinfection of needles before disposal. Excellent for other

-----	-----	materials. -----
2. Glutaraldehyde (Cidex) -----	Make up weekly using activator; do not dilute -----	Use for pigment capsules, motors & damp wiping. -----
3. 70% spirit/alcohol -----	Do not dilute. -----	Skin, table tops, metals. -----
4. Clear Phenolics (Hycolin) -----	Make up daily. -----	Table tops, damp wiping motors. -----

The Local Health Officer may approve solutions of proven equivalence. All products shall be used according to label requirements and have EPA approval.

ARTICLE V

Required Equipment

200-11 Storage of Tattooing Equipment & Material

The needle bar and tubes shall be cleaned by use of an ultrasonic cleaner prior to sterilization. Immersion time for all equipment shall be at least 5 minutes. Ultrasonic cleaning tank detergent shall be changed daily. The tank shall be scrubbed thoroughly with isopropyl alcohol between detergent changes.

Any licensed establishment shall have an autoclave on site for the sterilization of rods, needles, tubes, needle bars and other instruments used in the process.

Instruments used in tattooing, such as needle bars, grips and tubes, shall be sterilized before use on each customer. Autoclaving shall be done under 15 pounds of pressure for 15 minutes at 126°C or for 20 minutes at 121°C. Instrument sterilization bags shall have autoclave indicator tape and shall be dated.

With autoclaving being the method of sterilization, all tubes, grips and needle bars shall be left in the wrappers used during the autoclaving process until use. All packaged, sterilized items shall be autoclaved again if not used after 30 days.

Boiling is not an approved method of sterilization.

Only single use, disposable needles shall be used. Tattoo needles shall not be reused.

Under no circumstance shall any instrument to be sterilized be coated with petrolatum, lubricating jelly, glycerine, oil or grease before being sterilized.

The "Tubes" (holders for the stainless steel needle bars) shall also be sterilized together with other instruments used.

The "motors" or frames cannot be sterilized and they must be damp-wiped with 70% alcohol or with freshly made 1.5% solution of clean and soluble phenolic (carbolic acid) or with activated aqueous gluteraldehyde (e.g. Cidex). The use of a "poly" barrier or other type of engineered barrier shall be in place between the "motors" or frames and the patron to protect against cross-contamination.

200-12 Floors, Walls & Ceilings

The floor of the operating room of the tattoo establishment shall be impervious material and shall be, at all times, maintained in a clean condition. The walls and ceiling of the operating room shall be a light color, shall be maintained in good repair without flaking or chipping, and shall be of such material as to permit cleansing.

200-13 Disposition of Waste Material

The tattoo establishment shall have proper facilities for the disposition of biomedical waste material as now defined by State or Federal regulations and as subsequently defined. A contract with an approved, licensed biomedical waste company is required and a copy of such contract shall be required at time of licensing.

Sufficient toilet, urinal and hand washing facilities shall be accessible to customers, operators and artists within the tattoo establishment or the building in which said tattoo establishment is located.

ARTICLE VI

Tattooing Procedure

200-14 Preparation of area to be tattooed

When it is necessary to shave the area to be tattooed, a new disposable razor for each patron shall be used. The common use of shaving mugs and shaving brushes is prohibited.

After shaving the area to be tattooed, or if the area does not need to be shaved, the site of the tattoo shall be cleaned with soap and hot water, rinsed with clean water and germicidal solution applied in a sanitary manner before the design is placed on the skin. Only sterile individual towels and gauze shall be used in preparing the site to be tattooed. These dressings shall be properly disposed of after use on each patron.

If Vaseline or other jellies are applied, it shall be done with a sterile swab or sterile spatula for the use of each patron. Unused portions of jellies remaining from service on a patron shall be discarded.

Alum or any material used to stop the flow of blood must be used only in the form of a powder or liquid and applied only with sterile gauze or sterile absorbent cotton.

200-15 Stencil for transferring design

If the stencil for transferring the design to the skin is not disposable, it shall be thoroughly cleaned and rinsed in a germicidal solution approved by the local Health Department following each use and shall be maintained in a clean, sanitary condition.

200-16 Tattooing Process

A sterile set of needles shall be used for each patron. The open end of the needle tube of the tattooing machine shall be cleaned and sterilized after each use. The use of disinfectants does not constitute an approved sterilization method.

Single service or individual containers of dye or ink shall be used for each patron and any remaining ink or dye in the container following the procedure shall be discarded.

Single use containers shall be disinfected prior to use.

Excess dye applied to the skin shall be removed with individual sterile gauze pads or sterile cotton only. The area tattooed shall then be allowed to dry and the entire site covered with a piece of sterile gauze only, which may then be covered with a piece of dressing and fastened with adhesive. Only approved surgical dressing and tape shall be used on patrons. The use of paper napkins, other materials and mastic tape for dressing is prohibited.

