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# TOWN OF HOPKINTON, NH

## ZONING ORDINANCE



**Adopted: November 8, 1988**

Amended:	1989	1997	2005	2011
	1990	1998	2006	2012
	1991	1999	2007	2014
	1994	2002	2008	2015
	1995	2003	2009	2016
	1996	2004	2010	





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## SECTION I AUTHORITY AND PURPOSES

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**1.1 AUTHORITY** This Ordinance is enacted in accordance with the authority conferred in Chapters 673, 674, 675, and 677 of the Revised Statutes Annotated and subsequent amendments thereto and is hereby adopted by the voters of the Town of Hopkinton, New Hampshire in official meeting convened. The existing zoning ordinance entitled “**Hopkinton New Hampshire Zoning Ordinance**” adopted March 1964, and all subsequent amendments thereto is hereby amended in total and the “Zoning Ordinance of the Town of Hopkinton, New Hampshire” is hereby adopted.

**1.2 PURPOSES** The purposes of this Ordinance are to promote the health, safety, convenience and general welfare of the inhabitants of the Town of Hopkinton, to protect and conserve the value of property, to encourage the most appropriate use of land throughout the Town, and to promote efficiency and economy in the process of development by securing safety from fire, panic and other dangers, by providing adequate areas between buildings and various rights-of-way, by preserving the character of the Town, and by promoting good civic design and arrangements, wise and efficient expenditures of public funds, and the adequate provision of public utilities and the other public requirements, and by other means.

**1.3 TITLE** This Ordinance shall be known as the “Zoning Ordinance of the Town of Hopkinton, New Hampshire,” hereinafter referred to as “this Ordinance.”

**1.4 EFFECT IN VILLAGE PRECINCT** This Ordinance shall not take effect in the Hopkinton Village Precinct until such time as the “**Official Zoning Ordinance, Hopkinton Village, Hopkinton, New Hampshire**” adopted February 1960, and all subsequent amendments thereto, are repealed by the Hopkinton Village Precinct.

## SECTION II DEFINITIONS

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**2.1 DEFINITIONS** Except where specifically defined herein, the words used in this Ordinance shall carry their customary meaning. Words used in the present tense include the future; the singular number includes the plural, the plural the singular; the words “used” or “occupied” include the words “designed,” “arranged,” “intended,” or “offered,” to be used or occupied; the words “building,” “structure,” “lot,” “land” or “premises” shall be construed as though followed by the words “or any portion thereof” and the word “shall” is always mandatory and not merely directory. Terms and words defined in the Hopkinton Building Code, if any, or Subdivision Regulations or Site Plan Review Regulations shall have the meaning given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster’s Unabridged Dictionary, Third Edition. Uses listed in the Table of Use Regulations under the classes Retail and Service Trades and Wholesale Trade and Manufacturing shall be further defined by the Standard Industrial Classification Manual published by the U.S. Bureau of Census. The following words are specifically defined:

**2.1.A.1 Abutter:** Abutter means any person whose property adjoins or is directly across the street or stream from the land under consideration. For purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.

**2.1.A.2 Accessory Building:** A detached building whose purpose is subordinate to that of the main building. For the purpose of this Ordinance a breezeway, a garage or a carport that is attached directly, or by means of another structure, to the main building shall be regarded as an integral part of the main building.

**2.1.A.3 Administrative Officer:** The Building Inspector, Town of Hopkinton, New Hampshire.

**2.1.A.4 Agriculture, Agritourism, Farm, Farmers’ Market, Farming:**

- (I) The word “**farm**” means any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock, and in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in operations named in paragraph II of this section.
- (II) The words “**agriculture**” and “**farming**” mean all operations of a farm, including:
  - (a) (1) The cultivation, conservation, and tillage of the soil.
  - (2) The use of and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage and, where permitted by municipal and state rules and regulations, other lawful soil amendments.
  - (3) The use of and application of agricultural chemicals.
  - (4) The raising and sale of livestock, which shall include, but not be limited to, dairy cows and the production of milk beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk (*Cervus elphus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elphus*), and reindeer (*Rangifer tarandus*).

## SECTION II DEFINITIONS

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- (5) The breeding, boarding, raising, training, riding instruction, and selling of equines.
  - (6) The commercial raising, harvesting, and sale of fresh water fish or other aquaculture products.
  - (7) The raising, breeding, or sale of poultry or game birds.
  - (8) The raising of bees.
  - (9) The raising, breeding, or sale of domesticated strains of fur-bearing animals.
  - (10) The production of greenhouse crops.
  - (11) The production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, viticultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees and tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any other plant that can be legally grown and harvested extensively for profit or subsistence.
- (b) Any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to:
- (1) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.
  - (2) The transportation to the farm of supplies and materials.
  - (3) The transportation of farm workers.
  - (4) Forestry or lumbering operations.
  - (5) The marketing or selling at wholesale or retail, on-site and off-site, where permitted by local regulations, any products from the farm.
  - (6) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.
  - (7) The use of dogs for herding, working, or guarding livestock, as defined in RSA 21:34-a, II (a) (4).
  - (8) The production and storage of compost and the materials necessary to produce compost whether such materials originate, in whole or in part, from operations of the farm.
- (III) A farm roadside stand shall remain an agricultural operation and not be considered commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.
- (IV) Practices on the farm shall include technologies recommended from time to time by the University of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, and appropriate agencies of the United States Department of Agriculture.
- (V) The term “**farmers’ market**” means an event or series of events at which two (2) or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale much include, but are not limited to, products of agriculture, as defined in paragraphs I-IV. “Farmers’ market” shall not include any event held upon any premises owned, leased, or otherwise controlled by an individual vendor selling therein.

## SECTION II DEFINITIONS

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(VI) The term “**agritourism**” means attracting visitors to a working farm for the purpose of eating a meal, making overnight stays, enjoyment of the farm environment, education on the farm operations, or active involvement in the activity of the farm which is ancillary to the farm operations.

(VII) For purposes of this Ordinance, slaughter houses, rendering plants, or tanneries are not considered as falling within this definition.

**2.1.A.5 Alteration:** Any construction, reconstruction or other action resulting in a change in the structural parts of height, number of stories or exits, size, number of units, use or location of a building or other structure.

**2.1.A.6 Antique Shop:** A store, whether a principal use or accessory use, which sells exclusively antique furniture and home furnishing over seventy-five (75) years old.

**2.1.B.1 Basement:** A portion of a building, partly below grade, which has more than one-half of its height, measured from finished floor to finished ceiling, below the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is six (6) feet or more above the finished grade.

**2.1.B.2 Bedroom:** A room primarily used for sleeping.

**2.1.B.2.a Bed and Breakfast Home:** Any Dwelling Unit located on one (1) Lot of Record, containing no more than three (3) Lodging Units offered to the public for compensation for transient or semi-transient accommodations, provided that such Dwelling Unit is owned and operated by an individual person or persons, and that all such owner(s) shall occupy the Dwelling Unit. A Bed and Breakfast Home shall be subject to the provisions of Section III, Paragraph 3.7.2 and 3.7.4 of this Ordinance.

**2.1.B.2.b Bed and Breakfast Inn:** Any Dwelling Unit, together with any accessory buildings thereto, located on one (1) Lot of Record, containing more than three (3) Lodging Units offered to the public for compensation for transient or semi-transient accommodations, provided that such Dwelling Unit and accessory building are owned and operated by an individual person or persons, and that all such owner(s) shall occupy the Dwelling Unit. A Bed and Breakfast Inn shall be subject to the provisions of Section III, Paragraph 3.7.2 and 3.7.6 of this Ordinance.

**2.1.B.2.c Buffer:** A vegetated area of land with dimensions, composition and use subject to approval by the Planning Board.

**2.1.B.3 Building:** A combination of any materials, whether portable or fixed, having a roof, and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons, animals or property. For the purpose of this definition, “roof” shall include an awning or any similar covering, whether or not permanent in nature.

**2.1.B.4 Building, Attached:** A building having any portion of one or more walls in common with adjoining buildings.

## SECTION II DEFINITIONS

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**2.1.B.5 Building Coverage:** The aggregate of the maximum horizontal cross section area of all buildings on a lot exclusive of cornices, caves, gutters, chimneys, unenclosed porches, bay windows, balconies and terraces, expressed as a percentage of total lot area.

**2.1.B.6 Building, Detached:** A building having open space on all sides.

**2.1.B.7 Building Height:** The vertical distance measured from the average level of the grade at the building line to the highest point of the roof, excluding chimneys, ventilators, and other accessory features required above the roof.

**2.1.B.8 Building Inspector:** The Board of Selectmen or their designated representative.

**2.1.B.9 Building Principal:** A building in which is conducted the principal use of the lot on which it is located.

**2.1.B.10 Business Offices:** Offices for uses such as insurance, computer consultants, various types of consultants, general businesses, and other offices which are not considered as falling within the definition of professional offices.

**2.1.C.1 Cellar:** A basement.

**2.1.C.2 Certificate of Occupancy:** A statement signed by the Building Inspector setting forth either that a building or a structure complies with this Ordinance or that a building, structure or parcel of land may lawfully be employed for specified uses or both.

**2.1.C.2.a Certified Soil Scientist:** A person who is currently certified or licensed by the State of New Hampshire under RSA 310-A:76 to identify, classify and to prepare high intensity soil maps.

**2.1.C.2.b Certified Wetland Scientist:** A person who is currently certified or licensed by the State of New Hampshire under RSA 310-A:76 to delineate wetland boundaries and prepare wetland maps.

**2.1.C.2.c Child Care, Day Care Nursery:** Provides non-home based care for any part of the day for five (5) or more children under the age of three (3).

**2.1.C.2.d Child Care, Family Group Home:** Provides home based care for maximum of twelve (12) preschool children plus five (5) children enrolled in a full day school program (or up to 17 children).

**2.1.C.2.e Child Care, Family Home:** Provides home based care for maximum of six (6) preschool children plus three (3) children enrolled in a full day school program (or up to 9 children).

**2.1.C.2.f Child Care, Group Day Care Center:** Provides non-home based group care for preschool and school-age children, whether or not the service is known as a day nursery, nursery school, kindergarten, cooperative, child development center, day care center, center for the developmentally disabled, progressive school, Montessori School, or by any other name.

## SECTION II DEFINITIONS

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**2.1.C.2.g Child Care, Preschool Program:** Provides non-home based care and a structured program for up to five (5) hours per day for children who are not attending a full day school program.

**2.1.C.2.h Child Care, School-Age Program:** Provides non-home based care for up to five (5) hours per school day, before or after, or, before and after regular school hours and all day during school holidays and vacations. This program is for children who are four (4) years eight (8) months of age or older, including all children present during the period of the program and those related to the caregiver.

**2.1.C.3 Commercial Use:** Any activity involving the sale or trade of goods or services.

**2.1.C.4 Community Facilities:** Premises owned and operated by a governmental or chartered nonprofit organization, but not including fraternal, sports, or similar membership organizations.

**2.1.C.5 Condominium:** Real property, and any interests therein, lawfully submitted to RSA 356-B by the recordation of condominium instruments pursuant to the provisions of RSA 356-B.

**2.1.C.6 Congregate Care Housing:** A residential facility for people containing congregate kitchen, dining and living areas but separate sleeping rooms for not more than eight (8) people who are not in need of skilled or structured care of a nursing home, life care facility or institution.

**2.1.C.7 Construction and Demolition Debris:** Waste materials, wood, and rubble resulting from the construction, remodeling, repair, removal or demolition of structures or roads, including any by-products or materials derived from such waste materials, wood, and rubble.

**2.1.C.8 Contiguous:** Sharing an edge or boundary of an adjacent lot or lots.

**2.1.C.9 Court:** An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

**2.1.C.10 Convenience Store:** A one story, retail store usually open 15 to 24 hours per day containing less than 2,000 square feet of gross floor area that is designed and stocked to sell food, beverages and other household supplies to customers who purchased relatively few items unlike a supermarket. It depends on a large volume of stop and go traffic.

**2.1.D.1 Demolition:** Destruction of a structure or portion thereof or commencement of work with the purpose of completing the same except in conjunction with the construction of a permitted addition or alteration. Demolition shall include the cutting away of any wall, partition, portion thereof or the removal of cutting of any structured beam or bearing support affecting the exterior of the structure.

**2.1.D.2 Designated Open Space:** Area of a parcel permanently protected from future development and subject to the provisions of Section VIII as part of a Conservation Subdivision.

## SECTION II DEFINITIONS

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**2.1.D.3 District:** A zoning district as established by the provisions of this Ordinance.

**2.1.D.4 Drive-in Eating Establishment:** Any place or premises which by design provides for the ordering and pick-up of food and beverages from the window of an automobile, including establishments where customers may also service themselves and may eat or drink the food or beverages on the premises.

**2.1.D.5 Driveway:** An open space, located on a lot, which is built for access to a garage, or off-street parking or loading space.

**2.1.D.6 Duplex:** A detached building designed for or occupied by two families exclusively, living independently or separately from each other therein.

**2.1.D.7 Dwelling:** A building or portion thereof containing one or more dwelling units, but not including hotels, motels, lodging house, membership clubs, lodges, travel trailers, hospitals, dormitories, or structures solely for transient or overnight occupancy.

**2.1.D.8 Dwelling Unit:** One or more rooms, arranged for the use of one or more individuals, which serves as a permanent housekeeping unit for a Family, with cooking, living, sanitary and sleeping facilities.

**2.1.D.9 Dwelling Unit, Single Family:** A detached building designed for or occupied exclusively by one family.

**2.1.D.10 Dwelling Unit, Multi-Family:** A building containing three or more dwelling units.

**2.1.E.1 Entertainment:** Any single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which the public is invited or allowed to watch, listen, or participate or that is conducted for the purpose of holding attention of, gaining the attention of or diverting or amusing guests or patrons, regardless of whether a charge or fee is levied. The following types of activities are included: Instrumental music, individual singer, singing group or band, dance, comedy, theatrical reading, speech, performance art, sporting event, or exhibition. The use of televisions, radio or recorded music is exempt from this definition. Nothing in this definition shall be construed to permit adult entertainment of any kind as referenced in Section 3.9 of this Ordinance.

**2.1.E.2 Essential Services:** Services provided by public utility or government agencies through erection, construction or maintenance of underground or overhead gas, electrical, steam, or water transmission and distribution systems, and collection, communication, supply or disposal systems. Facilities necessary for the provision of essential services including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, unoccupied utility structures (subject to the provisions of 3.7.8), and other similar equipment and accessories in connection therewith. Specifically excluded from this definition are buildings not necessary for the furnishing of essential service by public utility or governmental agencies for the public health, safety or general welfare.

