

ZONING ORDINANCE
FOR
HOPKINTON VILLAGE PRECINCT

The Hopkinton Village Precinct (HVP) continues to maintain and enforce their own Ordinances and Regulations as the authority to do so was granted to them by the New Hampshire Legislature in 1959. Questions concerning the Hopkinton Village Precinct should be directed to the officials within the Village.

OFFICIAL ZONING ORDINANCE

HOPKINTON VILLAGE PRECINCT* **Hopkinton, New Hampshire**

Article I **Authority**

Pursuant to the authority conferred upon it by New Hampshire Laws of 1959, Chapter 359 and by Sections 60-89 of Chapter 31 of New Hampshire Statutes Annotated, 1955, as such authority has been amended and supplemented from time to time including all applicable provisions of the present Title LXIV Planning and Zoning of the said Revised Statutes Annotated, 1955, the following Ordinance is hereby adopted and confirmed as the Official Zoning Ordinance of Hopkinton Village Precinct.

Article II **Districts**

For the purpose of this Ordinance, Hopkinton Village Precinct is hereby divided into the following districts as shown on official zoning map on file with the Clerk of the Precinct and dated February 24, 1960.

- (1) Hopkinton Village Residential District
- (1-A) Hopkinton Village—Special Residential District
- (1-B) Hopkinton Village—Office District
- (2) Hopkinton Village Commercial District

Article III **General Provisions**

The following provisions shall apply throughout all zoning districts in the Precinct, and any act, conduct or failure to act pursuant to the standards and requirements of any of the said provisions shall constitute a violation of this Ordinance. No permit, variance or special exception shall be issued by an official, board, or agency hereunder which the issuing authority shall find would more likely than not result in a violation of any such provision.

- 1. Obnoxious Uses Generally Prohibited. Any use of the premises that is unreasonably obnoxious or injurious to the public or to persons occupying other premises in the vicinity by reason of the creation or emission of odor, dust, smoke, refuse, matter, fumes, noise, ashes, vibration or similar conditions, or that unreasonably interferes with the comfort, peace, enjoyment, health or safety of the community, or is unreasonably disturbing or annoying to occupants of neighboring land or to the public is hereby prohibited.
- 2. Principal Building Restriction. There shall be no more than one principal building erected upon any lot in any zoning district.
- 3. Sand Pits, Gravel Banks, Etc. The excavation and removal of clay, sod, loam, sand, gravel, stone or earth materials of any sort from any premises in any of the said districts is hereby prohibited, provided, however, that nothing herein shall prevent the ordinary excavation, grading or regarding of premises by or in behalf of the owner in connection with any construction project lawfully undertaken thereon or otherwise in connection with the routine grading, improvement or beautification of said premises.

*Adopted at special meeting of Hopkinton Village Precinct, February 29, 1960.

**Amended at annual meeting of Hopkinton Village Precinct, April 19, 1982.

***Amended at annual meeting of Hopkinton Village Precinct, April 20, 1983.

****Amended at annual meeting of Hopkinton Village Precinct, April 29, 1985.

*****Amended at annual meeting of Hopkinton Village Precinct, April 29, 1986.

*****Amended at annual meeting of Hopkinton Village Precinct, April 16, 2001.

*****Amended at annual meeting of Hopkinton Village Precinct, March 25, 2003.

*****Amended at annual meeting of Hopkinton Village Precinct, March 30, 2004.

4. Shorelines. No building or septic system shall be erected or installed closer to the shoreline of a stream (other than an intermittent stream), wetlands or other water body than seventy-five feet from its mean high-water mark, and no road, driveway, parking area or other structure or improvement shall be built or installed closer than fifty feet from such high-water mark, provided, however, that in an appropriate case in which the Board of Adjustment finds that all requirements for a special exception are met, the above minimum setback distances may be reduced to no closer than fifty feet for a building (but not for a septic system) and not closer than thirty feet for a road, driveway, parking area or other structure or improvement. (This provision shall not preclude road crossings of streams as a special exception to provide reasonable access to premises not otherwise conveniently accessible provided that appropriate grading is installed to ensure reasonable protection of the water involved.) In determining whether the standards for a special exception are met under this paragraph the Board of Adjustment shall give particular attention to the protection of streams and water bodies from any hazard of degradation by run-off or drainage, either above ground or through the soil, from structures and improvements to be erected or installed on shorefront premises as well as to all other requirements and conditions for the issuance of a special exception as set forth in Article VIII, Paragraph 4(b).
5. Dangerous Ruins. No owner or occupant of land in any of said districts shall maintain thereon any structure ruined by fire, storm or otherwise abandoned during construction, or dangerously dilapidated by reason of age but within one year of the occasion of the damage to the structure or within one year or it becoming unsafe, he shall either repair, reconstruct, renovate or replace the same, returning it to a safe condition, or he shall demolish the same to the ground level, removing any remaining dangerous or unsightly materials and shall fill all excavations, cellars, pits, wells and holes to ground level.
6. Signs. Signs shall not be erected nor maintained in Districts (1) and (2) otherwise than in accordance with the provisions of this Article, including the special provisions of the paragraphs hereof applicable to each individual district, and after the issuance of a prior permit by the Zoning Board. No sign shall be so placed relative to any vehicular right of way as to obstruct a clear view or to create a condition dangerous to vehicular or pedestrian traffic, nor shall any sign be so located or designed as to create confusion with official street signs and signals. No sign shall be erected or maintained having flashing, bright or dazzling lights, neon tubing or moving parts, and no sign shall be illuminated with unshielded lights, provided, however, that nothing herein shall prevent the use of ordinary and appropriate highway construction warning blinkers, flares, or other signals nor otherwise to prohibit appropriate traffic control lights and signals. Any sign erected and maintained in these districts shall be constructed of durable materials and shall at all times be maintained in good condition and repair.
7. Sanitary Facilities. All sanitary, sewage and waste disposal systems of any sort shall be constructed and maintained pursuant to and in accordance with all applicable standards and requirements of the Department of Environmental Services (or any successor agency of The State of New Hampshire which may succeed to its responsibilities).
8. Trailers and Mobile Homes. The use of land for the accommodation of trailers and mobile homes shall be permitted as provided herein and not otherwise. Any owner or possessor of land may accommodate a single trailer or mobile home of a non-resident and non-paying guest for a temporary period not in excess of sixty (6) days in any one year provided that a permit for such location of the trailer or mobile home has first been obtained from the Zoning Board, which Board shall issue its revocable permit for such temporary location of the trailer or mobile home upon application duly made and upon such terms and conditions for the protection of the public health, safety, morals and general welfare as the Board may duly impose. Nothing herein shall prevent any individual owner or possessor of land in any zoning district from parking or storing a trailer or mobile home owned or rented by such person upon his own premises during periods of nonuse.
9. Junk Yards and Dumps. The use of land or buildings for motor vehicles or machinery junk yards or for public or private dumps or any sort is prohibited.