200-17 Tattooing Restrictions

No tattooing shall be done on any person who is under the obvious influence of alcohol or other drugs.

No tattooing shall be done on any person under the age of 18 (Per NH RSA 639:3 II). A person under the age of 18 with a tattoo is Prima Facie evidence that this section has been violated and that the proper identification process did not occur.

No tattooing shall be done above the neck, below the ankles, below the wrists or on the genitalia.

No tattooing shall be done on any skin surface that has a rash, pimples, boils, infections or unhealthy skin conditions.

No skin area shall be penetrated, abraded or treated with chemicals for the purpose of removing, camouflaging or altering any blemish, birthmark, scar or previous tattoo.

Medical history records obtained earlier shall be checked and updated and anyone giving a history of jaundice, hepatitis, HIV infection or other infectious or communicable diseases shall not be tattooed.

200-18 Equipment After-Care

After each customer is tattooed, the needle bars must be disengaged, with the tubes, from the machine and placed in an autoclave dish. At the end of the session, the needles are "burned off" by flaming from the point to the soldered junction and disposed of properly. The needle bars must be cleaned ultrasonically, as before, and then reesterilized. Ultrasonic treatment alone is not effective. All used needles shall be disinfected before discarding. Used needles must be placed in a fresh solution of hypochlorite for thirty (30) minutes before disposal.

The pigment capsules must be disposed of after each customer.

Capsule holders and forceps must be sterilized between sessions.

Holding tubes for motors must be sterilized between sessions.

200-19 Infection Control

Written instructions, approved by the Health Officer, shall be given to each patron or customer on the care of the tattooed site to prevent infection after each tattooing. A copy of these instructions shall also be posted in a conspicuous place in the tattoo establishment, clearly visible to the person being tattooed.

All infections resulting from the practice of tattooing which become known to the operator(s), owner(s) and/or artist(s) shall be reported to the Health Officer by the owner of the tattoo establishment.

ARTICLE VII

Tattoo Establishment Noncompliance

200-20 Suspension of License

Any tattoo establishment licensed to operate in the Town of Atkinson and found to be in procedural noncompliance of any of the requirements of this chapter may have their license suspended by the Health Officer or his/her duly appointed agent at the time of inspection. Re-instatement shall occur following compliance and re-inspection.

200-21 Penalty for Non-Compliance

Any offense involving the tattooing of a minor shall result in a license suspension for a period of at least 7 business days in addition to facing any applicable court action and fines. The Health Officer and/or Police Chief may recommend, to the Board of Health, permanent revocation for repeated, subsequent offenses.

A first offense suspension, for issues other than the tattooing of minors, shall be for a period of at least 48 hours or until such time as the health and procedural issues of non-compliance are brought into compliance. A re-inspection fee of \$50 shall be charged individually to all artists involved in the issues of noncompliance. The Health Officer may recommend, to the Board of Health, a permanent revocation for repeated, subsequent offenses.

Any licensed tattoo establishment found to be in noncompliance of this chapter and not operating under the intent of this chapter shall have their license permanently suspended. Such suspensions may be made by the Health Officer, the Police Chief or their duly appointed agent(s) and/or per order of the Board of Health and shall be the result of documentation of such noncompliance.

Appeals from administrative decisions to revoke or to suspend a license(s) shall be made in writing within 10 days to the Board of Health with a request for a public hearing. The revocation/suspension shall be stayed pending a public hearing on the matter and final ruling by the Board of Health.

Anyone operating a tattoo establishment in an unapproved zoning site shall face court action and fines as allowable under NH RSA 676:17 for each day that such violation continues after the violator has received written notice from the municipality that he/she is in violation.

Anyone found to be operating an unlicensed tattoo establishment in the Town of Atkinson shall face court action and fines as allowable under NH RSA 31:39 III per offense. The establishment shall remain closed until all

requirements of this chapter are in compliance and a license has been issued.

Approved by the Board of Selectmen of the Town of Atkinson, NH, on 7/31/2000.

Effective 7/31/2000.

Recorded by the Town Clerk on 8/14/2000.

BOARD OF SELECTMEN HEALTH OFFICER

TOWN OF ATKINSON TOWN OF ATKINSON

Barbara L. Stewart, Chairman Joseph Chamberlain

Michael C. Turell

Joseph A. DeRosa

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Trash

Adopted March 9, 1926

Amended June 5, 2000

If any person or persons shall place, leave, or cause to be left, in or near a highway, street, alley or public place, any garbage, tin cans, glassware or other refuse material, such person or persons shall be fined no less than \$250.00 and no more than \$1,000.00. The Board of Selectmen shall determine the fine.

Installation of Underground Tanks

Adopted March 17, 1984

I. Petroleum Products

As of March 17, 1984, it is unlawful to place underground any metal tank for the purpose of storing petroleum products within the Town of Atkinson, New Hampshire.