**2.1.E.3 Excavation:** Excavation means a land area which is used, or has been used, for the commercial taking of earth, including all slopes, RSA 155-E:1.

## SECTION II DEFINITIONS

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**2.1.F.1 Family:** One or more persons, including domestic employees, occupying a dwelling unit and living as a single, nonprofit house-keeping unit.

**2.1.F.2 Floor Area, Gross:** The sum of the areas of the several floors of a building measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of the Ordinance, or any such floor space intended and designed for accessory heating and ventilating equipment.

**2.1.F.3 Frontage:** The horizontal distance measured along a lot line dividing a lot from a street. Driveways to rear lots shall not be construed as frontage.

**2.1.H.1 Home Business:** Shall mean any business or profession conducted entirely within a dwelling, or an accessory building located on the same premises as the dwelling, which (a) entails contact with the general public at the premises, (b) is capable of being unobtrusively pursued, (c) creates no nuisance nor any environmental, health or safety concerns, (d) is clearly incidental and subordinate to the dwelling use, (e) does not change either the character of the dwelling as a residence or the character of the neighborhood in which the Home Business is established, (f) is conducted by the resident owner(s) of the dwelling, (g) employs not more than one person outside the Family (as defined in Section II, Paragraph 2.1.F.1), and (h) utilizes an area (either in the dwelling or in an accessory building) of not more than twenty-five percent (25%) of the total floor area of the dwelling (including any functional basement) or five hundred (500) square feet, whichever is less. A Home Business shall be subject to the provisions of Section III, Paragraph 3.7.3 of this Ordinance.

**2.1.H.2 Home Occupation:** Shall mean any individual business or profession conducted entirely within a dwelling which (a) entails no contact with the general public at the dwelling (except normal postal and commercial delivery services), (b) is capable of being unobtrusively pursued, (c) creates no nuisance nor any environmental, health or safety concerns, (d) is clearly incidental and subordinate to the dwelling use, (e) does not change either the character of the dwelling as a residence or the character of the neighborhood in which the Home Occupation is established, (f) is conducted solely by the resident owner(s) of the dwelling, and (g) utilize an area of not more than twenty-five percent (25%) of the total floor area of the dwelling (including any functional basement) or 500 square feet, whichever is less. Home Occupations shall be subject to the provisions of Section III, Paragraph 3.7.5 of this Ordinance.

**2.1.H.3 Hospital:** A building providing 24-hour in-patient services for the diagnosis, treatment, or other care of human ailments including a sanitarium, clinic, rest home, nursing home, and convalescent home.

**2.1.H.4 Hotel:** Any building, or any part thereof, which contains one or more Lodging Units devoted to transient or semi-transient rental occupancy and which has a common entrance or entrances, including an inn, motel, motor inn, tourist court, boarding house, lodging house or rooming house, but specifically excepting a Bed and Breakfast Home and Bed and Breakfast Inn.

## SECTION II DEFINITIONS

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**2.1.H.5 Housing for the Elderly:** A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 60 years of age or older or couples where either the husband or wife is 60 years of age or older. This does not include life care or nursing home facilities.

**2.1.I.1 Industrial Use:** Any activity that entails manufacturing, processing, assembling, warehousing storage, distribution, shipping and/or other related uses. For the purpose of this definition, agricultural uses, home businesses, and home occupations, as defined in this Ordinance, shall not be considered industrial uses.

**2.1.J.1 Junk:** Old or scrap copper, brass, rope rages, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof iron, steel and other old or scrap ferrous or nonferrous materials.

**2.1.J.2 Junk Yard:** An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, selling junk, or for the maintenance or operation of an automobile graveyard, and includes garbage dumps and sanitary fills. The word does not include any motor vehicle dealers registered with the director of motor vehicles under 261:104 and controlled under RSA 236:127.

**2.1.K.1 Kennel:** A commercial establishment that (1) boards and provides food and care for purposes not primarily related to medical care for small household pets, or (2) engages in the breeding of small household pets.

**2.1.L.1 Loading Space:** An off-street space used for loading or unloading, not less than 14 feet in width, 45 feet in length, and containing not less than 1,300 square feet including both access and maneuvering area.

**2.1.L.2 Lodging Unit:** One or more rooms for the use of one or more individuals not living as a single housekeeping unit and not having cooking facilities. A "Lodging Unit" shall include rooms in boarding houses, tourist houses and rooming houses.

**2.1.L.3 Lot:** A single parcel of land in the same ownership throughout as shown or defined on a recorded instrument or defined by metes and bounds and having its principal frontage on a street in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit for building on such land.

**2.1.L.4 Lot Area:** The extent in square feet of the surface of a lot. The lot area shall not include any part of the street upon which the lot front or abuts.

**2.1.L.5 Lot Corner:** A lot at the point of intersection of and abutting on two or more intersecting streets.

**2.1.L.6 Lot Depth:** The mean horizontal distance between the front lot line and the rear lot line when measured on a line halfway between the two side lot lines.

**2.1.L.7 Lot Lines:** The lines bounding a lot, and dividing the lot from other lots, streets or land.

## SECTION II DEFINITIONS

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**2.1.L.8 Lot Line, Front:** The property line dividing a lot from a street (right-of-way). On a corner lot the owner shall designate one street line as the front lot line.

**2.1.L.9 Lot Line, Rear:** The lot line opposite from the front lot line.

**2.1.L.10 Lot Line, Side:** Any lot line not a front or rear lot line.

**2.1.L.11 Lot, Nonconforming:** A lot existing on the effective date of this Ordinance or any subsequent amendments thereto, in conformity with the then existing Ordinance but not in conformity with all of the provisions of this Ordinance or such amendments thereto. An owner or owners of such lots who also own additional contiguous land shall be governed by the provisions of Section 5.2 or 5.3 of this Ordinance.

**2.1.L.12 Lot of Record:** A lot described in a deed which has been lawfully recorded in the Registry of Deeds for Merrimack County, prior to the enactment of planning and zoning regulations in Hopkinton (March 1964), or which, if not so deeded, is a lot which is part of a subdivision, the plan of which has been lawfully recorded in such Registry of Deeds.

**2.1.L.13 Lot Width:** The mean distance between the lot side lines measured on a line which is halfway between the front and rear lot lines.

**2.1.L.14 Lounge:** A business, or segregated area of a restaurant, whose primary purpose is the serving of alcoholic beverages but which may also offer a limited food menu.

**2.1.M.1 Manufactured Housing:** Any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. (RSA 674:31) Manufactured housing as defined in this section shall not include pre-site built housing as defined in RSA 674:31-a.

**2.1.M.2 Manufactured Housing Park:** A parcel of land containing at least ten (10) acres upon which one or more manufactured houses or mobile homes are parked or intended to be parked for living purposes. See Section IX of this Ordinance for additional requirements.

**2.1.M.3 Manufactured Housing Subdivision:** A subdivision of land into lots for manufactured houses.

**2.1.M.4 Membership Club:** A social, sports or fraternal association or organization which is used exclusively by members and their guests which may contain bar facilities.

**2.1.M.5 Mobile Home:** A manufactured house as defined in RSA 674:31.

**2.1.M.6 Mobile Home Park:** A manufactured housing park.

**2.1.M.7 Mobile Home Subdivision:** A manufactured housing subdivision.

## SECTION II DEFINITIONS

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**2.1.N.1 Nursing Home Facility:** A medical facility allowing care for physically or mentally disabled person which meets the State's Certificate of Need on institutional health services.

**2.1.O.1 Open Space:** Land or water area free of all structures, parking, drives, and other uses which preclude attractive landscaping in such area. Open space may be landscaped with lawn, trees, shrubs, or other planting and may include walks and terraces.

**2.1.O.2 Open Space, Designated:** See Designated Open Space.

**2.1.O.3 Owner:** The duly authorized agent, attorney, purchaser, devisee, trustee, lessee or any person having vested or equitable interest in the use, structure or lot in question.

**2.1.P.1 Parking Space:** An off-street space whether inside or outside a structure for exclusive use as a parking stall for one motor vehicle in accordance with the provisions of Section VI of this Ordinance.

**2.1.P.2 Person:** Any individual, corporation, unincorporated association or other legal entity.

**2.1.P.3 Place of Entertainment:** Any hall, theater, lounge or restaurant which provides on-premises entertainment, except a Fair Use permitted in the Fair District.

**2.1.P.4 Presite Built Housing:** Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufactured facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation or assembly and installation, on the building site. For purposes of this subdivision, pre-site built housing shall not include manufactured housing as defined in RSA 674:31. (RSA 674:31-a)

**2.1.P.5 Professional (Professional Office):** These occupants shall include the practice of medicine, dentistry, law, accounting, architecture, engineering, real estate, teaching and similar activities in which specialized services are provided to clients.

**2.1.Q.1 Quarrying:** The business or occupation of extracting stone from an open excavation. Quarrying includes the excavation and removal of sand and gravel.

**2.1.R.1 Recreational Camping Parks and Travel Trailer Parks:** A parcel of land under single ownership consisting of a minimum of ten (10) acres used primarily for transient recreational camping vehicles (tents, travel trailers, tent campers, motor homes and pick-up campers).

**2.1.R.2 Recreational Camping Vehicles (also Travel Trailers):** Means any of the following vehicles:

- (a) Motor home or van, which is a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
- (b) Pickup camper, which is a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

## SECTION II DEFINITIONS

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- (c) Recreational trailer, which is a vehicle, portable structure built on a single chassis, 400 square feet or less when measured at the largest exterior horizontal projections, calculated by taking the measurements of the exterior of the recreational trailer including all sides, corner trim, molding, storage space and area enclosed by windows but not the roof overhang. It shall be designed primarily not for use as a permanent dwelling but as a temporary dwelling for recreational, camping, travel or seasonal use.
- (d) Tent trailer, which is a canvas or synthetic fiber folding structure, mounted on wheels and designed for travel, recreation, and vacation purposes.

**2.1.R.3 Repair:** Replacement or mending of parts already existing but in a state of deterioration with equivalent materials and for the purpose of maintaining their quality.

**2.1.R.4 Restaurant:** The term includes diners, cafes, and cafeterias and does not include *drive-in eating establishments*. It shall be an eating establishment which is primarily designed for its patrons to eat at tables, booths or a counter. Take-out refreshments are only incidental to the main purpose of the establishment.

**2.1.R.5 Retail Establishment:** A place of business, including a discount and limited price variety store, selling convenience goods and general merchandise, including but not limited to foods, pharmaceutical drugs, proprietary goods, dry goods and apparel and accessories, furniture and home furnishings, home equipment, small wares and hardware.

**2.1.R.6 Right-of-way (Public):** All town, state and federal highways and the land on either side as covered by statutes to determine the widths of the right-of-ways.

**2.1.S.1 Satellite Dish and Antenna:** An accessory structure used for receiving television signals which must be so located on the lot that it is at least ten (10) feet from side and rear lot lines and has the same distance back from the front lot line as is required for the principal use in the district in which it is located.

**2.1.S.2 School:** An institution for instruction of children and/or adults in a formal setting with a prescribed curriculum and certified teachers.

**2.1.S.3 Self-Service Storage Facility:** A building or group of buildings that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customer's goods or wares.

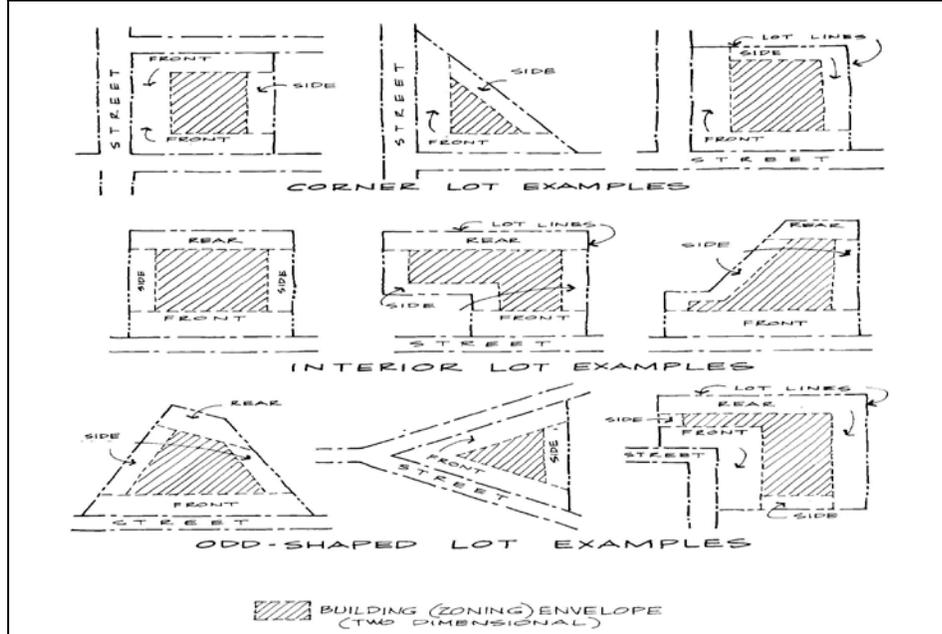
**2.1.S.4 Setback, Front:** The distance extending across the full width of a lot between the front lot line and the front edge of a building or any projection thereof. See Figure titled "Setbacks Graphic" for more detail.

**2.1.S.5 Setback, Rear:** The distance extending across the full width of a lot between the rear lot line and the rear edge of a building or any projection thereof. See figure titled "Setbacks Graphic" for more detail.

**2.1.S.6 Setback, Side:** The distance between a side lot line and the side edge of building or any portion thereof. See figure titled "Setbacks Graphic" for more detail.

## SECTION II DEFINITIONS

### Setbacks Graphic



**2.1.S.7 Sign Definitions:** The following definitions relate to Section VII, Sign Regulations, of this Ordinance:

**2.1.S.7.1 Building Frontage:** The length along the side or sides of the primary floor facing a street, which is occupied by a separate and distinct principal use.

**2.1.S.7.2 Flag:** Any fabric containing distinctive colors, patterns, or symbols, and used as a symbol of government or political subdivision thereof.

**2.1.S.7.3 Nonconforming Sign:** Any sign which lawfully existed at the time Section VII of this ordinance, as amended, became effective but which does not conform with the sign regulations in Section VII of this ordinance.