10. Drive-in Theatres. No drive-in theatre or outdoor movie shall be permitted within any of such districts.

11. Lumber Operations. Timber may be cut and harvested for commercial purposes only after prior permit has been obtained from the Zoning Board which shall impose such terms and conditions upon the issuance of said permit for the protection of the public health, safety and welfare, including the protection of the peace and beauty of the community, as it may deem proper. Clear cutting shall not be permitted within a distance of one hundred fifty (150) feet from the nearest public right of way line, but selective cutting may be carried out to any such right of way line provided that there be left uncut within such one hundred fifty (150) foot strip a reasonable growth of substantial trees. Any permit issued may make appropriate requirements for removal of brush and protection against the hazard of fire. Nothing herein shall prevent ordinary clearance of a lot for the purpose of construction of buildings.

11. Manufactured Housing. The use of land for manufactured housing is permitted in District (1A) as provided in Article VI below, but with the exception of Section 6 above is otherwise prohibited.

12. Condominiums. The use of land or buildings for condominiums is permitted in any of the zoning districts in the Precinct provided, however, that the use of the condominium form of ownership shall not in any way alter or modify the restrictions and limitations hereunder concerning the erection and maintenance of buildings and structures or improvements upon any lot involved and the uses of the subject premises with the zoning district concerned.

13. Yard Sales. A limit of two (2) Yard Sales in any twelve (12) month period per house address. Any Yard Sale held on two (2) consecutive days shall be considered one (1) Yard Sale for the purposes of this Ordinance.

Article IV **Personal Wireless Service Facilities**

1. Authority: This Ordinance is adopted by the Hopkinton Village Precinct (the "Precinct") on April 16, 2001 in accordance with the authority granted in New Hampshire Revised Statutes Annotated 674:16, 674:21, and 12-K and New Hampshire Laws of 1959, Chapter 359.

2. Purposes: These regulations have been enacted in order to establish general guidelines for the siting of personal wireless service facilities ("PWSFs"), including towers and antennas and to enhance and fulfill the following goals:

- A. Preserve the authority of the Precinct to regulate and to provide for reasonable opportunity for the siting of personal wireless service facilities, by enhancing the ability of providers of personal wireless services to provide such services to the community quickly, effectively, and efficiently.
- B. Reduce adverse impacts such personal wireless service facilities may create, including, but not limited to: impacts on aesthetics, environmental sensitive areas, conservation lands, historically significant locations, ridgelines, scenic areas and vistas, flight corridors, health and safety by injurious accidents to person and property, and economic prosperity of the community by damage of property values.
- C. Provide for co-location and minimal impact siting options through an assessment of technology, current locational options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Precinct.
- D. Permit the construction of new personal wireless service facilities only where all other reasonable opportunities have been exhausted, and to encourage the construction of new PWSFs in a way that minimizes the adverse visual impact of such facilities.

- E. Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Precinct.
- F. Provide constant maintenance and safety inspections for any and all personal wireless service facilities.
- G. Provide for the removal of abandoned personal wireless service facilities that are no longer inspected for safety concerns and code compliance. Provide a mechanism for the Town to remove these abandoned facilities to protect the citizens from imminent harm and danger.
- H. Provide for the removal of personal wireless service facilities that are technologically outdated.

3. Definitions:

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

Average tree canopy height shall mean the average height above ground level of all trees over a specified height within a fifty (50) foot radius of the center of the mount of a PWSF, such average to be determined by inventorying the trees after the construction of the PWSF.

Camouflaged shall mean a personal wireless service facility that is disguised, hidden, part of an existing or proposed building or structure, or placed within an existing or proposed building or structure.

FAA shall mean the Federal Aviation Administration.

FCC shall mean the Federal Communications Commission.

Height shall mean, when referring to a tower or other structure, the distance measured from ground level of the natural grade of a site to the highest point on the tower or other structure, even if said highest point is an antenna.

Mount shall mean the structure or surface upon which antennas are mounted and include roof-mounted, side-mounted, ground-mounted, and structure-mounted types.

Personal Wireless Service Facility(ies) or PWSF(s) or facility(ies) shall mean any "PWSF" as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(C)(ii), including facilities used or to be used by a licensed provider of personal wireless services, which for purposes of this Ordinance shall also include, as the context may require, all towers and antennas used in connection therewith.

Personal Wireless Services shall mean any wireless telecommunications services, and commercial mobile services including cellular telephone services, personal communications services, and mobile and radio paging services as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332 (c)(7)(C)(i).

Planning Board or Board shall mean the Precinct Planning Board, which shall be the regulatory agency of this Ordinance.

Pre-existing Facilities shall mean any PWSF, tower or antenna lawfully constructed or permitted prior to the adoption of this Ordinance, as well as the replacement of any such PWSF, tower or antenna, provided that such replacement meets the requirements of Paragraph 3.10.6(A). Pre-existing Facilities shall also mean any PWSF, tower or antenna lawfully constructed in accordance with this Ordinance that predates an application currently before the Board.

Radio frequency radiation shall mean the emissions from personal wireless service facilities.

Stealth Facility/Stealth Technology shall mean any PWSF designed to look like a structure which may commonly be found in the area surrounding such proposed facilities such as, but not limited to, flagpoles, farm silos, ranger or forest fire watch towers, or artificial trees.

Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, stealth facilities, and the like.

4. Overlay District

- A. **General.** Personal wireless service facilities shall be permitted as a principal or accessory (secondary) use in all zoning districts within the Precinct governed by this Ordinance only after obtaining a Conditional Use Permit as provided in this Ordinance.
- B. **Existing Uses or Structures.** The existence of a permitted use on a site shall not preclude the addition of a PWSF as a secondary use provided all other provisions of this Ordinance are satisfied. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a PWSF, tower or antenna complies with district development regulations, including but not limited to set-back requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the PWSF, tower or antenna may be located on an easement or leased parcel within such lot. PWSF, towers that are constructed, and antennas that are installed, in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

5. Applicability:

- A. **General.** The terms of this Ordinance shall apply to all personal wireless service facilities proposed to be located within the Precinct whether on property owned by the Precinct, on privately owned property, or on property owned by another governmental entity that acts in a proprietary capacity to lease such property to a carrier.
- B. **Exceptions.**
 - 1. **Amateur Radio / Receive-Only Antennas.** This Ordinance shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally- licensed amateur radio station operator or is used exclusively for receive only antennas. This Ordinance adopts the provisions and limitations as referenced in RSA 674:16, IV.
 - 2. **Essential Services & Public Utilities.** Personal wireless service facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Precinct's ordinances and regulations. Siting for personal wireless service facilities is a use of land, and is addressed by this Paragraph 3.

6. Location, Construction, and Performance Requirements:

- A. **Setbacks.** All personal wireless service facilities, including equipment compounds, utility buildings, structures, towers and antennas must meet the minimum setback requirements of this Ordinance. Further, freestanding facilities must be set back from all lot lines and public rights-of-way a minimum distance equal to 125% of the tower's height; provided, however, that this requirement shall not apply to PWSFs and appurtenant facilities (1) located on or within existing buildings or structures; or structures less than thirty-five (35) feet in height from surrounding grades, and (2) camouflaged as otherwise required by this Ordinance.
- B. **Height Limitations.**

1. **General.** Subject to any stricter standards as set forth below, a personal wireless service facility shall not exceed ninety (90) feet in height, measured as the vertical distance from the average finished grade surrounding the facility, to its highest point, including all attachments.
 2. **PWSFs in Wooded Areas.** A personal wireless service facility located in a wooded area shall not project higher than twenty (20) feet above the average tree canopy height of the proposed site. Further, a PWSF located in a wooded area must be camouflaged to blend in with the natural character of such area and must employ stealth technology in order to make the site less obtrusive to surrounding properties and the community. Appropriate stealth technologies for wooded areas include: ranger or forest fire watch towers of a size typically found in the State of New Hampshire, artificial trees, or other structures acceptable to the Planning Board.
 3. **PWSFs in Fields or Agricultural Areas.** A personal wireless service facility located in a field or other open area without a tree canopy shall employ stealth technology. Appropriate stealth technologies for fields or open areas include agricultural silos, windmills, or other structures acceptable to the Planning Board and of a size typically found in the State of New Hampshire.
 4. **PWSFs in or on Existing Structures.** A PWSF may be located on or within an existing building or structure provided that such facilities shall employ stealth technologies and shall be architecturally compatible with the host building or structure.
 5. **New PWSF Structures.** A PWSF may be located in a new building or structure provided that such building or structure (a) shall not exceed the maximum building height in the zoning district where a PWSF is proposed, and (b) shall be architecturally compatible with the buildings in the immediately surrounding area and otherwise in compliance with all applicable provisions of this Zoning Ordinance.
- C. **Location Prioritization.** Any new personal wireless service facility shall be located in accordance with the following priorities:
1. Concealed or camouflaged on or within an existing building or structure, including but not limited to an historic building, an agricultural building or structure, a water tank, a utility transmission pole, an outdoor lighting structure, or a church steeple.
 2. On or within a new building or structure having a height not greater than the maximum building height in the zoning district where the PWSF is proposed.
 3. On an existing PWSF (co-location);
 4. On a new facility which is camouflaged using stealth technologies subject to the height limitations set forth above.
- D. **Easements or Leased Areas.** If a PWSF is to be located on an easement or leased area, said easement or leased area shall have a minimum area equal to an area having a radius of 125% of the tower's height plus additional area for accessory structures and access, if required.
- E. **Tower Construction.** Traditional lattice, guyed, and monopole towers are prohibited. All new PWSFs must employ appropriate stealth technologies that are visually compatible and in scale with the rural character of the Town and its villages and shall satisfy the following additional requirements:
1. The design of the tower, buildings and related structures on a PWSF site shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend such facilities with the natural setting and built environment. These

facilities shall also be subject to all other requirements of the Zoning Ordinance and Site Plan Review Regulations.

2. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 3. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
 4. Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind, except as required by law for such facilities.
 5. An applicant constructing a PWSF in a wooded area shall utilize appropriate construction techniques to minimize damage to trees and other vegetation within the PWSF site and surrounding areas. Moreover, all trees used to determine the average tree canopy height for the PWSF site shall not be damaged or removed during construction, maintenance, repair and operation of the PWSF.
- F. Viewshed Analysis. As part of the review process the applicant shall conduct a viewshed analysis to include, at a minimum, (1) a mapped viewshed delineation; and (2) a test balloon or crane extension moored at the site to indicate the visibility of proposed towers and/or antennas. Photographs or video footage of the balloon or crane test shall be provided to the Planning Board and shall provide views of the tower from the PWSF site and other vantage points as determined by the Planning Board.
- G. Landscaping. The following landscaping requirements shall apply to personal wireless service facilities constructed under this ordinance.
1. Towers and all accessory buildings and fencing shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compounded from adjacent residential property. The standard buffer shall consist of a landscaped strip at least ten (10) feet wide outside the perimeter of the compound. Natural vegetation is preferred.
 2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived entirely within the discretion of the Planning Board.
 3. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, if PWSFs are sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer.
- H. Federal Requirements. All PWSFs must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, the owners of the PWSFs governed by this Ordinance shall bring such facilities into compliance with such revised standards and regulations within six (6) months of the effective date of such revised standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring a PWSFs into compliance with such revised standards and regulations shall constitute an abandonment and grounds for the removal of the PWSF in accordance with Paragraph 10 below at the owner's expense through the execution of the posted security.
- I. Building Codes-Safety Standards. To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in

applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Precinct concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal of the tower in accordance with Paragraph 3.10.10 at the owner's expense through execution of the posted security.