It is permissible to place underground a fiberglass tank for the purpose of storing petroleum products or other non-corroding type tank as approved by the Fire Chief or his representative.

Only such fiberglass or other non-corroding type tanks complying with the construction provision of standard No. 58 or Standard No. 31 shall be buried underground.

1. Evacuation for underground tanks shall be made with due care to avoid undermining of foundations of existing structures.
2. The distance from any part of a tank storing fuel oil to the nearest wall of any basement, pit, or property line shall not be less than one (1) foot.
3. An underground tank shall be set on a firm foundation and surrounded with at least six (6) inches of non-corrosive inert material such as clean sand well tamped in place. A tank shall be covered with a minimum of two (2) feet of earth, or shall be covered with no less than one (1) foot of earth on top of which shall be placed a slab of reinforced concrete not less than four (4) inches thick. When underground tanks are subjected to traffic, additional protection is necessary.
4. Corrosion protection for the associated buried piping shall be provided by one or more of the following methods:
 - (a) use of protective coatings or wrappings
 - (b) cathodic protection
 - (c) corrosion resistant materials of construction.
5. Underground tanks shall be equipped with an open vent or an automatically operated vent, arranged to discharge to the open air. Vent openings and vent pipes shall be of ample size to prevent abnormal pressure in the tank during filling, but not smaller than the pipe size specified in Table I.

II. Propane Gas

Underground propane gas tanks may be installed within the Town of Atkinson under the following conditions:

1. Underground LP Gas systems must be designed and installed in accordance with the provisions of NFPA 58, Standard for The Storage and Handling of Liquefied Gases; NFPA 54, National Fuel Gas Code; BOCA, National Fire Prevention Code, and all applicable state, provincial and local codes and regulations covering these installations, specifically including RSA 146-C.
2. An underground tank shall be set on a fire foundation; i.e., poured concrete pad. All tanks must be anchored to the concrete foundation using appropriate methods; i.e., plastic covering wrapped around tie downs.
3. Clean sand (no rocks) shall be used to back fill around the tank and gas lines to the building foundation.
4. Marking tape shall be installed below ground level, approximately one foot above buried gas lines, for warning purposes.
5. A manual shut-off shall be installed on gas lines, to be located at the side of the building nearest the location of the buried gas tank.
6. Two (2) anode bags shall be installed with any buried tank over 500 gallons; one anode bag with any buried tank of 500 gallons or less. (Anode bags shall be spot welded to tank, and located at the lowest point in tank hole.)
7. Each tank installation will be marked with a three-foot column above grade, placed close to the center of the buried tank and painted yellow. This column shall be permanent in nature and have a minimum diameter of one inch (1").

Water Quality

Adopted March 6, 1976

WHEREAS, the people of the Town of Atkinson rely on adequate supplies of quality water for domestic and recreational purposes, and

WHEREAS, the continuing health, vitality and economic well-being of the Town and its people depend upon the maintenance of adequate supplies of good quality waters,

NOW THEREFORE, be it resolved by the people at Town Meeting assembled, that the goals of the Water Pollution Control Act Amendment from 1972, being the elimination of the discharge of pollutants into surface waters and the maintenance of water quality which provides for the protection and propagation of fish and wild-life and provides for

public health and recreation in and on the water, be adopted as worthy goals for the Town to pursue.

BE IT FURTHER RESOLVED that the officers and agents of the Town be directed to reflect in their actions, the goals of preventing, reducing and eliminating water pollution and that whenever possible, the Town shall guide the development and use of land to restore, preserve and enhance the quality of waters in the Town.

Winter Parking Ban Ordinance

Adopted April 8, 1997

It shall be unlawful to park any vehicle on any public street or highway in the Town of Atkinson between the hours of 12 midnights and 7:00 a.m. from November first to April first. Further, it shall be unlawful at any time of day to park any vehicle on any street during snow removal operation sin such a manner as to hinder snow removal. Violators will be fined Twenty Dollars (\$20.00) for each occurrence, and said vehicle will be towed and its owner will be responsible for all towing and storage fees.

Street Lights

When a resident requests a new street light, the Selectmen's Office staff will obtain the resident's name, address, phone number and if possible the numbers on the pole where they would like the street light placed.

Once this information has been received, it will be placed in the Selectmen's designee's folder on the Town Administrator's desk. It will be the responsibility of the Selectmen designee to review the request and to determine if he can approve this request, or if there are extenuating circumstances that would require the request to be reviewed by the Town's Highway Safety Committee.

Adopted: April 7, 2003

Conflict of Interest Ordinance

Adopted April 8, 1997

Amended March 9, 1999

Amended March 14, 2000

Amended March 13, 2001

Amended March 12, 2002

Amended March 14, 2006

Amended March 13, 2007

Declaration of Policy.