**2.1.S.7.4 Primary Floor:** The floor of a building or structure which is directly accessed from the adjacent public street through the main or principal entrance to the building or structure. Any floor at an elevation within five and one-half (5 ½) feet of the elevation of the principal entrance, and occupied by separate and distinct principal use, shall be considered to be a primary floor.

**2.1.S.7.5 Right-of-Way (Public):** See Subsection 2.1.R.4 of this Ordinance.

**2.1.S.7.6 Right-of-Way (Traveled):** The area of a public right-of-way prepared for vehicular travel, including shoulders and appurtenant structures.

**2.1.S.7.7 Sign:** Any device that is sufficiently visible to persons not located on the lot where such a device is located, and designed to attract the attention of such persons or communicate information to them about products, accommodations, services, or activities on the lot where the device is located.

## SECTION II DEFINITIONS

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- (1) **Sign, Awning:** A sign that is a part of, or attached to an awning, a canopy, or other fabric, plastic, or structural protective cover over a door, window, or outdoor service area.
- (2) **Sign, Banner:** A sign of lightweight fabric or similar material that is mounted to poles or the wall of a building. A flag, as defined in this ordinance, is not a banner sign.
- (3) **Sign, Building:** Any sign that is attached or affixed to a building including wall signs, projecting signs, awning signs, marquee signs, roof signs, and window signs.
- (4) **Sign, Building Marker:** Any sign indicating the name of a building and/or the date and incidental information about the construction of the building, and which sign is made part of, or permanently integrated into, the materials from which the building is constructed.
- (5) **Sign, Free-standing:** A self-supporting sign, the supports of which are permanently anchored in the ground and are independent from any building.
- (6) **Sign, Marquee:** Any sign attached to or in any manner made part of a permanent roof-like structure projecting beyond the wall of a building.
- (7) **Sign, Monument:** A type of free-standing sign for which the sign, its supports, and base are a monolithic structure.
- (8) **Sign, Pennant:** Any lightweight plastic, fabric or similar material, whether or not containing a message of any kind, suspended from a rope, wire, or other material, usually in a series, designed to move in the wind.
- (9) **Sign, Portable:** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported.
- (10) **Sign, Projecting:** Any sign affixed to a building with the plane of the sign at an angle to the plane of the wall of the building.
- (11) **Sign, Roof:** Any sign erected and constructed wholly on and over the roof of a building and supported by the roof structure.
- (12) **Sign, Temporary:** A sign that is used in connected with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period of time after the erection of the sign; or a sign that is intended to remain on the location where it is erected or placed for a reasonably short or definite period of time after the erection of the sign. If the sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as a temporary sign.
- (13) **Sign, Wall:** A sign attached to, or erected against the wall of a building with the face of the sign in a parallel plane to the plane of the building wall, and projecting no more than fourteen (14) inches from the building wall.
- (14) **Sign, Window:** Any sign that is placed inside or upon the window panes or glass, and that is visible from the exterior of the building or structure.

**2.1.S.8 Special Exception:** A use allowed by the Zoning Ordinance but under pre-determined conditions and after a public hearing before the Board of Adjustment to determine if the conditions as outlined in Section XV have been met.

**2.1.S.9 Story:** That part of a building comprised between a floor and the floor or roof next above. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be classified as a story when its ceiling is six (6) or more feet above the finished grade.

**2.1.S.10 Street:** A way which is over twenty (20) feet in right-of-way width which is dedicated or devoted to public use by legal mapping or by any other lawful procedure.

## SECTION II DEFINITIONS

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**2.1.S.11 Structure:** A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, sign, flagpole or the like.

**2.1.S.12 Structure, Nonconforming:** A structure lawfully existing at the effective date of this Ordinance or any subsequent amendment thereto, which does not conform to one or more provisions of this Ordinance.

**2.1.S.13 Structural Alterations:** Any change in the supporting members of a building or structure, such as load bearing walls, columns, beams or girders.

**2.1.S.14 Subdivision:** The division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites or other division of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance, or building development. It includes re-subdivision, and where appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among several owners shall be deemed a subdivision under this title, per RSA 672:14.

**2.1.T.1 Telecommuting:** Shall mean the use of a dwelling by the resident owner(s) thereof for the purpose of providing services for communicating with such owner(s)' off-premises business employer by means of telecommunication facilities, including without limitation, facsimile, modern, and/or telephone, and through postal and light commercial delivery services. Other means of communication and delivery service shall not be permitted in connection with this use unless the resident owner(s) otherwise satisfy the requirements of this Ordinance for such manner of communication and delivery service. Telecommuting shall be subject to the provisions of Section III, Paragraph 3.7.5 of this Ordinance.

**2.1.U.1 Use:** The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

**2.1.U.2 Use, Accessory:** A use incidental and subordinate to the principal use of a structure or lot, or a use, not the principal use, which is located on the same lot as the principal structure. Accessory use by area shall be interpreted not to exceed forty (40) percent of the area of the total use of the structure and/or lot on which it is located.

**2.1.U.3 Use, Adult:** Shall mean a business where more than ten (10) percent of the gross revenues, ten (10) percent or more of the stock in trade, or ten (10) percent or more of the goods or paraphernalia displayed are of a sexually oriented or sexually explicit nature. Such goods and paraphernalia include, but are not limited to sexually oriented or sexually explicit materials. Examples of adult uses include, but are not limited to, theaters or mini-motion picture displays where sexually explicit materials are shown, nude modeling studios, sexually oriented massage parlors, escort agencies or sexually encounter centers. As used in this Ordinance, materials shall have the meaning set forth in RSA 650:1, III, or successor statute.

**2.1.U.4 Use, Non-conforming:** Non-conforming means use of land, building or premise which is not a use permitted by the provisions of this Ordinance for the district in which such land, building or premise is situated.

## SECTION II DEFINITIONS

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**2.1.U.5 Use, Principal:** The main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied or maintained under this Ordinance. Any other use within the main structure or use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this Ordinance shall be considered an accessory use.

**2.1.U.6 Use, Substantially Different:** A use which by reason of its normal operation would cause readily observable differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

**2.1.V.1 Variance:** Such departure from the terms of this Ordinance as the Board, upon appeal in specific cases, is empowered to authorize under the terms of Section XIV.

**2.1.W.1 Wetland:** Any area falling within the jurisdictional definitions of Section XII of this Ordinance.

**2.1.Y.1 Yard:** A portion of a lot upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein. A court shall not be considered to be a yard or any part thereof.

**2.1.Y.2 Yard, Front:** A yard extending for the full width of the lot between the front line of the nearest building wall and the front lot line.

**2.1.Y.3 Yard, Rear:** A yard, except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

**2.1.Y.4 Yard, Side:** Yard extending for the full length of a building between the nearest building wall and the side lot line.

**SECTION III**  
**ESTABLISHMENT OF DISTRICTS AND USES**

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**3.1 ESTABLISHMENT OF DISTRICTS**

For the purpose of this Ordinance, the Town of Hopkinton is hereby divided into the following districts:

**District Name and Abbreviation**

Residential/Agricultural	R-4
Low Density Residential	R-3
Medium Density Residential	R-2
High Density Residential	R-1
Commercial	B-1
Industrial	M-1
Wetlands Conservation (overlay)	W-1
Village High Density Residential	VR-1
Village Commercial	VB-1
Village Industrial	VM-1

**3.2 LOCATION** The location and boundaries of the Zoning Districts are hereby established as shown on a map titled "Zoning Map of the Town of Hopkinton, New Hampshire" dated 11/8/88 which accompanies and is hereby declared to be a part of this Ordinance. The authenticity of the Zoning Map shall be identified by the signature of the Town Clerk, and the imprinted seal of the Town under the following words: "This is to certify that this is the Zoning Map of the Town of Hopkinton, New Hampshire, referred to in the Zoning Ordinance of the Town of Hopkinton, New Hampshire, which was approved by the Town on 11/8/88." It may be reissued by the Planning Board to incorporate such amendments as may be made by the Town Meeting and be re-certified by the Town Clerk in the method stated above. The official Zoning Map shall be the final authority as to the current zoning status of land in the Town.

**3.3 MAP SCALE** The Zoning Map shall be drawn to scale with ink on stable material, and shall be located in the Town Hall. Copies are on file and may be obtained in the Town Hall. Photographic reductions of this large-scale map may serve as copies of the Zoning Map.

**3.4 INTERPRETATION OF DISTRICT BOUNDS** Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules apply.

**3.4.1** Where a boundary is shown as following a street or utility, the boundary shall be the centerline thereof unless otherwise indicated.

**3.4.2** Where a boundary is shown outside of a street or utility and is approximately parallel thereto, it shall be deemed parallel to the nearest line thereof and the figure placed on the Zoning Map between the boundary and such line shall be the distance in feet between them, as measured at a right angle from such line unless otherwise indicated.

**3.4.3** Where a dimensioned boundary coincides within ten (10) feet or less with a lot line, the boundary shall be construed to be the lot line.

**3.4.4** Where a boundary apparently follows a property line, it shall be interpreted as such. Such property line shall be interpreted as the one existing at the time of enactment of this Ordinance.

**3.4.5** Where a boundary is indicated as intersecting the centerline of a street, railroad, watercourse or other water body, it shall be construed to intersect at right angles to said

**SECTION III**  
**ESTABLISHMENT OF DISTRICTS AND USES**

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centerline, or in the case of a curved centerline, at right angles to the tangent to the curve at the point of intersection.

**3.4.6** When a lot is transected by a zoning district boundary, the regulations of this Zoning Ordinance applicable to the larger part by area of such lot may at the option of the owner be deemed to govern in the smaller part beyond such district boundary but only to an extent not more than forty (40) linear feet in depth beyond such district boundary.

**3.4.7** In case of uncertainty, the Planning Board shall determine the exact location of the boundary.

**3.5 DISTRICT PURPOSES** The following purposes are hereby established for each of the districts:

**3.5.1 Residential/Agricultural (R-4):** The intent of this district is to provide for open space conservation, agricultural use, and predominantly very low density residential development on individual lots or in conservation subdivisions, which can be accommodated on the land without major disruptions of the natural terrain, vegetation, watercourses or surface drainage and which would not customarily have Precinct water and sewer systems.

**3.5.2 Low Density Residential (R-3):** The intent of this district is to provide for open space conservation, some agricultural use, and predominantly very low density residential development on individual lots or in conservation subdivisions which can be accommodated on the land without major disruptions of the natural terrain, vegetation, watercourses or surface drainage and which would not customarily have Precinct water and sewer systems.

**3.5.3 Medium Density Residential (R-2):** The intent of this district is to provide for open space conservation and predominantly medium density residential development on individual lots or in conservation subdivisions which can, because of the natural terrain, vegetation, watercourses or surface drainage, be permitted to occur at more intense levels of development and which may or may not have Precinct water and sewer service.

**3.5.4 High Density Residential (R-1):** The intent of this district is to provide for open space conservation and predominantly high density residential development on individual lots or in conservation subdivisions which can, because of the natural terrain, vegetation, watercourse or surface drainage or because of the availability of Precinct water and sewer service, be permitted to occur at more intense levels of development and which may have or be planned to have Precinct water and sewer service.

**3.5.5 Commercial (B-1):** The intent of this district is to provide limited commercial, institutional, professional and personal service uses along with residential uses.

**3.5.6 Industrial (M-1):** The intent of this district is to provide areas for research and development, manufacturing, processing, assembly, wholesaling, and transportation-oriented activities and related services as trucking and warehousing provided that such uses are determined not to be injurious or hazardous to the public health, safety, and/or welfare.

**SECTION III**  
**ESTABLISHMENT OF DISTRICTS AND USES**

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**3.5.7 Wetlands Conservation (overlay) (W-1):** The intent of this overlay district is to provide protection for and appropriate use of lands as delineated in Section XII of this Ordinance.

**3.5.8 Village High Density Residential (VR-1):** The intent of this district is to provide for open space conservation and predominantly high density residential development on individual lots or in conservation subdivisions which can, because of the natural terrain, vegetation, watercourse or surface drainage or because of the availability of Precinct water and sewer service, be permitted to occur at more intense levels of development providing that such uses are determined not to be injurious or hazardous to the public health, safety, and/or welfare, and they reside within the village center as shown on the zoning maps. Specifically, this district was created to be consistent with the goal that the village be resident and pedestrian friendly while allowing the historic character of the area to be preserved.

**3.5.9 Village Commercial (VB-1):** The intent of this district is to provide limited commercial, institutional, professional and personal service uses along with residential uses, and they reside within the village center as shown on the zoning maps. Specifically, this district was created to be consistent with the goal that the Village be resident and pedestrian friendly while allowing the historic character of the area to be preserved.

**3.5.10 Village Industrial (VM-1):** The intent of this district is to provide areas for research and development, manufacturing, processing, assembly, wholesaling, and transportation-orientated activities and related services as trucking and warehousing providing that such uses are determined not to be injurious or hazardous to the public health, safety, and/or welfare, and they reside within the village center as shown on the zoning maps. Specifically, this district was created to be consistent with the goal that the village be resident and pedestrian friendly while allowing the historic character of the area to be preserved.

**3.6 USE REGULATIONS**

**3.6.1** The Table of Uses, Section 3.6, is divided into two parts, one for **principal uses** and the other for **accessory uses**, specifying the uses that are permitted by right, are permitted by special exception, or are not permitted.

- (a) **Uses Permitted by Right** Uses denoted by the letter “P” in the Table of Uses are permitted by right in the Districts so indicated, subject to all other applicable sections of this Ordinance and other local, state and federal laws, rules and regulations.
- (b) **Uses Permitted by Special Exception** Uses which require the granting of a Special Exception by the Zoning Board of Adjustment are denoted by the letter “S” in the Table of Uses in the District so indicated. The Zoning Board of Adjustment may grant Special Exceptions in accordance with the procedures and conditions as specified in Section XV, Board of Adjustment, of this Ordinance, subject to all other applicable sections of this Ordinance and other local, state and federal laws, rules and regulations.
- (c) **Uses Not Permitted and Uses Not Specified** Uses denoted by the letter “X” in the Table of Uses are not permitted in the District so indicated.

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Any use not specifically listed in the Table of Uses as a permitted use shall not be allowed unless the Board of Adjustment determines it is substantially similar to a use listed as a permitted use in the applicable zone by virtue of an Administrative Appeal to the Board. A use shall not be deemed substantially similar to a permitted use unless it is substantially similar in all aspects to a permitted use; otherwise the use shall be deemed to be not permitted. For purposes of this section, a substantially similar use shall include a use by reason of its normal operation, would not cause observable difference in patronage, service, sight, noise, traffic, employment or similar characteristics, including its impacts to abutting properties. Any use deemed by the Board to be a prohibited use, and any use explicitly prohibited by this Ordinance, shall only be allowed in the event that the Board of Adjustment grants a Variance allowing the use.