7. Conditional Use Permits:

- A. **General.** Any person seeking to construct a personal wireless service facility shall apply to the Planning Board for Site Plan Review in accordance with the requirements set forth in the Precinct's Site Plan Review Regulations. In addition, such applicant shall submit the information required in this Paragraph 7.
- B. **Issuance of Conditional Use Permits.** In granting a Conditional Use Permit, the Planning Board may impose such conditions as the Board determines are necessary to minimize any adverse effect of the proposed PWSF on adjoining properties, and to preserve the intent of this Ordinance.
1. **Procedure on Applications.** The Planning Board shall act upon an application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4. In addition, applicants shall submit a list of all communities within twenty (20) miles of the Town, with mailing addresses for each, as required by RSA 12-K. Applicants shall also pay all fees required to notify each such community.
 2. **Decisions.** Possible decisions that may be rendered by the Planning Board include approval, approval with conditions, disapproval without prejudice, or disapproval. All decisions shall be rendered in writing, in accordance with RSA 676:3. Further, in accordance with the National Wireless Telecommunications Siting Policy - Section 332(c)(47 U.S.C. 332(c)), a denial shall be based upon substantial evidence contained in the written record.
 3. **Application Requirements.** All applications shall meet the standards set forth in Paragraph 6.
 4. **Other Factors.** Other factors to be considered by the Board in reviewing applications shall include:
 - a) The height of the proposed tower or other structure shall not exceed that which is essential for its intended use and public safety.
 - b) The proximity of a PWSF to residential developments or zones.
 - c) Nature of uses on adjacent and nearby properties.
 - d) Surrounding topography.
 - e) Surrounding tree coverage and foliage.
 - f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - g) Proposed ingress and egress to the site.
 - h) Availability of suitable existing towers and other structures as discussed in Section 6.C.

- i) Visual impacts on view-sheds, ridgelines, public parks, natural scenic vistas, historic buildings, major view corridors and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.
5. **Plan Requirements.** Each applicant requesting a Conditional Use Permit under this Ordinance shall submit a scaled plan in accordance with the Site Plan Review Regulations and further information including:
- a) A scaled elevation view;
 - b) Topography;
 - c) Propagation Maps;
 - d) Radio frequency coverage;
 - e) Setbacks;
 - f) Adjacent uses (up to 400 feet away);
 - g) The location of all buildings and structures within 500 feet of proposed tower;
 - h) Diagram of the average tree canopy height determined for the proposed PWSF site;
 - i) Driveways and parking;
 - j) Fencing; and
 - k) Landscaping.

C. **Other Information Required.** In order to assess compliance with this Ordinance, the Planning Board shall require the applicant for a PWSF to submit the following information prior to any decision by the Board:

1. The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
2. The applicant shall submit written proof that it has conducted an evaluation of any requirements of the National Environmental Policy Act (NEPA) pertaining to the proposed wireless telecommunication facility, tower or antenna, as may be required under applicable FCC rules, and the results of any such evaluation. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and/or NEPA, the applicant shall submit the EA or EIS to the Board prior to the beginning of the federal thirty (30) day comment period, and the Precinct proceedings with respect to the proposed wireless telecommunication facility, tower or antenna shall become part of the FCC application requirements.
3. The applicant shall submit written proof that it has complied with the requirements of Section 106 of the National Historic Preservation Act.
4. Each applicant for a PWSF shall provide to the Planning Board an inventory of all existing personal wireless service facilities and towers that are within the jurisdiction of the Precinct or the Town of Hopkinton as well as those within two miles of the border of the Town, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers. The Planning Board may share such information with other

applicants applying for approvals or conditional use permits under this Ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however, the Planning is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

- D. If an applicant proposes to build a new PWSF, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. The evidence shall consist of:

1. Substantial evidence that no existing PWSFs, towers or structures are located within the geographic area meet the applicant's engineering requirements, provided that a description of the geographic area required is also submitted.
2. Substantial evidence that existing towers in the Precinct or the Town are not of sufficient height to meet the applicant's engineering requirements, with supporting reasons.
3. Substantial evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
4. Substantial evidence that the applicant's proposed antenna or structures would not cause electromagnetic interference with other antennae on the existing towers, and visa versa.
5. Substantial evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
6. Substantial evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.
7. Information on the number of sites for PWSFs each provider will require.
8. Information on sites in Hopkinton outside of the Precinct or in neighboring towns that are being considered.
9. Information on how future technology may reduce or eliminate the need for towers.
10. Information on the impact, if any, of the PWSF on a competitor's facility on the same property.
11. Information on whether it is feasible for carriers to locate base station equipment underground.

- E. The applicant proposing to build a new PWSF shall submit an agreement with the Precinct that allows for the maximum allowance of co-location upon the new facility. Such statement shall become a condition to any approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other personal wireless service providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the Town of Hopkinton and grounds for a denial.

- F. The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Board may retain the services of a consultant qualified in personal wireless services to review the application and all associated information submitted by the applicant. The Board may further require, pursuant to RSA 676:4, I (g), that the applicant reimburse the Precinct for reasonable costs of this review. No application shall be approved until such fees, if applicable, are paid in full.

8. Waivers:

- A. General. The Planning Board may grant waivers to these regulations provided that a majority of the Board finds that the criteria set forth in Article X, Paragraph 4(c) of the Zoning Ordinance regarding "variances" have been satisfied.
- B. Conditions. In approving waivers, the Board may impose such conditions, as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.
- C. Procedures. A petition for any such waiver shall be submitted in writing by the applicant for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

9. Bonding and Security Insurance: In recognition of the extremely hazardous situation presented by abandoned and unmonitored PWSFs, towers and antennas, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of such abandoned facilities in the event that such facility is abandoned and the owner thereof is incapable and unwilling to remove the facility in accordance with Paragraph 3.10.10. The Planning Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed PWSF, tower or antenna prior to the construction of such facilities.