The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made through the proper channels of governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government members to perform their duties without conflicts between their private interests and those of the citizens they serve. In recognition of these goals, a Conflict of Interest for all town officials and employees is adopted in accordance with RSA 31:39A.

Section I Election of Conflict of Interest Committee.

The town will establish the Conflict of Interest Committee consisting of three (3) persons. For the first year, three at large members, exclusive of elected and appointed town officials, town employees, or relatives of such persons, and contractors or their employees who provide services to the town, shall be appointed by the Town Moderator to serve from July 1, 1997 until the next annual town elections. After the first year, members of the Conflict of Interest Committee shall be an elected body consisting of three (3) members at large with staggered three-year terms, after the following initial terms are completed:

Member at large [one (1) year]: 1998 to 1999

Member at large [two (2) years]: 1998 to 2000

Member at large [three (3) years]: 1998 to 2001.

The Conflict of Interest Committee will be increased by two (2) members and will now consist of five (5) members. The two (2) additional members are to be appointed by the Town Moderator within 30 days of approval of this amendment. They may be appointed to serve until the next annual Town Election, at which time they may be elected to terms of one year and two years respectively. Upon completion of the one year and two year terms they may be elected to three year terms.

Should a vacancy in the Committee arise, the remaining members of the Conflict of Interest Committee will elect a town citizen to serve out the remainder of the term year. At the following annual town elections, a member at large will be voted to serve out the remainder of the term.

No member of the Conflict of Interest Committee shall hold any Town, Federal, State, or County elective or appointed office, board membership, commission membership or trusteeship. No member of the Conflict of Interest Committee shall be employed full or part time by the Town of Atkinson. Family of elected or appointed town officials, town employees or contractors or their employees who provide services to the town shall not be allowed to serve on the Committee. This does not prevent a member of the Committee from volunteering unpaid services to the town, where no conflict of interest is created.

Officers: The Committee will have three officers (Chairman, Vice-Chairman, and Secretary) serving one-year terms. They will be elected annually, by Committee majority, at the first Committee meeting following the annual Town Election. Additional elections will be held, as necessary, to fill officer vacancies.

Section II Purpose. The purpose of this code is to establish guidelines for ethical standards of conduct for all officials and employees by setting forth those acts or actions

that are incompatible with the best interests of the Town thereby regulating conflicts of interest or the appearance of conflict; and also requiring disclosure by such officials and employees of private financial or other interest in matters affecting the town that may be or appear to be a conflict of interest.

Section III Investigatory Power. The Conflict of Interest Committee, only after a petition is filed under Section A, Procedures For Inquiries and Alleged Violations may require of any member of town government to appear before it and give such information as it may require in relation to this office, its function and performance. The Conflict of Interest Committee shall give at least forty-eight (48) hours' written notice of the general scope of the inquiry which is to be made to any person it shall require to appear before it under this section. The Conflict of Interest Committee, for this purpose, may administer oaths and require the production of evidence.

Section IV Definitions. As used in this ordinance, the following terms shall have the meanings indicated:

BOARD Any board, committee or commission, permanent or special, established by the Selectmen or New Hampshire law.

COMPENSATION Any money, gift, thing of value or economic/financial benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

CONFLICT OF INTEREST A situation, circumstance, or financial interest which has the potential to cause a private interest to interfere with the proper exercise of a public duty.

FAMILY Includes spouse, parents, stepparents, grandparents, children, stepchildren, grandchildren, brothers, stepbrothers, sisters, stepsisters, and in-laws.

INTEREST Any legal or equitable ownership or right held directly, or indirectly, jointly, or in part, at any time during the term of office, or within the previous twelve-month period. The specific interests of an official or employee of the town that are subject to this ordinance as being in conflict are as follows:

Ownership or title in a stock, security, investment, certificate, partnership, venture, trust, royalty, lease or other equity, which entitles the owner to business rights or profits.

Creditor entitlement in a note, bond, debenture or other evidence of such entitlement.

Ownership of land within 200 feet of any land being discussed by the town.

Acting as an agent of a person or company in dealings with the town.

A town member acting for the town with a person or company who is an employer of the member, or family, as defined by Section IV. Definitions. Paragraph: Family.

MEMBER OF TOWN GOVERNMENT (Also referred to as "member") - Any elected or appointed official, board member or town employee, whether full- or part-time, permanent or temporary, including those employed by the town and paid by federal or state assistance programs and including but not limited to all town employees, Selectmen, Budget Committee members, Cable Television Committee members, Checklist Supervisors, Conflict of Interest Committee members, Conservation Commission members, Rockingham Planning Commission members, Library Trustees, Planning Board members, Recreation Committee members, the Town Clerk/Tax Collector, the Town Moderator, the Treasurer, the Trustees of the Trust Funds, Zoning Board of Adjustment members and members of any other town boards, commissions or committees, including those yet to be established.