- (d) **All Uses subject to Wetlands Conservation District** All uses are subject to the provisions of Section XII, Wetlands Conservation District (Overlay).

**3.6.2** All uses illustrated in Section 3.6 shall be subject to the limitations delineated in other Sections of this Ordinance. In case of conflict, the more restrictive interpretation shall apply.

**3.6.3** All buildings or structures hereafter erected, reconstructed, altered, enlarged, or moved, or all future uses of premises in the Town of Hopkinton shall be in conformity with the provisions of this Ordinance. Any building, structure, or land shall not be used for any manner other than is permitted in the district in which it is located.

**3.6.4** A permit for the construction, alteration, enlargement, moving, or demolition or use of a building or structure shall not be issued by the Building Inspector unless it complies with this Ordinance and/or has been granted a variance or special exception by the Board of Adjustment.

**SECTION III  
ESTABLISHMENT OF DISTRICTS AND USES**

<b>3.6 TABLE OF USES</b>	<b>R-4</b>	<b>R-3</b>	<b>R-2</b>	<b>R-1</b>	<b>B-1</b>	<b>M-1</b>	<b>VR-1</b>	<b>VB-1</b>	<b>VM-1</b>	<b>W-1</b>
<b>A. Residential Uses</b>										
1. Single family detached dwelling.	P	P	P	P	X	S	P	S	S	
2. Two family dwelling	S	S	P	P	S	S	P	S	S	
3. Multi-family dwelling with a maximum of eight (8) dwelling units per building.	X	X	S	P	S	X	S	S	X	
4. Manufactured Housing on individual lots.	X	X	X	X	X	X	X	X	X	
5. Manufactured Housing Park in accordance with Section IX.	X	S	S	S	X	X	S	X	X	
6. Manufactured Housing subdivision in accordance with Section XI.	P	P	P	P	X	X	S	X	X	
7. Congregate Care Housing	X	X	S	S	S	X	S	S	X	
8. Affordable Housing Option in accordance with Section XVI.	X	P	P	P	X	X	P	X	X	
<b>B. Temporary Residential Uses</b>										
1. Non-profit overnight and day camps and cottage colonies.	S	S	S	X	X	X	X	X	X	
2. Bed and Breakfast Home in accordance with Section III, paragraph 3.7.2 and 3.7.4.	S	S	S	S	P	X	S	P	X	
3. Bed and Breakfast Inn in accordance with Section III, paragraph 3.7.2 and 3.7.6.	S	S	S	S	P	X	S	P	X	
4. Hotels, Motels, Inns.	X	X	X	X	P	S	X	P	S	
<b>C. Outdoor/Recreational Uses</b>										
1. Forestry, wildlife, timber preserves, reservoirs, and nature study areas, conservation areas and preserved or protected open space.	P	P	P	P	P	P	P	P	P	
2. Public parks and playgrounds.	P	P	P	P	P	P	P	P	P	
3. Commercial riding stables and riding trails.	S	S	S	X	X	X	X	X	X	
4. Historic building or site open to public.	P	P	P	P	P	P	P	P	P	
5. Recreational camping/tenting parks and recreational camping vehicles.	S	S	S	X	X	X	X	X	X	
<b>D. Agricultural/Forestry Uses</b>										
1. Agriculture, horticulture and floriculture except a greenhouse or stand for retail sale, including customary accessory structures and uses.	P	P	P	S	S	P	S	S	P	
2. Farming including dairying, livestock, animal and poultry raising, and crop production including customary accessory structures and uses.	P	P	S	S	S	P	S	S	P	
3. Year-round greenhouse or farm stand.	S	S	S	S	S	P	S	P	P	

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<b>D. Agricultural/Forestry Uses</b>										
4. Tree farming and commercial timbering.	P	P	P	S	S	S	S	S	S	S
5. Non-commercial harvesting of forest products.	P	P	P	P	P	P	P	P	P	P
6. Agricultural silage storage exceeding the maximum zone height.	S	S	S	S	S	S	S	S	S	S
<b>E. Institutional Uses/ Community Facilities</b>										
1. Private schools, nursery through college.	S	S	S	S	S	X	S	S	X	
2. Public schools.	P	P	P	P	P	P	P	P	P	P
3. Childcare Daycare Nursery, Childcare Group Daycare Center, Childcare Preschool Program, and Childcare School-age Program in accordance with Section III, paragraph 3.7.7.	S	S	S	S	S	S	S	P	P	
4. Senior Citizen Centers	S	S	S	P	P	X	P	P	X	
5. Non-profit lodges, fraternal and membership organizations.	S	S	S	S	S	X	S	S	S	
6. Museums, historical association or society.	S	S	P	P	P	X	P	P	S	
7. Hospitals, clinics and nursing homes, convalescent homes and rehabilitation centers.	X	X	S	S	P	X	S	P	X	
8. Place of worship including customary ancillary religious facilities.	P	P	P	P	P	X	S	P	X	
9. Non-profit recreational facility.	S	S	P	P	P	S	S	P	S	
10. Non-profit country, hunting, fishing, tennis, or golf club without liquor license.	S	S	S	S	S	S	S	S	S	
11. Municipal power plant, water filter plant, sewage treatment plant, refuse facility, or recycling facility.	S	S	S	S	S	S	S	S	S	
12. Cemetery.	S	S	S	S	S	S	S	S	S	
13. Public utilities except those listed in No. E11. See also E14.	P	P	P	P	P	P	S	P	P	
14. Buildings necessary for the furnishing of non-essential service by such public utility for the public health, safety and general welfare.	X	X	X	S	P	P	S	P	P	
15. Town buildings, except garage and utilities, subject to Site Plan Review approval by the Planning Board.	S	S	P	P	P	X	S	P	X	

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<b>3.6 TABLE OF USES</b>	<b>R-4</b>	<b>R-3</b>	<b>R-2</b>	<b>R-1</b>	<b>B-1</b>	<b>M-1</b>	<b>VR-1</b>	<b>VB-1</b>	<b>VM-1</b>	<b>W-1</b>
<b>E. Institutional Uses/ Community Facilities</b>										
16. Town equipment garage, subject to Site Plan Review approval by the Planning Board.	S	S	S	X	X	P	X	X	X	
17. Essential Services as defined in paragraph 2.1.E.1.	P	P	P	P	P	P	P	P	P	
<b>F. Commercial Uses</b>										
1. Retail Establishment.	X	X	X	X	P	S	X	P	S	
2. Business Offices.	X	X	X	X	P	P	S	P	P	
3. Professional Offices.	X	X	X	S	P	P	S	P	P	
4. Banks and Lending Institutions.	X	X	X	X	P	X	X	P	X	
5. Restaurants.	X	X	X	X	P	S	X	P	S	
6. Drive-in Eating Establishments.	X	X	X	X	S	S	X	X	X	
7. Lounge	X	X	X	X	S	S	X	S	S	
8. Place of Entertainment in accordance with Section III, paragraph 3.7.9.	X	X	X	X	S	S	X	S	S	
9. Filling station, Service Station (with or without convenience store).	X	X	X	X	S	S	X	S	S	
10. Motor vehicle dealership, repair garage, body shop, paint shop.	X	X	X	X	S	S	X	X	S	
11. Veterinary hospital/kennel.	S	S	S	X	X	S	X	X	S	
12. Pet Grooming.	X	X	X	X	P	S	X	P	S	
13. Convenience store (without gas pumps).	X	X	X	S	P	S	X	P	S	
14. Airports, heliports, runways, control towers, administration buildings, hangers.	X	X	X	X	X	S	X	X	X	
15. Indoor motion picture establishment.	X	X	X	X	P	X	X	P	X	
16. Indoor and outdoor for profit recreation establishment or clubs.	X	X	X	X	S	S	X	S	S	
17. Funeral home or parlor.	X	X	S	S	S	X	S	S	X	
18. Beauty parlor, barber shop.	X	X	X	X	P	S	S	P	S	
19. Uses, Adult in accordance with Section III, paragraph 3.9.	X	X	X	X	S	X	X	S	X	
20. Self-Service Storage Facility.	X	X	X	X	S	S	X	X	S	
<b>G. Industrial Uses</b>										
1. Manufacturing, assembly, fabricating operations.	X	X	X	X	X	S	X	X	S	
2. Research and development corporate and business offices.	X	X	X	X	P	P	S	P	P	
3. Warehousing and wholesaling.	X	X	X	X	X	P	X	X	S	
4. Freight and trucking terminals.	X	X	X	X	X	S	X	X	X	
5. Bulk storage and distribution of goods, except fuels.	X	X	X	X	X	P	X	X	P	
6. Bulk storage of fossil fuels.	X	X	X	X	X	S	X	S	S	
7. Earth products removal subject to the provisions of Section XI.	S	S	X	X	X	S	X	X	X	

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<b>3.6 TABLE OF USES</b>	<b>R-4</b>	<b>R-3</b>	<b>R-2</b>	<b>R-1</b>	<b>B-1</b>	<b>M-1</b>	<b>VR-1</b>	<b>VB-1</b>	<b>VM-1</b>	<b>W-1</b>
<b>G. Industrial Uses</b>										
8. Commercial sawmills.	X	X	X	X	X	S	X	X	S	
9. Junk yards, recycling centers.	X	X	X	X	X	X	X	X	X	
10. Laundry, dry cleaning plant.	X	X	X	X	S	P	X	S	P	
11. Closed storage of raw materials, finished goods or construction equipment.	X	X	X	X	S	S	X	X	S	
<b>H. Accessory Uses</b>										
1. Accessory bldgs., such as private garage, play-house, woodshed, green-house, tool shed, private swimming pool, or similar structures or additions thereto, normally associated with a residence or residential use, subject to provisions of Section IV.	P	P	P	P	P	P	P	P	P	
2. Accessory private garage for not more than three non-commercial motor vehicles and, except on a farm, not more than one half-ton rated or less in size commercial motor vehicles, subject to the provisions of Section IV.	P	P	P	P	P	S	P	P	S	
3. Accessory storage of trailer, unregistered automobile or boat provided: It shall either be stored within a principal or accessory building or not less than 25 feet from any front lot line and 10 feet from any side lot line, and it shall not be used for dwelling or sleeping purposes.	P	P	P	P	P	S	P	P	S	
4. Recreational Tenting and Recreational Camping Vehicles of a visitor in accordance with Section X, provided no residential tenting and recreational camping vehicles are located on the property for greater than 60 days per year.	P	P	P	P	P	S	P	P	S	
5. Accessory repair and storage facilities in any retail sales or consumer establishment provided: It shall not occupy more than 25 percent of the gross floor area.	X	X	X	X	P	X	X	P	X	

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<b>3.6 TABLE OF USES</b>	<b>R-4</b>	<b>R-3</b>	<b>R-2</b>	<b>R-1</b>	<b>B-1</b>	<b>M-1</b>	<b>VR-1</b>	<b>VB-1</b>	<b>VM-1</b>	<b>W-1</b>
<b>H. Industrial Uses</b>										
6. Accessory building for storage or outside storage clearly necessary to the operation and conduct, of a permitted principal wholesale, transportation, industrial and/or commercial use.	X	X	X	X	S	S	X	S	S	
7. Newsstand, barbershop, dining room or cafeteria and similar accessory services primarily for occupants or users thereof within a hotel, office, industrial building, hospital or transportation terminal facility.	X	X	S	S	P	P	S	P	P	
8. Accessory off-street parking loading spaces as required in Section VI.	P	P	P	P	P	P	P	P	P	
9. Filling of water or wet area in accordance with Section XII.	S	S	S	S	S	S	S	S	S	
10. Seasonal greenhouse or farm stand selling goods primarily raised on the premises.	S	S	S	S	S	P	S	S	P	
11. Construction trailer(s) for a construction project provided a permit is secured from the Board of Selectmen under conditions they may prescribe.	P	P	P	P	P	P	P	P	P	
12. Temporary housing as a result of an emergency situation provided a permit is secured from the Board of Selectmen under condition they may prescribe.	P	P	P	P	P	P	P	P	P	
13. Childcare Family Home in accordance with Section III, paragraph 3.7.7.	P	P	P	P	P	P	S	S	S	
14. Childcare Family Group Home in accordance with Section III, paragraph 3.7.7.	S	S	S	S	S	S	S	S	S	
15. Small Wind Energy Systems in accordance with Section III, paragraph 3.11.	P	P	P	P	P	P	P	P	P	
16. Home Business in accordance with Section III, paragraph 3.7.3, except for the VB-1 and VM-1 districts. Site Plan Review required in all districts.	S	S	S	S	S	S	S	P	P	

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<b>3.6 TABLE OF USES</b>	<b>R-4</b>	<b>R-3</b>	<b>R-2</b>	<b>R-1</b>	<b>B-1</b>	<b>M-1</b>	<b>VR-1</b>	<b>VB-1</b>	<b>VM-1</b>	<b>W-1</b>
<b>H. Accessory Uses</b>										
17. Home Occupation in accordance with Section III, paragraph 3.7.5.	P	P	P	P	P	P	P	P	P	Section XII Wetlands Conservation District (Overlay)
18. Telecommuting in accordance with Section III, paragraph 3.7.5.	P	P	P	P	P	P	P	P	P	

**3.7 SPECIAL PROVISIONS** The following provisions shall apply, as appropriate, to the Table of Uses, Section 3.6, of this Ordinance.

**3.7.1 Other Provisions:** All uses permitted by right or by special exception are subject to all other pertinent provisions of this Ordinance.

**3.7.2 Special Exception:** All special exceptions are subject to the provisions of Section 15.8.2 of this Ordinance.

**3.7.3 Home Business:** In addition to meeting the requirements of Section XV, paragraph 15.8.2 of this Ordinance, the applicant must agree to and demonstrate compliance with the following conditions in order to receive a special exception for a Home Business:

- (a) The use shall be carried out entirely within the dwelling or an accessory building located on the same premises as the dwelling, subject to the area limitations set forth in Section II, paragraph 2.1.H.1.
- (b) There shall be no display of goods or wares visible from the street.
- (c) The dwelling or accessory building in which the Home Business is conducted shall not be rendered objectionable to the neighborhood because of exterior appearance, emission of odors, gas, smoke, dust, noise, electrical disturbance, hours of operation or in any other way.
- (d) In a multi-family dwelling, the Home Business use shall in no way become objectionable or detrimental to any residential use within the multi-family dwelling. It shall include no features of design not customary in buildings for residential use.
- (e) The use shall not create a traffic safety hazard, nor shall it result in a substantial increase in the level of traffic congestion in the vicinity of the dwelling.
- (f) No outside storage of equipment will be allowed in connection with the Home Business.
- (g) Any special exception for a Home Business (i) shall be nontransferable, (ii) shall be issued to the individual applicant(s) only, and (iii) shall automatically expire when such applicant(s) is no longer the resident owner(s) of the dwelling.
- (h) Not more than one commercial vehicle in connection with the Home Business shall be stored on the premises. Parking areas associated with or needed for the Home Business, if any, shall be effectively screened from abutting and facing residential properties by appropriate fencing, four (4) feet in height, or by an evergreen planting at least three (3) feet in height, at the time of planting.