10. Removal of Abandoned PWSFs: Any PWSF, tower or antenna that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said facility provides proof of quarterly inspections reporting it to be in safe and usable condition. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Precinct notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed per Precinct regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned PWSF, tower or antenna is not removed within ninety (90) days of the determination of abandonment, the Precinct may execute on the security posted in accordance with Paragraph 9 and have the facility removed. If there are two or more users of a single facility, this provision shall not become effective until all users cease using the facility.

11. Requirement to Maintain Stealth Technology: Where stealth technology has been employed to reduce the aesthetic impact of a PWSF, said technology or camouflaging techniques must be maintained in perpetuity for the life of the PWSF. Failure to maintain said technology/techniques shall be considered abandonment and grounds for removal of said facility in accordance with paragraph 9 and 10 of this Ordinance.

Article V

District (1)—General Residential District

Land within Zoning District (1) may be occupied and used, and buildings and structures thereon may be erected, altered, occupied and used only for the following purposes and subject to the following provisions:

- 1. Permitted Uses. The following uses are hereby permitted:
 - (a) Single and two-family dwellings, with or without private garages and accessory buildings subject, however, to the requirement that there shall be provided with each such new structure either garage or off-street parking space for not less than one private passenger car for each family intended to reside upon the premises;
 - (b) Churches and religious institutions, municipal buildings, and public or private parks, playgrounds and public schools.

- (c) Garden and farm uses, provided that such activities shall be incidental to the primary use of the premises for residential purposes and that any garden or farm use of premises which is injurious, obnoxious or unreasonably offensive to the neighborhood is prohibited.
2. Uses Requiring Special Permits. The following uses are permitted only upon the condition that a prior permit has been obtained from the Board of Adjustment after its findings that an exception from the strict terms of the Ordinance should be granted pursuant to Article XI below, that any other necessary facts exist as herein below specified, and further upon such terms and conditions as the Board may reasonably impose to carry out the purposes and spirit of the Ordinance.
- (a) Offices for doctors, lawyers, dentists, architects and members of other recognized professions; offices for real estate and insurance agents and brokers; the conduct of bed and breakfast operations; facilities for the display and sale of antiques; private schools; Family Day Care Home; facilities for the conduct of usual home occupations such as hairdressing and dressmaking, or for the practice of home handicrafts such as the making of pottery, weaving and cabinet making; provided, however, that any such business uses of premises in this District shall be incident to the ordinary and customary use of the premises for residential purposes, that not more than a single such business use shall exist upon any single lot, and that no more than two (2) persons, in addition to the owner or occupant of the premises shall be employed or engaged in such business activity thereon. The traffic and activity created by the business shall not be obnoxious to the neighborhood.
- (b) The public display for sale of garden, food and handcraft products produced upon the premises.
3. Signs. No public advertising signs shall be displayed in this District other than the following:
- (a) Not more than one (1) advertising sign having an exposed area not in excess of four (4) square feet, relating solely to business, professional or other permitted service enterprises conducted upon the premises.
- (b) No more than one (1) sign having an exposed area not in excess of four (4) square feet, pertaining to the availability of all or a part of the premises for lease or sale.
4. Lot Area and Frontage Required. No lot in this Zoning District shall have an area of less than 80,000 square feet, nor a frontage of less than 200 feet provided, however, that the requirements of this subparagraph as to minimum lot size and frontage shall not apply to any smaller lot which is a duly recorded lot of record at the time of adoption of this amendment, April 19, 1982. In the case of preexisting lots which do not comply with the foregoing frontage requirement a set-back frontage of 200 feet shall be provided, or if the lot will not afford such a set-back, a set-back frontage as close to this standard as feasible, consistent with the character of the lot and its reasonable use, as approved by the Board of Adjustment, shall be provided.
5. Building Set-back or Yard Requirements. All structures and improved parking areas upon any lot in this district shall conform to the following minimum set-back requirements and are subject to the provisions of paragraph 4 above:
- Front line set-back—Not less than twenty-five (25) feet
- Side line set-back—Not less than twenty (20) feet
- Rear line set-back—Not less than twenty (20) feet
6. Land Area Included. Zoning District (1)—General Residential District shall consist of the entire area of the Precinct not included within the area of any of the other zoning districts (to wit, Districts 1A, 1B or 2) as the latter are hereinafter more specifically described and as are shown on the official Zoning Map of the Precinct on file at the offices of the Precinct Clerk.

7. Off-Street Parking. The off-street parking requirements provided under paragraph 8 of Article VIII shall be applicable in this zoning district where premises are applied to any of the uses referred to under that paragraph.

Article VI

District (1A), Hopkinton Village—Special Residential District

Land within Zoning District (1A) may be occupied and used and buildings and structures thereon may be created, altered, occupied and used only for the following purposes and subject to the following provisions:

1. Use Permitted. The following uses of land and buildings within the District are hereby permitted.
 - (a) Any use permitted in Zoning District (1), Hopkinton Village Precinct—General Residential District, subject to the same limitations set forth in Article V above.
 - (b) The accommodation of manufactured housing on individually owned lots conforming to all standards provided hereunder for residential dwelling units.
2. Land area included. That portion of the Precinct located southerly of the southerly right-of-way line of Interstate Route 89, generally northerly and westerly of the southeasterly boundary line of the Precinct and generally easterly of the so-called "New Road" to Dunbarton.

Article VII

District (1B), Hopkinton Village—Office District

Land within Zoning District (1B) may be occupied and used for the following purposes and subject to the following provisions:

1. Use Permitted. The following uses of land and buildings within the District are hereby permitted.
 - (a) Any use permitted in Zoning District (1), Hopkinton Village Precinct—General Residential District, subject to the same limitations set forth in Article V above.
 - (b) Office uses for law, accounting, investment, and consulting offices, subject to the same limitations set forth in Article V above.
 - (c) No more than two business enterprises shall be conducted on any lot in this District, nor shall any lot be applied to more than two different kinds of permitted uses.