RESPONDENT A member of town government named in a petition submitted to the Conflict of Interest Committee as an inquiry or alleging a violation of the Conflict of Interest.

Section V Prohibited Conduct.

Participating in prohibited conduct establishes a Conflict of Interest with the town. It is in violation of this code for any member to:

In his or her official capacity, introduce, discuss, deliberate, approve or vote upon any matter in which he or she or any member of his or her family has an interest known to said member.

Knowingly enter into any discussion, testimony or deliberation without first, publicly and for the record, stating all dealings, interests, relationships and possible conflicts that may exist between said member and his or her family, the principals and the issue under deliberation, as may be known by the member.

Knowingly participate in town business without disclosing all potential conflicts of interest.

Knowingly use town property or labor for personal use.

Knowingly use town property or labor to influence the political cause of any candidate for public office or any political party. Use

any proprietary information acquired through or by virtue of his or her official position for his or her financial benefit or for the financial benefit of any other person or business. The foregoing does not apply to information available to the general public.

Otherwise than as provided by law for the proper discharge of his or her official duties, directly or indirectly request or receive any compensation from anyone other than the town in relation to any particular matter in which the town is a party or has a direct and substantial interest.

Otherwise than as provided by law for the proper discharge of his official duties directly promise or offer such compensation as referred to in this code.

Knowingly accept a gift with a value in excess of five dollars (\$5.00), or allow acceptance of such a gift by a family member from any individual, group or corporation knowingly dealing with an area of town government in which the member has an interest or jurisdiction. The foregoing does not apply to gifts from family members.

Knowingly give false information concerning dealings, interests, relationships and possible conflicts to the various supervisors, boards, commission and committees and the Selectmen.

Knowingly fail to cooperate with the Conflict of Interest Committee or other investigating authority in the investigation of any complaint alleging a violation of the tenets of this code.

Knowingly sign a purchase order where there is a prior or present financial interest with the vendor(s).

No elected or appointed officer or employee, whose salary is paid in whole or in part from the town treasury shall appear in his official capacity on behalf of a private interest before any town board. Selectmen, however, may appear without compensation on behalf of constituents or in the performance of public or civic obligations.

No elected or appointed official or employee whose salary is paid in whole or in part from the town treasury shall represent private interests, other than his or her own, in any actions or proceedings against the interest of the town in any litigation to which the town is a party.

No town official or employee shall claim to act on behalf on the Selectmen, boards or departments without prior authorization from said body or department.

Section VI Exclusions.

The prohibition against gifts or favors shall not apply to an occasional non-financial gift, insignificant in value, or an award publicly presented in recognition of public service or any gift which would have been offered or given to him or her if he or she was not a member. Unsolicited advertising or promotional items or materials of nominal intrinsic value such as pens and calendars. It shall not be a violation for elected members to accept donations for the express purpose of financing a political campaign, provided that such contributions are reported in accordance with all local, state and federal laws pertaining to such donations or services and/or financial value.

The mere purchase of goods or non-professional services (services from other than attorneys, engineers, architects and surveyors) from a person or business in the ordinary course of that person's or business's retail or service business shall not prevent a member from introducing, discussing, approving or voting upon a matter which relates to that person or business.

Those actions taken as part of the legislative process of making a law or laws which affect the community in general are exempt from the provisions herein. Legislative actions concerning the granting of specific contract awards and/or actions designed to benefit one (1) identified or identifiable individual specific group of individuals are not exempt.

Nothing in this ordinance shall prevent political candidates or parties from holding public meetings in town buildings, or prevent members from exercising and carrying out the responsibilities and obligations of their office or position of employment.

Section VII Procedures for Inquiries and Alleged Violations.

Any person or group may petition the Conflict of Interest Committee to make a ruling on a situation which may or may not constitute a conflict of interest. The petition must be submitted to the Conflict of Interest Committee within one year after the alleged violation has occurred.

A petition must be in writing, signed and dated and include the name and address of each petitioner. Business owners submitting a petition must also include the name and address of the business. The petition must be placed in a sealed envelope marked "Conflict of Interest Committee".

The petition must be submitted to the Town Clerk's Office, who shall promptly forward the sealed envelope to the Conflict of Interest Committee. The original petition shall remain on file in the Town Hall, under the exclusive control of the Conflict of Interest Committee.

The person submitting the request for information or the petition of alleged Conflict of Interest must complete a Petitioner Information Form.

The Conflict of Interest Committee will first review the inquiry or alleged violation and determine if it is within the jurisdiction of the Committee's authority. If the petition is found to be within the Committee's jurisdiction, the Committee will proceed with an investigation and hearing if deemed necessary.