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- (i) Site plan review by the Planning Board shall be required.

**3.7.4 Bed and Breakfast Home:** In addition to meeting the requirements of Section XV, Paragraph 15.8.2 of this Ordinance, if applicable, the applicant must agree to and demonstrate compliance with the following conditions to the Zoning Board of Adjustment or Board of Selectmen, as applicable, in order to operate a Bed and Breakfast Home:

- (a) The number of proposed Lodging Units (i) shall be compatible with the surrounding area, and (ii) shall be reasonable, taking into consideration the floor size and configuration of the Dwelling Unit and the size of the Lot on which such Dwelling Unit is located; provided, however, that in no event shall a Bed and Breakfast Home contain more than three (3) Lodging Units.
- (b) There shall be adequate off-street parking for the owner(s) and guests of the Bed and Breakfast Home in accordance with Section VI of this Ordinance. The physical and aesthetic impact of off-street parking shall not be detrimental to the existing character of the Lot and the surrounding neighborhood.
- (c) Breakfast shall be the only meal served to guests of a Bed and Breakfast Home and such meal may only be served to overnight guests of the Bed and Breakfast Home.
- (d) The septic system shall be adequate to accommodate the use.
- (e) The applicant shall comply with all applicable State statutes and regulations.
- (f) The maximum length of stay for guests of the Bed and Breakfast Home shall not exceed five (5) days in any thirty (30) day period.
- (g) Adequate guest records shall be maintained in accordance with the requirement of State regulations.
- (h) Site plan review shall be required.

**3.7.5 Telecommuting and Home Occupation:** In order for Telecommuting, as defined in Section II, Paragraph 2.1.T.1, or a Home Occupation, as defined in Section II, Paragraph 2.1.H.2, to be conducted as a permitted use, the following conditions must be met:

- (a) The use shall be carried out entirely within the dwelling.
- (b) There shall be no display of goods or wares or signs.
- (c) No outside structures not typically associated with residential telephone lines shall be allowed unless such structures are otherwise permitted under this Ordinance.
- (d) The use shall not create a traffic safety hazard, nor shall it result in a substantial increase in the level of traffic congestion in the vicinity.
- (e) The use shall not constitute a Home Business, as defined in Section II, Paragraph 2.1.H.1.
- (f) All Home Occupations shall be registered with the Board of Selectmen.

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**3.7.6 Bed and Breakfast Inn:** In addition to meeting the requirements of Section XV, Paragraph 15.8.2 of this Ordinance, if applicable, the applicant must agree to and demonstrate compliance with the following conditions to the Zoning Board of Adjustment or Board of Selectmen, as applicable, in order to operate a Bed and Breakfast Inn:

- (a) The minimum lot size shall be that applicable to the zoning district for which the use is sought, with the exception that an existing Dwelling Unit which is non-conforming by reason of lot size restrictions may be converted to a Bed and Breakfast Inn, provided that there shall be no substantial modifications to the exterior of the buildings then existing on the lot.
- (b) Existing single Family Dwelling Units, Duplexes and Multi-Family Dwelling Units may be converted to a Bed and breakfast Inn provided that such a Dwelling Unit, or such a Dwelling Unit combined with any existing accessory buildings thereto, have a minimum heated floor area of 3,500 square feet and a maximum heated floor area of 5,000 square feet. Bed and Breakfast Inns built as new construction must likewise have a minimum heated floor area of 3,500 square feet and a maximum heated floor area of 5,000 square feet.
- (c) The number of Lodging Units proposed for a Bed and Breakfast Inn (i) shall be compatible with the surrounding area, and (ii) shall be reasonable, taking into consideration the floor size and configuration of the Dwelling Unit (and any existing accessory structures) and the size of the Lot on which such Dwelling Unit (and any accessory structure) are located; provided, however, that in no event shall a Bed and Breakfast Inn contain more than seven (7) Lodging Units.
- (d) The Dwelling Units for the owner(s) of the Bed and Breakfast Inn shall be adequate for the number of owner(s) and his, her or their family(ies).
- (e) There shall be adequate off-street parking for the owner(s) and guests of the Bed and Breakfast Inn in accordance with Section VI of this Ordinance. The physical and aesthetic impact of off-street parking shall not be detrimental to the existing character of the Lot and the surrounding neighborhood.
- (f) Breakfast shall be the only meal served to guests of a Bed and Breakfast Inn and such meal may only be served to overnight guests of the Bed and Breakfast Inn.
- (g) The applicant shall provide evidence that there are adequate sanitary facilities to accommodate the proposed number of Lodging Units and that the septic system complies with all applicable State statutes and regulations for the total number of proposed Lodging Units and the Dwelling Unit for the owner(s).
- (h) The applicant shall comply with all applicable State statutes and regulations.
- (i) The maximum length of stay for guests of the Bed and Breakfast Inn shall not exceed fourteen (14) days in any thirty (30) day period.
- (j) Adequate guest's records shall be maintained in accordance with the requirements of State regulations.
- (k) Site plan review by the Planning Board shall be required.

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**3.7.7 Child Care:** Applicant proposing to provide any child care services as defined in Section II of this Ordinance shall:

- (a) Provide a minimum of 35 sq. ft. of indoor floor space per child (excluding hallways, lockers, wash and toilet rooms, unheated rooms, cooking areas of the kitchen, closets or offices as child care space);
- (b) Provide a minimum of 50 sq. ft. of outdoor play space per child (with adequate fencing if located near roads, streams, ponds, rivers, or other dangerous areas);
- (c) Meet the requirements of Section XV, Paragraph 15.8.2 of this Ordinance if a special exception is required;
- (c) Obtain site plan review from the Planning Board; and
- (e) Obtain a license from the State of New Hampshire in accordance with the Administrative Rule He-C 4000 and RSA 170-E, as necessary or as amended.

**3.7.8 Unoccupied Utility Structure:** Unoccupied structures up to two hundred (200) square feet, erected by a public utility or government agencies, and which are necessary for the furnishing of utility service for the public health, safety or general welfare, are permitted in all zones. The Planning Board may exempt such structures from any requirements of the Zoning Ordinance or other municipal regulations if the applicant demonstrates that the siting option is limited by virtue of said structure being a physically integrated component of the utility's transmission or distribution apparatus. Prior to the issuance of a building permit, the applicant must demonstrate to the Planning Board that such structures and their sites do not adversely affect the character of the area or create a hazard to the public or interfere with the surrounding area.

Any exemption shall terminate without further action of the Planning Board, if said structure ceases to be used for the provision of utility services. In addition, such structures must be removed and the sites restored to their original condition at the expense of the utility within 90 days of the discontinuance of use for such purpose.

**3.7.9 Place of Entertainment:** In order to operate a Place of Entertainment the applicant must (a) meet all requirements of Section XV, 15.8.2 of this Ordinance and (b) agree to and demonstrate to the Zoning Board of Adjustment compliance with the following additional conditions:

- (a) The type of entertainment activity shall comply with Section II, 2.1.E.1 of this Ordinance.
- (b) The applicant shall provide evidence that there is adequate sound insulation to minimize any noise impacts from all entertainment activities to adjacent properties.
- (c) No noise source shall produce noise at a level equal to or in excess of ninety-five (95) db and the place of entertainment shall otherwise comply with the standards and requirements of Section 5.5 of this Ordinance.
- (d) All entertainment activity shall take place inside the structure on the premises and no noise from any entertainment activity shall be transmitted to any outdoor areas.

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- (e) All windows and doors at the place of entertainment shall remain closed during an entertainment activity and during all activities related thereto before and after same.
- (f) An entertainment activity shall begin no earlier than 12:00 PM and conclude no later than 10:00 PM.
- (g) Site Plan Review by the Planning Board shall be required.

**3.8 FAIR DISTRICT (OVERLAY)**

**3.8.1 District Created:** There is hereby created an overlay zoning district which shall be known as the "Fair District".

**3.8.2 Overlay District:** The Fair District shall be an overlay district such that all land contained therein shall also be located in some other zoning district. The allowed uses for the land located in the Fair District shall be those allowed in the underlying zoning district and those allowed by the provisions of the Fair District.

**3.8.3 District Lines Described:** The property contained in the Fair District consists of properties identified on the Hopkinton Tax Maps as Map 222, Lots 57.2, 59, 60, 61, and 79.

**3.8.4 Fair Uses Permitted:** Property in the Fair District may be used for the purpose of conducting the agricultural fair historically known as the Hopkinton State Fair ("Fair"). The Fair will be held for a period not to exceed six (6) days over Labor Day weekend, with substantial setup activities being conducted for not more than ten (10) days prior to the Fair and substantial post-Fair activities being conducted for not more than ten (10) days after the close of the Fair. This use shall include the right to conduct the ordinary and typical activities that are generally carried on during an agricultural fair and which have been conducted at the Hopkinton State Fair in recent years, as well as any additional uses not inconsistent with such an event as may become common as this type of event evolves over the years. This use is intended to include but not necessarily be limited to the following: agricultural shows, exhibits and sales, educational exhibits and events, temporary food sales, temporary retail and commercial sales, harness racing, motor sports events, concerts or other grandstand entertainment shows, a circus, a midway, a parade, musters, craft and antique shows, sales and camping for exhibitors and participants, and all other appurtenant activities normally associated with such an event during the specified period.

**3.8.4.1 Conditions:** As a condition precedent to the use of the property for the uses set forth in Section 3.8.4 above, the owner or other person or entity responsible for the carrying on of the Fair ("the owner/operating entity") shall present to the Selectmen, no later than April 1<sup>st</sup>, an estimate of the number of persons anticipated to attend the event and an indication of the nature of uses that will be carried on, in order that the same can be communicated to the agencies of the Town responsible for Fire/Police/Emergency Medical Services (EMS) functions.

**3.8.4.2 Agency Response:** The various agencies identified herein shall, within twenty (20) days of the receipt of the information provided pursuant to this section respond to the Selectmen with the following:

- I. An indication of the amount of additional manpower, including identification of any special skills that they deem will be required for the proper and safe management

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of the event as well as the proper, safe and effective provision of the particular health or safety service to the event.

- II. An outline of the plan for implementation of and provision of the service in question.
- III. An estimate of the anticipated labor and equipment (purchase/rental/use) cost of the provision of such service.

**3.8.4.3 Bond/Security for Expense:** The Selectmen shall, within fifteen (15) days of the receipt of the information provided pursuant to Sections 3.8.4.1 and 3.8.4.2 above, notify the owner/operating entity of the information so received, and of the anticipated expenses to be incurred by the Town. The owner/operating entity shall provide adequate security for the payment of such expenses in accordance with a timetable provided by the Selectmen to the owner/operating entity; said security shall be reasonable and is intended to secure to the Town the payment of the anticipated expenses. The Selectmen may also identify any additional conditions which the owner/operating entity shall adhere to in order to adequately provide for the safe conduct of the Fair in a manner that will minimize risk to the public and property.

**3.8.4.4 Additional Expenses:** Notwithstanding the foregoing, the Town shall have the right to recover from the owner/operating entity all actual expenses incurred by the Town as a result of the Fair. The owner/operating entity of the Fair shall remit payment to the Town for all such expenses no later than thirty (30) days after receipt of the bill.

**3.8.5 Non-Fair Uses Permitted without Special Use Permit:** In addition to the uses permitted under Section 3.8.4 above, land in the Fair District may be used for other events at other times of the year. Such events for which land in the Fair District may be used shall include ordinary and typical activities that are generally conducted on the property owned by an agricultural fair, which shall be limited to 4-H and other youth events, livestock shows and sales, horse shows, grange events, community events, arts and educational events, crafts and antique shows, school events, training clinics, and other similar events whose primary purpose is to benefit non-profit organizations. The duration of any individual non-fair use shall not exceed more than six (6) consecutive days. These uses shall be conducted under the following conditions:

**3.8.5.1** The owner/operating entity shall provide the Selectmen with information identifying the nature of the use or uses that will be conducted, and an estimate of the number of persons anticipated to attend the event, at least forty (40) days prior to the event.

**3.8.5.2** The anticipated attendance at any such event shall be no greater than one thousand (1000) persons per day. The owner/operating entity shall present to the Selectmen sufficient data to assure that its estimate of attendance is reliable and supported by realistic assumptions or historical data.

**3.8.6 Non-Fair Uses Permitted by Special Use Permit:** In addition to the use permitted in Section 3.8.5, and pursuant to the authority of the Town to promulgate innovative land use controls as set forth in RSA 674:21, land in this district may be used for additional events, provided the same is approved by the ZONING BOARD OF ADJUSTMENT as a **SPECIAL USE PERMIT**, after a finding that the proposed use meets all criteria listed below, made after due notice and hearing. Such hearing shall be conducted in the same manner as provided for hearings for a special exception.

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**3.8.6.1** The party requesting the proposed permit shall demonstrate that the proposed use will be conducted in a manner that meets all the standards for the grant of a SPECIAL EXCEPTION set forth in this ordinance in Section 15.8.2.

**3.8.6.2** The proposed use shall not contemplate the anticipated attendance at the event of a number greater than 26,000 persons per day and the applicant shall present to the Board sufficient data to assure that their estimates of attendance are reliable and supported by realistic assumptions or historical data.

**3.8.6.3** Concurrent with the filing of an application to the Zoning Board of Adjustment for a Special Use Permit, the applicant shall provide the Selectmen the same information indicated in Section 3.8.4.1, at which time the Selectmen shall proceed to conduct the same review contemplated in Section 3.8.4.1 through 3.8.4.4. Failure to comply with a reasonable order regarding the provision of such information or the security contemplated in said Sections will invalidate the special use permit request.

**3.8.6.4** Any request for a Special Use Permit pursuant to this Section shall be filed at least thirty (30) days before the Zoning Board of Adjustment meeting at which the application will be heard, and at least sixty (60) days before the anticipated event, in order to insure sufficient time for hearings and the Selectmen's review process outlined above.