2. Special Exception. The following uses of land and buildings within the District are permitted by Special Exception only:

Real estate and insurance uses shall require a special exception and shall be subject to the same limitations as set forth in Article V above excepting those set forth in Article V, 2., (a).

3. Land area included. Land of Jill C. Wilson, Trustee designated as Lot 50, Map 105 of the Town of Hopkinton Tax Map being abutted on the north by Main Street, on the east by land of the Hopkinton Village Precinct and land formerly of Natalie Hoyt, on the south by land of Mable Lomas, and on the west by land formerly of Kashulines.
4. This Zone shall be considered non-residential in all respects as to the application of Site Review Regulations unless the use of the lot be restricted solely to single-family residential purposes.

Article VIII
District (2)—General Commercial District

Land within Zoning District (2) may be occupied and used and buildings and structure thereon maybe erected, altered, occupied and used only for the following purposes and subject to the following provisions:

1. Kinds of Uses Permitted. The following uses of land and buildings within this District are hereby permitted:
 - (a) Any use permitted in Zoning District (1), Hopkinton Village Residential District, subject to the same limitations as set forth in Article V above except as the same are modified by this Article.
 - (b) Shop, stores, restaurants, and other retail establishments.
 - (c) Business and professional offices.
 - (d) Interior-lighted signs are not permitted.
2. Intensity of Use—Number of establishments permitted. Unless otherwise authorized by prior permit of the Board of Adjustment pursuant to subparagraph (a) of paragraph 3 below, no more than two business enterprises shall be conducted on any lot in this District, nor shall any lot be applied to more than two different kinds of permitted use as referred to under paragraph 1.
3. Uses Requiring Special Permits. The following uses of premises in this District are permitted only upon the condition that a prior permit has been obtained from the Board of Adjustment after its findings that an exception from the strict terms of the Ordinance should be granted pursuant to Article IX below, that any other necessary facts exist as herein below specified, and further upon such terms and conditions as the Board may reasonably impose to carry out the purposes and spirit of the Ordinance.
 - (a) The Board of Adjustment may authorize as a special exception an increase in the number of business enterprises which may be conducted upon an individual lot in this district to as many as four and may similarly authorize an increase in the number of kinds of use to be conducted upon a lot to as many as four provided that the board shall find that all of the requirements and conditions for the issuance of a special exception as set forth in Article XI, paragraph 4 (b) are met. Any such special exception permit may be issued subject to such conditions, including a requirement of filing of such surety bond as the Board may deem proper, to protect the interest of the Precinct, and may be provisional, for a term of years, or subject to revocation for breach of condition if the Board so determines.
 - (b) Filling station and fuel oil business, including any building and/or appurtenances for the sale on or off the premises of fuel and accessories for vehicles or other fuel consuming mechanisms, provided that any such business shall be conducted upon a lot having a minimum area of 40,000 square feet with a frontage on a public right of way of at least 200 feet, that there shall be two vehicular entrances to the premises, each at least fifty feet in width at the public right of way line and separated there by a distance of not less than fifty feet, that the aprons for such entrances shall not extend in front of abutting property, that all fuel pumps shall be set back not less than fifteen feet from the public right of way line, and that the public right of way at the locus shall in no event be used for any purpose other than access and egress to and from the locus;
 - (c) Public garages and automobile repair shops provided that any such business shall be conducted upon a lot having a minimum area of 40,000 square feet with a frontage on the public right of way of at least 200 feet and that the public right of way at the locus shall in no event be used for any purpose other than access and egress to and from the locus;
 - (e) Wholesale and distribution enterprises;

Provided, however, that nothing herein shall be constructed to prohibit or to require any permit for the conduct of any garage, automobile repair, or filling station business being duly conducted in this District at the time of adoption hereof, February 29, 1960.

4. Signs. No public advertising signs shall be displayed in this District other than the following:

- (a) One sign having a maximum height of two feet, six inches and an overall length not to exceed twenty feet, which is physically attached to the principal building on the premises so as to display only a single side having an exposed area of not more than thirty (30) square feet, and which is restricted in its terms to identifying the name of the enterprise or the proprietor thereof;
- (b) One general advertising sign which may display two sides, neither of which shall have an exposed area in excess of fifteen (15) square feet and which relates solely to the business or enterprise conducted upon the premises;
- (c) Not more than two signs, each of which may display two sides, neither of which shall have an exposed area in excess of four square feet, pertaining to the availability of all or a part of the premises for lease or sale.

5. Building Set-back or Yard Requirements. All structures and improved parking areas upon any lot in this district shall conform to the following minimum set-back requirements.

Front line set-back—Not less than twenty-five feet except where both adjoining properties have lesser set-backs in which event the front line set-back shall be not less than that of the adjoining lot having the greater set-back.

Side line set-back—Not less than ten feet.

Rear line set-back—Not less than ten feet.

6. Land Area, Zoning District (2). The following areas within Hopkinton Village Precinct shall constitute Hopkinton Village Commercial District:

- (a) Land fronting on the southerly side of the said Main Street from the westerly side of the outlet from Kimball Lake going westerly to the westerly boundary of the gravel road – said line being the boundary between the property of the Harold C. Kimball estate and the property of the Swift Water Girl Scout Council – and to a depth of 200 feet.
- (b) Land fronting on the southerly side of Main Street and extending ninety-five (95) easterly from the intersection of Main Street and the easterly line of the South Road; and land fronting on the east side of the South Road and extending one hundred fifty (150) feet southerly from its intersection with the southerly line of Main Street.
- (c) Land fronting on the northerly line of Main Street and extending from the westerly property line of William Grant of Briar Hill Road;

7. Lot Area and Frontage Required. No lot in this Zoning District shall have an area of less than 40,000 square feet nor a road frontage of less than 100 feet provided, however, that the requirements of this paragraph as to minimum lot size and frontage shall not apply to any smaller lot which was duly of record and in commercial use at the time of adoption of this amendment on April 16, 2001.