After review, evaluation, and appropriate investigation the Conflict of Interest Committee shall, within thirty (30) days of the petition having been taken up by the Committee, make a finding on the inquiry or alleged violation. If necessary, the Conflict of Interest Committee may vote to extend its investigatory period up to a maximum of ninety (90) days from when the matter is first presented to the Committee as an agenda item.

Pursuant to RSA 31:39a, violating this code shall be grounds for recommending disciplinary action to be taken by the Board of Selectmen if found by the majority vote of the Conflict of Interest Committee.

E. Findings as to employees shall be forwarded to the respondent and Selectmen for appropriate action in accordance with applicable personnel policies and procedures and union contract requirements. Findings shall include supporting arguments.

F. Findings as to elected and appointed members (excluding town employees) shall be forwarded to the respondent and Selectmen with a recommendation for removal or censure, if appropriate. Findings shall include supporting arguments. The Selectmen shall have authority to order removal of or censure said elected or appointed members.

G. The Selectmen shall have forty-five (45) days from the date a finding is submitted to the appropriate office to act on the Conflict of Interest Committee decision.

H. If the Selectmen determine, by a majority vote, that removal is warranted, the elected or appointed member shall be given the opportunity to resign. If said member chooses not to resign, a petition to remove shall be filed with the Superior Court.

I. Any member alleged to have violated this code is entitled to a public hearing, with notice posted in two (2) public places seven (7) days prior thereto. When appearing before the Conflict of Interest Committee, said member may call witnesses on his or her behalf and may retain representation by legal counsel at his or her own expense if he or she so chooses.

Nothing in this code shall be construed to prohibit any person from petitioning the Superior Court to remove a member of government on the ground that the violation in question warrants removal.

A respondent may request that the Conflict of Interest Committee make a ruling on any petition that is withdrawn or invalidated. If such a request is made, the Conflict of Interest Committee shall complete an investigation pursuant to the procedures described herein.

Section VIII. Distribution of Conflict of Interest Ordinance.

Each member and employee, as defined in Section IV. Definitions shall be furnished with a copy of this Conflict of Interest Ordinance including amendments and changes prior to assuming their respective duties of office or employment. Copies of the Conflict of Interest, amendments and changes can be obtained from the Town Clerks Office.

Failure to be furnished or obtain a copy of the Conflict of Interest Ordinance with amendments and changes shall not be grounds for relief from observing and compliance with the ordinance, amendments, and changes.

Exemption period. Any member elected, appointed or engaged before July 1, 1997, shall be exempt from the provisions of this ordinance for a period of thirty-one (31) days.

Motorized Scooters, Skateboards, Mini-Bikes, & Bicycles

Adopted August 23, 2004

Brian J. Boyle, Chairman; Philip V. Consentino, Fred J. Childs, Jr.

Purpose: The purpose of the ordinance is to maintain safety, control the use of gasoline and electric powered skateboards, scooters, mini-bikes, and bicycles. The main priority is to protect the operators of said vehicle as well as the users of the Town of Atkinson, New Hampshire public ways.

Definition:

Motorized Skateboard, Scooter, Mini-bike, and bicycles: Shall mean, but not be limited to, any vehicle and/or device that are propelled by a motor and/or engine that uses gasoline and/or electricity. Said vehicle being of such size or configuration that they are not eligible to be registered for operation on a way in the State of New Hampshire.

Way: Shall mean the entire width between the boundary lines of any public highway, street, avenue, road, alley, park or parkway, or any private way laid out under authority of statute and to include any parking lot both public and private where these areas are intended for the public. The definition of "a Way" can be read in its entirety under RSA 259:125 of the Motor Vehicle Code.

Ordinance: Any motorized skateboard, scooter, mini-bike, or bicycle both gasoline and/or electric powered that can not obtain registration from the State of New Hampshire is prohibited from operating on any way within the Town of Atkinson, New Hampshire. These vehicles may only be operated on private property with written permission from the landowner unless the operator is the property owner. No part of this ordinance shall apply to any person who is physically challenged, cannot walk, and requires the use of a motorized device for mobility.

Violation: Any violation of this ordinance shall result in the fine of \$100.00 dollars for the first offense and the vehicle being towed at the owner's expense. A subsequent offense shall carry a fine of \$250.00 dollars and the vehicle shall be towed at the owner's expense. Community service maybe considered a viable alternative for the first offense at the discretion of the courts, for payment of fines.

Noise Ordinance

Adopted May 15, 2006

Fred J. Childs, Jr., Chairman; Jack Sapia, Paul Sullivan

It shall be unlawful to make loud or unreasonable noises in a public place, or making loud and unreasonable noises in a private place, which can be heard in a public place or other private places, which would disturb a person of average sensibilities.

It shall be unlawful to allow outside construction, loud parties, radios or loud bands or any other loud activities to start prior to 7:00am Monday through Sunday and shall not continue after 9:00pm at night.

First offense shall carry a \$50.00 fine.