**3.8.7 Temporary Use of Recreational Camping Vehicles:** Annually, upon application by the owner/operating entity, the Board of Selectmen may approve and issue a permit for the temporary use of recreational vehicles within the Fair District as offices or for occupancy by individuals traveling with such units, their families, and persons traveling with them, as may be necessary or convenient to the participation of such persons at events permitted under the provisions of this Section 3.8, provided that such use shall not extend beyond a reasonable period of time not to exceed ten (10) days before and ten (10) days after each approved event. Further, such use shall conform to the requirements of the State Department of Health related to sanitation facilities.

**3.9 USE, ADULT:** In addition to meeting the requirements of Section XV, Paragraph 15.8.2 of this Ordinance, the applicant must agree to and demonstrate compliance with the following conditions in order to receive a special exception for an Adult Use:

- (a) No adult use shall be located within 1,000 feet of the property line of a public place of worship, cemetery, school, day care center, youth center, public park, public sports or recreation field or similar publicly-owned facility, or within 500 feet of a property line of any residence.
- (b) No sexually explicit materials shall be visible from outside the building.
- (c) No private viewing rooms or booths shall be constructed unless one side is always open to a public central area.
- (d) No one under the age of 18 shall be permitted inside an area containing such a use and a procedure shall be developed to keep those under 18 from entering.

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**3.10 PERSONAL WIRELESS SERVICE FACILITIES**

**3.10.1 Authority:** This Ordinance is adopted by the Town of Hopkinton on March 13, 2001, in accordance with the authority granted in New Hampshire Revised Statutes Annotated 674:16, 674:21, and 12-K.

**3.10.2 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 Town of Hopkinton 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 prosperity through protection of property values.
- (c) Provide for collocation 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 Town.
- (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 collocation, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town of Hopkinton.
- (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.

**3.10.3 Definitions**

- (a) **Accessory Equipment** shall mean the equipment serving or being used in conjunction with a PWSF or mount. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar structures.

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- (b) **Antenna** shall mean the equipment from which wireless radio signals are sent and received by a PWSF.
- (c) **Applicant** shall mean a carrier or person engaged in the business of providing the infrastructure required for a PWSF who submits a collocation application or a modification application.
- (d) **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 to remain after the construction of the PWSF.
- (e) **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.
- (f) **Carrier** shall mean a person that provides personal wireless services.
- (g) **Collocation** shall mean the placement or installation of new PWSFs on existing towers or mounts, including electrical transmission towers and water towers, as well as existing buildings and other structures capable of structurally supporting the attachment of PWSFs in compliance with applicable codes. "Collocation" does not include a "substantial modification".
- (h) **Collocation Application** shall mean a request submitted by an applicant to the Building Inspection and/or Planning Board for collocation on a tower or mount.
- (i) **Equipment Compound** shall mean an area surrounding or near the base of a tower or mount supporting a PWSF, and encompassing all equipment shelters, cabinets, generators, and appurtenances primarily associated with the PWSF.
- (j) **FAA** shall mean the Federal Aviation Administration.
- (k) **FCC** shall mean the Federal Communications Commission.
- (l) **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.
- (m) **Modification** shall mean the replacement or alteration of an existing PWSF with a previously approved equipment compound or upon a previously approved mount. Routine maintenance of an approved PWSF shall not be considered a modification.
- (n) **Mount** shall mean the structure or surface upon which antennas are mounted and include roof-mounted, side-mounted, ground-mounted, and structure-mounted types.
- (o) **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.

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- (p) **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).
- (q) **Planning Board or Board** shall mean the Town of Hopkinton Planning Board, which shall be the regulator of this Ordinance.
- (r) **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.
- (s) **Radio frequency Emissions** shall mean the emissions from personal wireless service facilities, as described in the federal Telecommunications ACT of 1996, 47 U.S.C. section 332(c)(7)(B)(iv).
- (t) **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.
- (u) **Tower** shall mean any freestanding or guyed structure that is designed and constructed primarily for the purpose of supporting PWSFs. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, stealth facilities, and the like.
- (v) **Substantial Modification** shall mean the mounting of a proposed PWSF on a tower or mount which, as a result of single or successive modification applications:
  - (1) Increases or results in the crease of the permitted vertical height of a tower, or the existing vertical height of a mount, by either more than 10 percent or the height of one additional antenna array with separation from the existing antenna not to exceed 20 feet, whichever is greater; or
  - (2) Involves adding an appurtenance to the body of a tower or mount that protrudes horizontally from the edge of the tower or mount more than 20 feet, or more than the width of the tower or mount at the level of the appurtenance, whichever is greater, except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower or mount via cable; or
  - (3) Increases or results in the increase of the permitted square footage of the existing equipment compound by more than 2,500 square feet; or
  - (4) Adds to or modifies a camouflaged PWSF in a way that would defeat the effect of the camouflage.

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**3.10.4 Overlay District:**

- (a) **General.** Personal wireless service facilities shall be permitted as a principal or accessory (secondary) use in all zoning districts within the Town of Hopkinton 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.

**3.10.5 Applicability:**

- (a) **General.** The terms of this Ordinance shall apply to all personal wireless service facilities proposed to be located within the Town of Hopkinton whether on property owned by the Town of Hopkinton, 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 Town's ordinances and regulations. Siting for personal wireless service facilities is a use of land, and is addressed by this Paragraph 3.10.

**3.10.6 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.**

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- (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.
- (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 is 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. The easement or lease shall specify that the

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trees within the area shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.

- (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.

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- (2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived entirely.
- (3) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, PWSFs 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 PWSF into compliance with such revised standards and regulations shall constitute abandonment and grounds for the removal of the PWSF in accordance with Paragraph 3.10.11 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 Town 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 abandonment and grounds for the removal of the tower in accordance with Paragraph 3.10.11 at the owner's expense through execution of the posted security.

**3.10.7 - Conditional Use Permits:**

- (a) **General.** Any person seeking to construct or to carry out substantial modifications to a personal wireless service facility shall apply to the Planning Board for Site Plan Review in accordance with the requirements set forth in the Town's Site Plan Review Regulations. In addition, such applicant shall submit the information required in this Paragraph 3.10.7.
- (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 in which the new tower or substantial modification to the existing tower or mount will be visible within a twenty (20) mile radius of the town, and the local newspapers used by the towns, with mailing addresses for

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each, as required by RSA 12-K. Applicants shall also pay all fees required to notify each 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. Pursuant to RSA 676:5, any decision made under this ordinance cannot be appealed to the Board of Adjustment, but may be appealed under State or Federal law.
- (3) **Application Requirements.** All applications shall meet the standards set forth in Paragraph 3.10.6.
- (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 3.10.6.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;

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- (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 the 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 Town 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 Town and those within two miles of the border thereof, 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 Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

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- (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 which meets 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 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 vice 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 outside of the Town of Hopkinton 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 Town 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.

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- (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 Town for reasonable costs of this review. No application shall be approved until such fees, if applicable, are paid in full.

**3.10.8 Collocation and/or Modification Applications:** Pursuant to the provisions of RSA 12-K, collocation applications and modification applications shall be reviewed for conformance with applicable building permit requirements but shall not otherwise be subject to zoning or land use requirements, including design or placement requirements or public hearing review.

- (a) Within forty-five (45) calendar days of receiving a collocation application or modification application, the Building Inspector shall:
  - (1) Review the application for conformity with applicable building permit requirements and consistency with RSA 12-K;
  - (2) Determine if the application is complete or notify the applicant in writing, within fifteen (15) calendar days of submission of the specific deficiencies in the application which, if cured, would make the application complete.

Upon receipt of a timely written notice that the application is deficient, an applicant shall have fifteen (15) calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within fifteen (15) calendar days, the collocation application or modification application shall be reviewed and processed within forty-five (45) days from the initial date received by the Building Inspector. If the applicant requires more than fifteen (15) calendar days to cure the specific deficiencies, the forty-five (45) calendar days deadline for review shall be extended by the same period of time;

- (3) Reach a final decision to approve or disapprove the collocation application or modification application; and
- (4) Inform the applicant in writing of a final decision.
- (5) If the Building Inspector fails to act on a collocation application or modification application within the forty-five (45) calendar days review period, application shall be deemed approved.

**3.10.9 Waivers:**

- (b) **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 15.8.3 of the Zoning Ordinance regarding “variances” have been satisfied.
- (c) **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.

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- (d) **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.

**3.10.10 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 Subsection 3.10.11. 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.

**3.10.11 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. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed per Town 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 Town may execute on the security posted in accordance with Subsection 3.10.10 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.

**3.10.12 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 Subsection 3.10.10 and 3.10.11 of this Ordinance.

**3.11 SMALL WIND ENERGY SYSTEMS**

**3.11.1 Authority:** This Ordinance is adopted by the Town of Hopkinton on March 10, 2009, in accordance with the authority granted in New Hampshire Revised Statutes Annotated 674:21, 674:62-66, and the purposes outlined in RSA 672:1-III-a.

**3.11.2 Purpose:** The purpose of this Small Wind Energy Systems Ordinance is to accommodate small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

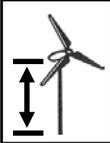
**3.11.3 Definitions:**

- (1) **Meteorological tower (met tower).** Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to

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characterize the wind resource at a given location. For the purpose of this ordinance, met towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

- (2) **Modification.** Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.
- (3) **Net metering.** The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.
- (4) **Power grid.** The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.
- (5) **Shadow flicker.** The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.
- (6) **Small wind energy system.** A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.
- (7) **System height.** The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point. 
- (8) **Tower.** The monopole, guyed monopole or lattice structure that supports a wind generator.
- (9) **Tower height.** The height above grade of the fixed portion of the tower, excluding the wind generator. 
- (10) **Wind generator.** The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

**3.11.4 Procedure for Review:**

- (1) **Building Permit.** Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. No small wind energy system shall be erected, constructed, or installed without first receiving a building permit from the building inspector. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.
- (2) **Application.** Applications submitted to the building inspector shall contain a site plan with the following information:
  - (a) Property lines and physical dimensions of the applicant's property.

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- (b) Location, dimensions, and types of existing major structures on the property.
  - (c) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
  - (d) Tower foundation blueprints or drawings.
  - (e) Tower blueprints or drawings.
  - (f) Setback requirements as outlined in this ordinance.
  - (g) The right-of-way of any public road that is contiguous with the property.
  - (h) Any overhead utility lines.
- (1) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
  - (2) Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
  - (3) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
  - (4) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
  - (5) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
  - (6) List of abutters to the applicant's property.
    - (a) **Abutter and Regional Notification.** In accordance with RSA 674:66, the building inspector shall notify all abutters and the local governing bodies by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded 30 days to submit comments to the building inspector prior to the issuance of the building permit. The building inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the building inspector shall follow the procedures set forth in RSA 36:57, IV.

**3.11.5 Standards:**

- (1) The building inspector shall evaluate the application for compliance with the following standards:
  - (a) **Setbacks.** The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.

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<b>Minimum Setback Requirements</b>			
Occupied Buildings on Participating Landowner Property	Occupied Buildings on Abutting Property	Property Lines of Abutting Property and Utility Lines	Public Roads
0	1.5	1.1	1.5

- (i) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
- (ii) Guy wires used to support the tower are exempt from the small wind energy system setback requirements.
- (b) **Tower.** The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 150 feet.
- (c) **Sound Level.** The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
- (d) **Shadow Flicker.** Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
- (e) **Signs.** All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
- (f) **Code Compliance.** The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
- (g) **Aviation.** The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.
- (h) **Visual Impacts.** It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.
  - (i) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical

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and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.

- (ii) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
- (iii) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.
- (i) **Approved Wind Generators.** The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.
- (j) **Utility Connection.** If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.
- (k) **Access.** The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- (l) **Clearing.** Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.

**3.11.6 Abandonment:**

- (1) At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
- (2) Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building inspector. "Physically remove" shall include, but not be limited to:
  - (a) Removal of the wind generator and tower and related above-grade structures.
  - (b) Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.
- (3) In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month

**SECTION III**  
**ESTABLISHMENT OF DISTRICTS AND USES**

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- (4) period. After the 12 months of inoperability, the building inspector may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the building inspector shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
- (5) If the owner fails to respond to the Notice of Abandonment or if, after review by the building inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

**3.11.7 Violation:** It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt from this ordinance except when modifications are proposed to the small wind energy system.

**3.11.8 Penalties:** Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676:17.

**SECTION IV  
DIMENSIONAL AND DENSITY REQUIREMENTS**

**4.1 GENERAL REQUIREMENTS** No building or structure shall be erected, enlarged or moved nor shall any use be authorized or extended nor shall any existing lot be changed as to size except in accordance with the Table of Dimensional Requirements, Section 4.2, or in accordance with Section VIII for subdivisions of land for residential uses, as applicable, unless modified elsewhere in this Ordinance.

**4.2 TABLE OF DIMENSIONAL REQUIREMENTS** The **TABLE OF DIMENSIONAL REQUIREMENTS** shall apply for all lots, uses of land, and developments within the various districts, except for subdivisions of land for residential uses subject to the provisions specified in Section VIII, unless modified by other Sections of this Ordinance.

Districts	Minimum Lot Dimensions <sup>a</sup>			Minimum Setback Dimensions <sup>a</sup> (ft)			Max. Height of Structure	Max. % Bldg. Cvge/Lot	Min.% Open Space/Lot
	Area (sf)	Continuous Frontage <sup>g</sup> (ft)	Depth (ft)	Front	Side	Rear			
R-4 <sup>b</sup>	120,000	300	200	60	30	60	35	20	70
R-3 <sup>b</sup>	120,000	300	200	60	30	60	35	20	70
R-2 <sup>b</sup>	80,000 <sup>d</sup>	250	140	40	20	40	35	30	30
R-1 <sup>b</sup>	60,000 <sup>e</sup>	160	120	30	15	40	35	30	30
R-1 (other than Res.)	15,000	100	100	25	15	40	35	30	50
B-1 <sup>c,k</sup>	15,000 <sup>f</sup>	80	80	30	15	40	35	40	30
M-1 <sup>c,k</sup>	110,000	250	300	50	40 <sup>n</sup>	50	45	40	30
VR-1 <sup>l</sup>	15,000 <sup>l</sup>	80	80	30	15	40	35	40	30
VB-1 <sup>l</sup>	7,500 <sup>l</sup>	50	100	0	10	10	35	60	20
VM-1 <sup>l,l</sup>	55,000	150	200	25	25	25	35	50	30

See Explanatory Notes in Section 4.3 for footnoted items.