8. Off-Street Parking Requirements. Any business enterprise carrying on operations on any premises in this district shall provide parking space for its employees and patrons as follows:

- (i) One space for each employee, based upon the maximum aggregate anticipated simultaneous employee attendance at the premises for the enterprise (or for all enterprises where more than one will be conducted upon the lot); and

- (ii) Additional parking spaces for patrons and visitors depending upon the type of business to be present on the lot as follows:

<u>Type of Enterprise or Use</u>	<u>Number of Off-Street Parking Spaces to be Provided</u>
Restaurant, church or place of public assembly.	One space for each four seats of total seating capacity.
Automotive retail and service, antique stores, and uses with extensive display areas.	One space per each one thousand square feet of floor space.
Other retail service, finance, insurance, real estate and professional establishments.	One space for each 300 square feet of gross floor space.
Wholesale or distribution enterprise.	One space per each one thousand square feet of gross floor space.
School – Public	Two spaces per classroom in elementary or pre-school and junior high school; four spaces per classroom in senior high school. (But use standard for gymnasium or auditorium as place of public assembly if greater.)
Community facility (Town Building)	One space for each 400 square feet of gross floor space.
Schools – Private	One space per driving student in excess of five, based upon maximum anticipated simultaneous attendance.

9. Drive-through customer service windows are not permitted.

Article IX **Nonconforming Uses of Land and Buildings**

Existing nonconforming uses exempt. Any nonconforming use of land or of any structure may continue as in existence at the date of adoption and amendment hereof, except that no such nonconforming use of land or of any structure may be varied as follows:

1. Changed to another nonconforming use;
2. Re-established after abandonment for one year;
3. Extended or enlarged.

Article X **Administration and Enforcement**

1. Board of Commissioners constituted Zoning Board to administer Ordinance. The Board of Commissioners of Hopkinton Village Precinct is hereby constituted the Zoning Board hereunder. It

shall be the duty of the said Zoning Board to take all such action, including the institution and prosecution of all actions, civil or criminal, as may be necessary to enforce the provisions of this Ordinance, including suits for injunctions against violations and for court decrees for the removal or alteration of structures or conditions violating this Ordinance. The Zoning Board shall have no power to authorize any departure from the terms of this Ordinance whether in the nature of exception, variance or otherwise. (But see paragraph 4 below, Board of Adjustment.)

2. Permit Required: It shall be unlawful for any person to erect, construct, reconstruct, or alter a structure without applying for and receiving from the Zoning Board a building/use permit. It shall be unlawful for any person to change the use or lot coverage, or extend or displace the use of any building, structure or lot without applying for and receiving from the Zoning Board a use permit.
3. Rules and Regulations. The Zoning Board shall have power to adopt such rules and regulations governing its own procedure as well as governing the filing and processing of application for permits and the initiation of appeals in matters arising under this Ordinance as it may deem proper.
4. Board of Adjustment. Within thirty (30) days after the date of adoption of this Ordinance and thereafter as terms expire or vacancies occur, the Board of Commissioners shall make appointments to a Board of Adjustment, which is hereby created and which shall conform in membership to the applicable provisions of the statutes of the State of New Hampshire.
 - (a) The Board of Adjustment shall have the following powers and duties, as well as all other powers and duties conferred from time to time upon such Boards by the statutes of the State of New Hampshire.
 - (i) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the Zoning Ordinance.
 - (ii) To hear and decide according to the standards specified below all applications for special exceptions upon which the ordinance requires the Board of Adjustment to pass.
 - (iii) To authorize variances from the terms of the ordinance in appropriate cases, according to the standards specified below.
 - (iv) To make rules concerning procedure for appeals or petitions to the Board of Adjustment including the time within which such appeals or petitions may be made.
 - (v) To impose a reasonable application fee or scale of fees for processing proceedings before it as well as to require applicants to pay and discharge all of the Board's costs and expenses for professional and technical investigations, reports and advice which it deems necessary or appropriate in handling any such matter, including reasonable legal fees and disbursements (as well as to require security in advance for such payments as the Board may deem appropriate).
 - (b) No exception from any provision of this Ordinance shall be granted by the Board of Adjustment unless it shall find each of the following:
 - (i) That the proposed action is in harmony with the purposes and intent of the Ordinance, including the promotion of the health, safety and general welfare of the community;
 - (ii) That all relevant preconditions to the Board's approval of the special exception involved impose under any provision of the Ordinance have been met; and
 - (iii) That the Board's order approving the exception includes all relevant terms and conditions required to ensure that the exception carries out the spirit of the Ordinance.

(c) No variance from any provision of this Ordinance shall be granted by the Board of Adjustment unless it shall find each of the following:

- (i) The granting of the variance will be consistent with the spirit of the Ordinance;
- (ii) The variance will not be contrary to the public interest;
- (iii) Denial of the variance would impose unnecessary hardship upon the applicant in that (x) enforcement of the zoning restriction involved, as applied to the applicant's property, would interfere with applicant's reasonable use of its property, having regard for the unique setting of the property in its surrounding environment; (y) no fair and substantial relationship exists between the purposes of the zoning ordinance and the specific restriction on applicant's property as to which the variance is sought, and (z) approval of the variance will not injure the public or private rights of others;
- (iv) The granting of the variance will not diminish the value of surrounding properties;
- (v) By the Board's approval of the variance, substantial justice will be done.

Article XI **Amendments**

This Ordinance may be amended as provided by Chapter 31, Section 63A and 64; or any amendment thereof.