Second offense shall carry a \$100.00 fine.

TOWN OF ATKINSON

Fred J. Childs, Jr., Chairman

Jack Sapia

Paul Sullivan

Water Withdrawal Control Ordinance

Special Town Meeting

Adopted September 12, 2007

Amended September 9, 2008

Adopted as a Health Ordinance October 20, 2008

Section 1.

Preamble and Purpose: We, the People of the Town of Atkinson declare that water is essential for life, liberty and the pursuit of happiness – both for people and for the ecological systems which give life to all species. We, the People of Atkinson, declare that we have the duty to safeguard the water both on and beneath the earth's surface, and in the process, safeguard the rights of the people of Atkinson and the rights of the ecosystems of which Atkinson is a part. We the people of Atkinson declare that all of our water is held in the public trust as a common resource to be used for the benefit of Atkinson residents and of the natural ecosystems of which they are a part. We believe that the corporatization of water supplies in this community – placing the control of water in the hands of a corporate few, rather than the community – would constitute tyranny and usurpation; and that we are therefore duty bound, under the New Hampshire Constitution, to oppose such tyranny and usurpation. That same duty requires us to recognize that two centuries' worth of governmental conferral of constitutional powers upon corporations has deprived people of the authority to govern their own communities, and requires us to take affirmative steps to remedy that usurpation of governing power.

Section 2.

Authority: This Ordinance is adopted and enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Town of Atkinson to self-government and under the authority granted to the people of the Town by all relevant state and federal laws including, but not limited to the following:

Part First, Article 10 of the N.H. Constitution, which declares that government is instituted for the common benefit, protection and security of the whole community, and not for the private interest of any class of men;

Part First, Article 1 of the N.H. Constitution, which declares that the government is founded upon the consent of the people and instituted for the common good;

The spirit of Part Second, Article 5 and Part Second, Article 83 of the N.H. Constitution, which subordinate corporations to the body politic;

N.H. RSA 31:39 I(a) and III which, under powers and duties of "Towns, permit bylaws for the care, protection, preservation of the commons; the ordering of their prudential affairs; and the enforcement of such bylaws by suitable penalties.

The Declaration of Independence which declares that governments are instituted to secure people's rights, and that government derives its just powers from the consent of the governed;

The General Comment of the United Nations Covenant on Economic, Social and Cultural Rights, which declares that "the right to drinking water is fundamental to life and health. Sufficient and safe drinking is a precondition to the realization of human rights."

Section 3.

Statement of Law: No corporation, syndicate, or business entity shall engage in water withdrawals and depletion from within the boundaries of the Town of Atkinson. The term "corporation" means any corporation organized under the laws of any state of the United States or any country. The term "syndicate" includes any limited partnership, limited liability partnership, business trust or Limited Liability Company organized under the laws of any state of the United States or any country. The term "engage" shall include, but not be limited to, the physical extraction of water, and the buying and/or selling of water extracted within the Town of Atkinson.

Section 4.

Statement of Law: No corporation doing business within the Town of Atkinson shall be recognized as a "person" under the United States under the United States or N.H. Constitution, or laws of the U.S. or N.H., nor shall the corporation be afforded the protections of the Contracts Clause or Commerce Clause of the U.S. Constitution, or similar provisions found within the N.H. Constitution, with the Town of Atkinson.

Section 4.1

Rights: All residents of the Town of Atkinson possess a fundamental and inalienable right to access, use, consume and preserve water drawn from the sustainable natural water cycles that provide water necessary to sustain life within the Town.

Natural communities and ecosystems possess inalienable and fundamental rights to exist and flourish within the Town of Atkinson. Ecosystems shall include, but not be limited to wetlands, streams, rivers, aquifers, and other water systems.

Section 5.

Exceptions: The people of the Town of Atkinson hereby allow the following exceptions to the Statement of Law contained with Section 3 of this Ordinance:

Municipal authorities established under the laws of the State of New Hampshire engaged in water withdrawals providing water only to residential and commercial used within the Town of Atkinson;

Non-profit educational and charitable corporations organized under state non-profit corporation law, and qualifying under Section 501(c)(3) of the Federal Tax Code, which do not sell water withdrawn within the Town of Atkinson outside of the Town of Atkinson; Utility corporations operating under valid and express contractual provisions in agreements entered into between the Town of Atkinson and those utility corporations operating under valid and express contractual provisions in agreements entered into between the Town of Atkinson and those utility corporations, for the provision of service within the Town of Atkinson; Corporations operating under valid and express contractual provisions in agreements entered into between residents of the Town of Atkinson and those corporations, when the withdrawn water is used solely for on-site residential, household, agricultural, or Commercial facilities within the Town of Atkinson, as long as such commercial facilities do not withdraw water for sale outside of the Town of Atkinson, or purchase water withdrawn from the Town of Atkinson for sale outside of the Town.