**4.3 EXPLANATORY NOTES** The following explanatory notes shall provide further definitions for the footnoted items in Table 4.2.

- (a) All measurements are in feet unless otherwise noted.
- (b) These dimensions shall not apply to Conservation Subdivisions. See Section VIII for applicable dimensional requirements.
- (c) When the footnoted commercial or industrial uses abut residential uses or a residential district, the minimum front and rear setbacks shall be 100 feet from and the side setback shall be 50 feet from a property line abutting a residential use or district.
- (d) 80,000 sq. ft. + 16,000 sq. ft. for each dwelling unit more than one on a lot.
- (e) 60,000 sq. ft. + 8,000 sq. ft. for each dwelling unit more than one on a lot.
- (f) 15,000 sq. ft. + 2,000 sq. ft. for each dwelling unit more than one on a lot.
- (g) The minimum lot width at the front yard setback line shall not be less than 85 percent of the minimum lot frontage required for the District. The frontage on a road at a cul-de-sac

**SECTION IV**  
**DIMENSIONAL AND DENSITY REQUIREMENTS**

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may be less than specified if the lot width at the depth of the front yard setback line meets the minimum lot frontage requirements, but in no event less than 30 feet.

- (h) For residential use only in the M-1 zone the sideline setback shall be 30 feet.
- (i) The required square footage of land area for the first dwelling unit shall be equal to the minimum lot area as defined in the Table of Dimensional Requirements. For each additional dwelling unit an additional 2,000 square feet of land area shall be required.
- (j) When the footnoted commercial or industrial uses abut residential uses or a residential district or are situated in a residential area, the minimum front setback shall be 25 feet and the minimum side setback shall be 25 feet from a property line abutting a residential use or district.
- (k) In the B-1 and M-1 zones, the maximum gross floor area of commercial retail stores and restaurants shall not exceed 40,000 square feet.
- (l) In the VB-1 and VM-1 zones, the maximum gross floor area of commercial retail stores and restaurants shall not exceed 20,000 square feet.

**4.4 SPECIAL DIMENSIONAL AND DENSITY CONDITIONS** The following special conditions shall apply as appropriate to this Section of this Ordinance.

**4.4.1 Detached Accessory Building:** In all districts, a detached accessory building shall conform to the following provisions:

- (a) It shall not be less than the front setback for the district or less than 10 feet from any other lot line or from any principal or accessory building.
- (b) It shall not exceed 20 feet in height unless the accessory is placed to comply with principal building setback in which case it will conform to the height restriction of the district.

**4.4.2 Attached Accessory Building:** In all districts, an accessory building attached to the principal building shall be considered as an integral part therefore and shall be subject to front, side, and rear yard requirements applicable to the principal building.

**4.4.3 Principal Structure:** Except for municipal facilities and public utilities, only one principal structure/principal use shall be permitted on a lot, except as noted in 8.6.5. In the B-1 and M-1 zones, there may be multiple principal nonresidential structures and uses within structures so long as each use is listed as a permitted (P) use or use permitted by special exception (S) in 3.6 TABLE OF USES. In the B-1 and M-1 zones, the maximum gross floor area of commercial retail stores and restaurants shall not exceed 40,000 square feet. In the VB-1 and VM-1 zones, the maximum gross floor area of commercial retail stores and restaurants shall not exceed 20,000 square feet. In the VB-1 and VM-1 zones, there may be multiple principle structures and uses within structures so long as each use is listed as a permitted (P) use or use permitted by special exception (S) in 3.6 TABLE OF USES. Nothing herein shall be construed to preclude compliance with the requirements set forth in Section 15.8.2 of this Ordinance.

**SECTION IV**  
**DIMENSIONAL AND DENSITY REQUIREMENTS**

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**4.4.4 Corner Lot:** A corner lot shall have minimum street yards and depths which shall be the same as the required front yard depths for the adjoining lots.

**4.4.5 Through Lot:** At each end of a through lot, there shall be a setback depth required, which is equal to the front yard depth required for the district in which each street frontage is located.

**4.4.6 Projections:** Projections are not permitted into required yards or other required open spaces except steps or stoops, eaves, or bay windows.

**4.4.7 Maximum Number of Dwelling Units:** The maximum number of dwelling units permitted in any multi-family dwelling shall be eight (8).

**4.4.8 Additions:** Additions which fail to meet the dimensional and density regulations contained in Table 4.2 to an existing, non-conforming structure may be permitted by special exception provided that the setback of the addition is no less than the setback of the existing structure.

**4.5 MAXIMUM UNITS PER DEVELOPMENT** The total number of dwelling units created by any one development shall not exceed fifty (50).

**4.6 WAIVER OF DIMENSIONAL REQUIREMENTS BY THE PLANNING BOARD** The Planning Board, during subdivision review process, is hereby given the authority to approve new non-conforming lots, provided that the applicant submits evidence that such non-conforming lots will be donated to, and accepted by the Town or Conservation Commission as open space, conservation land, or recreational land.

**4.7 INCREASED SHORELAND PROTECTION STANDARD FOR CERTAIN FACILITIES**

The State Shoreland Protection laws (NH RSA 483-B:8) permit a Town to adopt land use control ordinances relative to all protected shorelands which are more stringent than the minimum State standards. As indicated in the Master Plan, the Town's lakes, rivers, ponds and streams are a primary resource and asset for the Town. The Contoocook River also serves as a drinking water sources and, as such requires special consideration. Nonconforming solid waste facilities and any proposed or existing solid waste facilities as well as nonconforming facilities and any existing facilities which store, or incinerate (or propose to store or incinerate) solid waste, or construction and demolition debris in close proximity to lakes rivers, ponds or streams, or artificial impoundment areas which connect to lakes, rivers, ponds or streams represent an unacceptable risk to these resources and the public health, safety and welfare of the citizens of the Town. The Town hereby adopts a more stringent shoreland protection standard for such uses. No existing, nonconforming, solid waste facility, or facility which stores, or incinerates solid waste, or construction or demolition debris nor any such facility allowed by variance, (except for a facility which has, and maintains in good standing a permit which predates this ordinance, permitting the placement of solid waste in accord with RSA 483-B:9 (IV-d)) shall be allowed to place solid waste or construction and demolition debris within 300 feet of the reference line of public waters or within 300 feet of the ordinary high water mark of a river, pond, stream or artificial impoundment area, nor shall the edge of any impervious surface on which such solid waste is located be within 300 feet of the reference line of public waters or within 300 feet of the ordinary high water mark of a pond, river, stream or artificial impoundment area. In the event a pre-existing facility has its permit revoked by the State, it shall be subject to this stricter standard. Nothing in this standard shall be construed to allow a solid waste facility in a zone unless it is explicitly permitted in that zone.

**SECTION IV-A**  
**ARCHITECTURAL DESIGN REVIEW ORDINANCE**

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**4-A.1 TITLE** This Ordinance shall be known and cited as the “Architectural Design Review Ordinance.”

**4-A.2 EFFECTIVE DATE; ENABLING AUTHORITY** The Architectural Design Review Ordinance was adopted by the Town of Hopkinton on March 8, 2005 and is effective the same date. The authority for this Ordinance is found in New Hampshire Revised Statutes Annotated 674:16 (Grant of Power) and 674:21 (Innovative Land Use Controls).

**4-A.3 LEGISLATIVE FINDINGS; DECLARATION OF PURPOSE** The Local Legislative Body of the Town of Hopkinton hereby finds and declares that:

- (a) Hopkinton’s traditional villages, historical architecture and rural countryside are important elements of our community character. The citizens of Hopkinton, through the master planning process, find that these settings comprise our landscape character and help to define our community.
- (b) Public and private stewardship of these resources is fundamental to the well-being of the community and to the well-being of current and future generations. Non-residential development which is indifferent to our architectural heritage (such as “franchise architecture”, monotonous building typical of “strip development” or “big box” retail buildings) constitutes a significant threat to the character and future of our community.
- (c) The management of future development can be guided to encourage building and site design that is functional, aesthetically pleasing and compatible with the architectural heritage of our community.
- (d) The architecture of our community is varied and necessarily will evolve as the community grows. The regulation of architectural design must allow for flexibility, creativity and innovation within the context of these guidelines.

**4-A.4 VESTING OF RESPONSIBILITY**

**4-A.4.1** The administration of the provisions of the Architectural Design Review Ordinance shall be vested with the Planning Board.

**4-A.4.2** For purposes of assisting with the review of an Application for Architectural Design Review, the Planning Board may secure the services of a Consulting Architect. The Planning Board may impose reasonable fees upon an applicant to cover its expenses associated with the use of Consulting Architects.

**4-A.4.3** The Planning Board shall have the authority to adopt a fee schedule for the following purposes: (1) Filing Fee; (2) Abutter Notification Fee; and (3) Architectural Review Fee (Consulting Architect). A Public Hearing on the proposed fee schedule or any subsequent changes thereto shall be held prior to the Board’s adoption of the schedule.

**4-A.4.4** The Planning Board shall have the authority to develop application materials, check lists and other documents specific to the administration of this ordinance.

**4-A.4.5** Pursuant to RSA 674:21, II and only in conjunction with an application for Architectural Design Review, the Planning Board may grant a special use permit to reduce the building setback that would otherwise be applicable under the Hopkinton Zoning Ordinance. Such a special use permit shall only be granted where:

**SECTION IV-A**  
**ARCHITECTURAL DESIGN REVIEW ORDINANCE**

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**4-A.4.5.1** The applicant requests the setback reduction in writing as part of the original or amended application for Architectural Design Review or the Planning Board determines the setback reduction is required to fulfill the purpose and intent of this Architectural Design Review Ordinance and one or more elements of the Building Performance Criteria set out in Section 4-A.6 of this Ordinance;

**4-A.4.5.2** The evidence submitted during the public hearing process clearly establishes a practical justification for the setback reduction;

**4-A.4.5.3** The Planning Board has considered the recommendations of the Fire Chief, Code Enforcement Officer and Director of Public Works, if any; and

**4-A.4.5.4** The Planning Board finds on the record before it that the reduction in building setback will not be detrimental to public health, safety or welfare.

**4-A.5 APPLICABILITY**

**4-A.5.1** Planning Board approval of an Application for Architectural Design Review shall be required prior to the issuance of a building permit for the following activities:

**4-A.5.1.1** New building construction to be used for non-residential or multi-family purposes; or

**4-A.5.1.2** Additions or alterations to buildings used for non-residential or multi-family purposes which increase or decrease the square footage of the building; or

**4-A.5.1.3** Renovation, rehabilitation or reconfiguration of building exteriors where such buildings are used for non-residential or multi-family purposes.

**4-A.5.2** Planning Board approval of an Application for Architectural Design Review shall not be required prior to the issuance of a building permit for the following activities:

**4-A.5.2.1** Residential building construction including single family, two family and related accessory structures; and

**4-A.5.2.2** Routine exterior repair or maintenance of structures used for non-residential or multi-family purposes, which do not alter the existing exterior design; and

**4-A.5.2.3** Interior alterations or renovations of structures used for non-residential or multi-family purposes; and

**4-A.5.2.4** Changes of use or occupancy of structures that do not include any of the regulated activities identified in Section 4-A.5.1.

**4-A.6 PERFORMANCE CRITERIA**

**4-A.6.1** The Performance Criteria contained in this section are intended to encourage building architecture that is complementary to the community. Each application represents unique circumstances, challenges and opportunities that must be taken into account in both the design and design review processes. It is intended that the criteria be

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administered with flexibility and consistency in order to allow for responsive, creative and innovative architectural designs. The criteria are not intended to dictate specific building styles, or to mandate historical preservation, restoration or replication.

**4-A.6.2** In order to approve an Application for Architectural Design Review, the Planning Board shall find that the application demonstrates substantial conformity with the following Performance Criteria:

**4-A.6.2.1 General Criteria**

- (a) The proposed building design is consistent with the purposes of this Architectural Design Review Ordinance;
- (b) The proposed building design demonstrates sensitivity towards and is complementary to, the architectural heritage of Hopkinton, New Hampshire.

**4-A.6.2.2 Building Criteria**

- (a) **Building Orientation:** How a building is positioned or located on a site can complement or detract from the site and/or the architectural character of the surrounding area. The orientation of proposed buildings should take into consideration building setbacks, spacing between buildings, alignment of building(s), open spaces, access and circulation areas, as may be evidenced in the development pattern of the surrounding area or as determined to be appropriate by the Planning Board; and
- (b) **Building Scale and Proportion:** Building elevations, scale, massing and the proportional relationship between structures can complement or detract from the architectural character of the surrounding area. Building designs should be compatible with or provide a harmonious transition from adjacent sites. The scale and proportion of proposed buildings should take into consideration the scale and proportion of surrounding buildings, as evidenced in the development pattern of the surrounding area, and should also take into consideration natural features, historically significant buildings or features and surrounding land uses. Visual conflicts between properties should be minimized; and
- (c) **Roofline:** Rooflines can provide visual interest and help to reduce the mass of a building. Traditional roofline types such as gabled, hipped, and gambrel that are evidenced in Hopkinton's architectural heritage are strongly encouraged. Type, shape, pitch and direction of roofs should be considered in the design. Flat roofs are strongly discouraged; and
- (d) **Massing:** The physical bulk or mass of buildings, particularly larger or elongated ones, can either enhance or detract from the architectural character of the community. Structures should be carefully designed to break up their mass into smaller visual components providing human scale, variation and depth; and
- (e) **Architectural Features and Details:** Architectural features and details such as cornices, columns, corner trim, doorways, entrances, windows/trim, awnings, dormers, porches, etc., can provide or enhance visual interest, provide a pedestrian scale and help mitigate negative effects of building mass. Architectural features and details should be considered in every building design. Traditional features should be considered in every building design. Traditional features and details associated with Hopkinton's architectural heritage are strongly encouraged; and

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(f) **Materials, Texture and Color:** Exterior building materials, texture and colors should be treated as significant design elements that help define the appearance of a structure and create visual interest. The use of traditional materials that are consistent with Hopkinton's vernacular or indigenous architecture, or materials having the same visual effect are strongly encouraged. Consideration should be given to the materials, textures and colors used in the neighborhood; and

(g) **Building Facade:** Facades for new or renovated structures should provide visual interest from all visually accessible sides. Windows, doorways and architectural detailing and patterns should complement the building form and historical context. Facades should be designed to establish a complementary relationship with other site considerations such as pedestrian scale and orientation, signage, landscaping and lighting; and

(h) **Building Renovation or Addition:** Where an existing building has features that are consistent with the Performance Criteria, proposed renovations or additions should be designed to respect the proportions, patterns, detailing, materials, etc., of the original building. Where the existing building does not have features that are consistent with the Performance Criteria, the owner/applicant is encouraged to upgrade the structure to meet the Performance Criteria; and

(i) **Signs:** Signs should be designed to meet the needs of individual uses while complementing the building, the site and its surroundings. The design of building-mounted signs should complement, not detract from the architectural features of the building. Signs should be scaled to the architectural elements that surround it. Consideration should be given to sign form, color, lighting and materials that are compatible with the building and its surroundings; and

(j) **Gateways and Scenic Resources:** Some places in Hopkinton contribute to the landscape character of the community because of their location and scenic qualities. Many such properties and approaches acts as gateways, providing first impressions and reinforcing Hopkinton's sense of place. Consideration should be given towards complementing these resources through the careful citing of new buildings, and the application of the Performance Criteria; and

(k) **Design Continuity:** Each building design, from the simple to the complex, requires the coordination of multiple design elements such as architectural style, form, massing, materials, detailing, etc. The proposed building design shall demonstrate coordination of design elements and an overall design continuity.