Article XII **Enforcement and Penalties**

1. **Building Inspector.** The Board of Precinct Commissioners, in its capacity as the Zoning Board, shall have general responsibility for the administration of this Ordinance subject, however, to the regulatory responsibilities with respect to Personal Service Wireless Facilities placed upon the Planning Board under Article IV. The Commissioners may designate one of their Board to serve as building inspector, but absent such appointment the Board of Precinct Commissioners shall itself assume and discharge all of the duties of Building Inspector under this ordinance or under any other applicable Land Use regulations of the Precinct.
2. **Violations.** The Board shall have general responsibility for enforcing the provisions of this Ordinance throughout the Precinct. Whenever it shall appear to the Board, after such investigation as it deems appropriate, that the Ordinance is being violated, it shall commence immediate action to enforce it and to restore full compliance with all of its terms and provisions; and to this end the Board shall have resort to all remedies open to it at law or in equity, whether under NH Revised Statutes Annotated 1955, Chapter 676, or otherwise.
3. **Penalties.** Any person, firm or other legal entity which shall violate any provision of this Ordinance shall be liable to a civil penalty of \$100 for each day that such violation is found to continue after the conviction date or after the date on which the violator receives, or is served with, written notice from the Precinct that he/it is in violation, whichever is earlier. In addition to such civil penalty, the violating party shall further be chargeable with, and shall pay and discharge, the costs and reasonable attorney's fees actually incurred by the Precinct in any such enforcement proceeding in which it is the prevailing party. Such recoverable costs shall include, but not be limited, all out-of-pocket expenses actually incurred, inspection fees, investigatory fees and expenses, and charges of expert witnesses.

Article XIII **Saving Clause**

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision.

Article XIV
Effective Date

The Ordinance shall take effect upon its passage.

Article XV
Definitions

Terms used in this Ordinance shall be interpreted according to the following definitions:

1. **Principal Building.** A building in which is conducted the principal use of the lot on which it is located.
2. **Accessory Building.** A detached or substantially separate but connected building to a principal building, the use of which is incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by a principal building.
3. **Right of Way.** All town, state, and federal highways and the land on either side of same as covered by statute or legally accepted common usage.
4. **Lot.** A parcel of land held in single ownership.
5. **Lot of Record.** A lot legally recorded in the records of Merrimack County.
6. **Frontage.** The length of a lot bordering upon an open and accepted public road or street.
7. **Trailer.** Any vehicle or similar portable structure used, or intended to be used as an office, shop, or dwelling, having no foundation other than wheels, jacks, or skirting, and having none of the following: running water, sanitary facilities, bath facilities and toilet.
8. **Mobile Home.** Any structure used or intended to be used as a dwelling which is designed for movement on the public highway either by towing or by its own motive power, and which contains any of the following: running water, sanitary facilities, bath facilities and toilet.
9. **Sand Pit.** Any place where sand is mined, worked, or removed from the premises, for the purpose of sale or use.
10. **Gravel Pit.** Any place where mineral aggregate is mined, worked or removed from the premises, for the purpose of sale or use.
11. **Quarry.** Any place where any inorganic material other than sand or gravel is mined, quarried, worked or removed from the premises, for the purpose of sale or use.
12. **Sign.** Any structure or natural object or part thereof used to convey a message or attract attention to any object, place, activity, person or product. A sign may have two (2) exposed sides, each subject to size limitations provided under the applicable article of the Zoning Ordinance.
13. **Nonconforming Use.** Any use of land, building or structure which does not comply with the provisions of this Ordinance and which is established or erected prior to the enactment of this Ordinance.
14. **Front Set-back.** A set-back extending across the full width of a lot between the front lot line and the front of the foremost building, excluding steps.

15. Rear Set-back. A set-back extending across the full width of a lot between the rear lot line and the rear of the building nearest the rear lot line.
16. Side Set-back. A set-back between a side lot line and the building nearest to it, extending from the required front set-back to the required rear set-back.
17. Set-back Frontage. Width of any building lot, measured parallel to the road at nearest portion of building.
18. Manufactured Housing. Manufactured housing shall be deemed to include all forms of modular unitized or prefabricated housing.
19. Private School. An organization carried on for the primary purpose of providing an educational program or programs not conducted by public authority. An organization primarily engaged in the care of children, rather than their education shall not be deemed a school.
20. Family Day Care Home. An occupied residence in which child care is regularly provided for any part of a day but less than 24 hours except in emergencies for one to six children from one or more unrelated families. The maximum of six (6) children includes children living in the home and children received for child care who are related to the caregiver.
21. Residential Housing Unit. A single family building or each dwelling unit in a new multi-unit structure. A conversion of an existing residential building to multi-family use shall require only a single building permit, but no more than one such conversion permit shall be issued in any building year.
22. Bed and Breakfast. A bed and breakfast operation shall be an arrangement under which the head or heads of household occupying a single family dwelling maintain up to three bedrooms available for rental occupancy by individuals or related family members on an overnight basis for uninterrupted stays not to exceed seven days in duration, followed by at least a two-day interruption. The operation may include the provision of morning breakfast for guests but no other meals. Any application for a bed and breakfast operation shall be supported by a showing that the capacity of the sanitary facilities at the applicant's premises is adequate to serve the resident household as well as expectable guest usage and that the premises will also provide convenient off-street parking for at least one vehicle for each rental room as well as two vehicles for the primary residence. In any case in which the practical parking capacity of the premises varies with the season, the Board may appropriately limit its permit on a seasonal basis or require the applicant to make suitable improvements in the off-street parking arrangements available. In approving any application for a bed and breakfast operation, the Board shall require the applicant to maintain a register of its guests with dates of arrival and departure and showing any other information deemed relevant by the Board to evidence the Applicant's compliance with the Ordinance and all of the terms and conditions of its permit.
23. Structure. A combination of materials assembled and installed at a fixed location to give support or shelter or together to provide a facility or to accommodate some unified use such as a building, tennis court, tower, tank, swimming pool, platform, storage facility and the like.
24. Improved Parking Area. A hard-surfaced area specifically designed for parking six or more vehicles and appropriate for year-round use.
25. Building Year. Time period from one Annual Precinct Meeting to the next Annual Precinct Meeting. If construction has not been commenced within three (3) months following issuance of a building permit and is not being diligently carried forward, the Board of precinct commissioners shall give written notice to the permit holder of their intent to revoke the permit. Within ten (10) days of the mailing of such notice, the permit holder may request a hearing to establish grounds that such delay has been reasonable, it may grant the permit holder an additional ninety (90) days within which to commence construction and make substantial progress thereon. Absent such compelling evidence,

or if the permit holder shall fail to request such a hearing, the Board shall forthwith revoke the permit, and it shall become available for reissue to another applicant.

26. Yard Sale. An event organized for the sole purpose of selling household items which have been accumulating over time for the use of the household and subsequently been retired from their initial purpose.