Section 6.

Enforcement: Any corporation planning to engage in water withdrawals within the Town of Atkinson must notify the Town of such activity at least sixty (60) days prior to engaging in water withdrawals. Such notification shall contain a claim to one of the exemptions listed in Section 5 of this Ordinance. Any violation of this Ordinance shall be considered a criminal summary offense, and will subject the Directors of the non-compliant corporation to joint and several liability with the corporation itself. The Atkinson Board of Selectmen authorizes a fine of up to \$1,000.00 per day of violation. Each act of water withdrawal shall be considered a separate violation of this Ordinance. The Atkinson Board of Selectmen may also file an action in equity in Rockingham County Superior Court or any other Court of competent jurisdiction to abate any violation defined in Section 3 of this Ordinance. If the Atkinson Selectmen fail to bring an action to enforce this Ordinance, any resident of the Town has standing in front of the Court for enforcement.

Section 6.1

Civil Rights: Any person acting under the authority of a permit issued by the Department of Environmental Services, any corporation operating a State charter or certificate of authority to do business, or any director, officer, owner, or manager of a corporation operating under a State charter or certificate of authority to do business, who deprives any Town resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Warrant Article, the N.H. Constitution, the U.S. Constitution, or other laws, shall be liable to the party injured and shall be responsible for payment of compensatory and punitive damages and all costs of litigation to satisfy that liability, including, without limitation, expert and attorney's fees.

Section 6.2

Environmental Protection: It shall be unlawful for any corporation or its directors, officers, or managers to interfere with the rights of natural communities and ecosystems to exist and flourish, or to cause damage to those natural communities and ecosystems.

The Town of Atkinson, along with any resident of the Town, shall have standing to seek declaratory, injunctive, compensatory, and punitive relief for damages caused to natural communities and ecosystems within the Town, regardless of the relation of those natural communities and ecosystems to Town residents or the Town itself. Town residents natural communities, and ecosystems shall be considered to be "persons" for the purposes of the enforcement of the civil rights of those residents, natural communities, and ecosystems.

Section 6.3

Civil Rights Enforcement: Any Town resident shall have standing and authority to bring an action under this Warrant Article's civil rights provisions, or under state and federal civil rights laws, for violations of the rights of natural communities, ecosystem, and Town residents, as recognized by this Warrant Article.

Section 6.4

Town Action Against Pre-emption: The foundation for the making and adoption of this law is the people's fundamental and inalienable right to govern themselves, and thereby secure rights to life, liberty, property, and pursuit of happiness. Any attempts to use county, state, or federal levels of government to pre-empt, amend, alter, or overturn this Warrant Article or parts of this Warrant Article, or to intimidate the people of the Town of Atkinson or their elected officials, shall require the Board of Selectmen to hold public meetings that explore the adoption of other measures that expand local control and the ability of residents to protect their fundamental and inalienable right to self-government.

Section 6.5

Strict Liability: Persons using a corporation to engage in water withdrawal in a neighboring municipality shall be strictly liable for all harms caused to the health, safety, and welfare of the residents of Atkinson from those activities, and for all harms caused to ecosystems and natural communities within Atkinson.

Section 6.6

Liability: No permit, license, privilege or charter issued by any State or federal Regulatory Agency, Commission or Board to any person or any corporation operating under a State charter, or any director, officer, owner, or manager of a corporation operating under a State charter, which would violate the provisions of this Warrant Article or deprive any Atkinson resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Warrant Article, the N.H. Constitution, the U.S. Constitution, or other laws, shall be deemed valid within the Town of Atkinson.

Additionally, any employee, agent or representative of any State or federal Regulatory Agency, Commission or Board who issues a permit, license, privilege or charter to any person or any corporation operating under a State charter, which would violate the provisions of this Warrant Article or deprive any resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Warrant Article, the N.H. Constitution, the U.S. Constitution, or other laws, shall be liable to the party injured and shall be responsible for payment of compensatory and punitive damages and all costs of litigation, including, without limitation, expert and attorney's fees.

Section 6.7

Future Lost Profits: Within the Town of Atkinson, corporate claims to "future lost profits" shall not be considered property interests under the law, and thus, shall not be recoverable by corporations seeking those damages.

Section 6.8

Prohibition on Board of Selectmen Challenge: The Board of Selectmen of the Town of Atkinson or any other agent or agency of the Town shall be prohibited from taking any action to annul, amend, or overturn this Warrant Article, unless such action is approved by a prior Town Meeting at which two-thirds (2/3) of the residents of the Town attending the Town Meeting approve such action.

Section 7.

Severability: The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the people of Atkinson that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision has not been included herein.

Section 8.

Effect: This Ordinance shall be effective immediately upon its enactment.

September 12, 2007 **Yes: 753** No: 368

September 9, 2008 **Yes: 632** No: 219