**4-A.7 WAIVER PROVISION**

**4-A.7.1** The Planning Board may grant waivers to the requirements of this Architectural Design Review Ordinance provided that a majority of the Planning Board finds that the criteria set forth in Section 15.8.3 of the Hopkinton Zoning Ordinance regarding "variances" have been satisfied.

**4-A.7.2** In approving waivers, the Planning Board may impose such conditions, as it deems appropriate to substantially secure the objectives of the standards or requirements of this Architectural Design Review Ordinance.

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**4-A.7.3** A petition for any such waiver shall be submitted in writing by the applicant for Planning Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant in support thereof.

**4-A.8 APPEALS** A decision of the Planning Board made pursuant to this Architectural Design Review Ordinance shall not be appealed to the Zoning Board of Adjustment, but may be appealed only to the Superior Court as provided by RSA 677:15 and RSA 676:5, III.

**4-A.9 TERMS AND DEFINITIONS**

**4-A.9.1 Approval of an Application for Architectural Design Review:** Shall mean the granting of a special use permit as provided for in RSA 674:2, II.

**4-A.9.2 “Exterior Repair”:** Shall mean activities such as replacing broken window glass, fixing a leaking roof, replacing clapboards, re-pointing a chimney or in-kind structural repairs.

**4-A.9.3 “Exterior Maintenance”:** Shall mean activities such as painting, cleaning, replacement of building features such as doors, windows, clapboards, roofs, etc.

**4-A.9.4 “Non-residential Use”:** Shall mean all uses allowed by right or by special exception (commercial, industrial, institutional, etc.) as provided for in the Zoning Ordinance, excluding single family and two family residential uses.

**4-A.9.5 “Multi-family Use”:** Shall have the same meaning as in Section 2.1.D.9 of the Hopkinton Zoning Ordinance.

**4-A.10 SAVINGS CLAUSE** Where any provision of this Architectural Design Review Ordinance is found to be invalid, such determination shall not affect the validity of the remainder of this Ordinance.

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**SUPPLEMENTARY REGULATIONS**

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**5.1 NON-CONFORMING USES** The following provisions shall apply to non-conforming uses:

**5.1.1 Expansion of Non-conforming Uses outside and within Structures:** Except for agriculture, horticulture or floriculture, no non-conforming use on a conforming lot occurring outside of a structure in whole or in part, or on a lot without a structure, shall be expanded in area, density or intensity of use more than five (5%) percent from the area, density or intensity of use on the lot at the date of non-conformity. The expansion may be done at one time or in successive stages, but shall not exceed five (5%) in the aggregate when compared to the extent of use at the time the use first became nonconforming. The expansion of a nonconforming use beyond five (5%) percent in the area, density or intensity of use shall require a variance from the Board of Adjustment. If granted, the terms of the variance shall specifically define and limit the scope of the expansion to the least amount of expansion required to provide the necessary relief. If the variance is granted, the proposed expansion shall also be subject to site plan review if the underlying use would, but for its non-conforming use status, be subject to site plan review. This section shall not prohibit the expansion of a nonconforming use within an existing conforming structure, provided the expansion otherwise complies with this Ordinance and has no adverse effect on the abutters or the zoning district. If the proposed expansion is deemed by the Building Inspector/Zoning Administrator to be a change in the type of nonconforming use, or to have an adverse effect on the abutters or the zoning district, the applicant shall be required to apply for a variance. Other than as allowed in Section 5.1.2.a., a non-conforming use shall not be permitted to expand on a nonconforming lot without a variance.

**5.1.2 Expansion of Non-conforming Use:**

- (a) Non-conforming residences may be expanded by up to fifty (50%) in square footage from the square footage existing at the date of nonconformity, provided the addition does not further encroach upon non-conforming setbacks. The expansion shall meet all other applicable sections of this Ordinance and may be done at one time or in successive stages, provided the expansion does not exceed fifty (50%) in the aggregate when compared with the square footage existing at the first date of nonconformity.
- (b) All other non-conforming, non-residential structures on a conforming lot may be expanded up to five (5%) percent in square footage beyond the square footage existing at the first date of nonconformity, provided the owner obtains a special exception from the Zoning Board of Adjustment, does not further encroach on any current setbacks for a conforming lot and meets all other applicable provisions of this Ordinance.
- (c) Any expansion of nonconforming, nonresidential structure beyond five (5%) in square footage (as compared to the square footage existing at the first date of nonconformity) shall require a variance from the Board of Adjustment.
- (d) Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-conforming structure, provided that such repair or maintenance does not increase the degree of nonconformity.

**5.2 NON-CONFORMING DIMENSIONS OR LOTS** The following provisions shall apply to non-conforming dimensions or lots:

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**5.2.1 Use of a Non-conforming Lot:** A non-conforming lot may be built upon, if, at the time of the enactment of this Ordinance (or any subsequent amendment thereto, if the amendment renders the lot non-conforming) the:

- (a) Lot conformed to the then existing dimensional requirements (if any),
- (b) Owner(s) of the lot owned no additional contiguous land, and a
- (c) Lot has frontage of at least 50 feet.

All three conditions must be met to make the lot buildable. Should the owner(s) own contiguous land, that land shall be annexed to the non-conforming lot to the extent necessary to bring it into conformance with the present zoning standards. However, such annexation may not permit the formation of a second non-conforming lot. In such instance, the two lots must be joined as one.

**5.2.2 Reduction/Increase of Non-conforming Dimensions:** Any non-conforming lot or open space on the lot (yards, setbacks, courts or coverage on lot) if already smaller or greater, as the case may be, than that required, shall not be further reduced or increased so as to be in greater non-conformity.

**5.2.3 Reduction of Parking:** Any off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use, shall not be further reduced in number, except in the VB-1 zoning district where Section 6.4.6 takes precedence.

**5.3 CHANGES IN NON-CONFORMITIES**

**5.3.1 Changes to Another Non-conformity:** Any non-conforming use may be changed to another non-conforming use provided that the new use is not substantially different from the previous use and approval for the change is granted as a special exception by the Board of Adjustment. For purposes of this Section, a substantially different use shall include use which by reason of its normal operation, would cause readily observable difference in patronage, service, sight, noise, employment or similar characteristics, from the existing non-conforming use or from any permitted use in the district under question.

**5.3.2 Changes in a Non-conforming Use:** Any non-conforming use which has been once changed to a permitted use shall not again be changed to a non-conforming use.

**5.3.3 Changes in a Non-conforming Lot:** Any non-conforming lot which has come into conformity shall not again be changed to a non-conforming lot.

**5.3.4 Restoration after Fire:** Any non-conforming structure, totally destroyed by fire or other cause, may be rebuilt if restored within two years. Restoration shall not place the structure in greater non-conformity. The original foundation may be reused.

**5.3.5 Discontinuance:** Any non-conforming use discontinued for a period of one year shall not be re-established. Any future use shall be in conformity with this Ordinance. For the purposes of this Section, "discontinued" shall mean ceased, without any regard for the intent to cease or the intent to re-establish a non-conforming use. For agricultural, horticultural, or floricultural use, the discontinuance period shall be for a five year period of non-use.

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**5.3.6 Moving:** Any non-conforming structure shall not be moved to any other location on the lot or any other lot unless every portion of such structure, including the use thereof, and the lot shall be conforming.

**5.3.7 Unsafe Structures:** Any non-conforming structure determined to be unsafe may be restored to a safe condition. Such work on any non-conforming structure shall not place it in greater non-conformity. If the cost to restore any structure shall exceed 50 percent of its physical replacement value, it shall be reconstructed only as a conforming structure and used only for a conforming use.

**5.4 CERTAIN PROHIBITIONS** The following prohibitions shall be observed in the Town of Hopkinton:

**5.4.1 Fire Ruins:** No owner or occupant of land in any district shall permit fire or other ruins to be left on a site. Within six months he shall remove such ruins and fill or cap any excavation. Replacement of the structure shall occur within two years of the fire.

**5.4.2 Environmental Performance Standards:** Any use permitted by right or special exception in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious or other objectionable fire, explosion, radioactivity or other hazard; noise or vibration; smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; conditions conducive to the breeding of insects, rodents or other substance, conditions or elements in an amount as to affect adversely the surrounding environment. A violation of the State of New Hampshire standards shall constitute a violation of this Ordinance but shall not be used to reduce the environmental standards set forth in this Ordinance. If in the opinion of the Building Inspector there appears to be a reasonable proof that a violation exists, then the cost for making tests to determine violation shall be paid for by the alleged violator.

**5.4.3 Sanitary Protection:** No privy, cesspool, septic tank, lagoon or other sewage disposal area shall be constructed or replaced unless designed in accordance with the most recent manual published by the New Hampshire Water Supply and Pollution Control Commission (WSPCC) and plans of such system are approved by the Town of Hopkinton's Building Inspector and/or Town Engineer, and if necessary by the WSPCC.

No leaching field or sewage drain facility shall be located closer than 75 feet from a well or a water body. Unless the owner can prove the site acceptable, no septic or other sanitary systems requiring leach fields shall be built on slopes exceeding fifteen (15) percent average grade.

**5.4.4 Waste Pollution of the Contoocook River:** No new building or conversion of an existing building shall be allowed which will further pollute the Contoocook River with waste. No building permit will be granted unless an acceptable, non-polluting waste disposal system can be provided.

**5.4.5 Dumping or Disposal of Garbage and Other Refuse:** No land in any district shall be used for a dumping place for garbage, construction and/or demolition debris or refuse from either private or commercial or industrial source except the public landfill and/or transfer station, as provided by the Town. The Town hereby finds that the incineration of certain types of construction and/or demolition debris presents a hazard to

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the public health, safety, convenience and general welfare of the inhabitants of the Town of Hopkinton by virtue of the hazardous emissions and discharges emanating from such incineration. No land in any district shall be used for the incineration of construction and/or demolition debris. The Town hereby finds that such construction and/or demolition debris contains treated and coated woods and other materials (including but not limited to woods and other materials containing lead-based paints, lead based stains, and mercury and formaldehyde treatments), and that these items, when incinerated, pose a hazard to the public health, safety, convenience and general welfare. Further, no prior variance granted by the town for the incineration of wood or wood products shall be construed so as to allow for the incineration of construction and/or demolition debris, as any such use poses a hazard to the public health, safety, convenience and general welfare.

**5.4.6 Timber Cutting:** No person shall cut timber, except as provided for in New Hampshire Revised Statutes.

**5.4.7 Uninspected Vehicles:** No more than one uninspected motor vehicle may remain within any residential district unless the vehicle and its parts are enclosed within a building.

**5.4.8 Boats:** A boat with a beam of greater than eight feet shall conform to the setbacks of the zone in which it is located.

**5.5 NOISE CONTROL** This section defines when noise produced may be considered objectionable and prohibited so as to protect and preserve the environment within residential areas of Hopkinton. This section prohibits dangerous, noxious, injurious, or other objectionable noise.

**5.5.1 When Objectionable:** Noise may be considered objectionable and therefore excessive adjacent to residences in Hopkinton when at the property line of the noise source:

- (a) The low frequency noise level in the 31.5 hertz octave produced by a noise source exceeds 65 db;
- (b) The a-weighted noise level produced by a noise source exceeds by 10 db or more the a-weighted residual ambient sound level that exists without the noise source operating; or
- (c) The noise produced by a noise source contains one or more audible tonal components not masked by the residual ambient sound.

**5.5.2 Residual Ambient Sound Level:** The residual ambient sound level is the background sound level (without the noise source operating) that is exceeded ninety percent of the time during the period in question. The period would usually be the quiet later evening or night time hours for continuously operating facilities. For intermittently operating facilities, the period would usually be the hour or hours that the noise source typically operates. For noise sources that operated only during the day time, less frequently than one day per week, the above noise limits may be increased by 5 db.

**5.5.3 Exemptions:** This restriction shall not apply to sounds associated with:

- (a) Emergency vehicles and signals;
- (b) Domestic equipment such as mowers and saws.
- (c) Farm equipment such as tractors and other farm implements;
- (d) Church bells;

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**SUPPLEMENTARY REGULATIONS**

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- (e) Aircraft, trains, and motor vehicles on public ways;
- (f) Brief and intermittent operation of emergency devices; and
- (g) Construction sites.

**5.5.4 Acoustical Engineer Required:** Prior to construction or continued operation of any building or facility within Hopkinton that might reasonably be expected to produce objectionable noise, the developer or owner shall retain the services of an experienced acoustical engineer approved by the Town. The acoustical engineer shall provide to the Town for review and approval by Town officials the information and noise data requested in Table 1 available at the Selectmen's Office plus whatever additional information is requested by the Town to ensure compliance with the noise requirements. The developer or owner shall provide to the Town written notification confirming their intent to take all necessary steps to avoid producing objectionable noise. Buildings or facilities that produce objectionable noise are subject to the enforcement provisions of the Zoning Ordinance.

**5.6 OPEN STORAGE IN THE INDUSTRIAL (M-1) ZONE** The open storage of raw materials, finished goods or construction equipment requires a special exception in the Industrial (M-1) zone. The following conditions shall be imposed as minimum conditions on the grant of any special exception for the open storage of raw materials. All manufacturing materials, stockpiles, raw materials, and finished goods shall be screened from the view of abutting parcels and public roads. The Planning Board, for good cause shown, may waive or reduce the screening requirement in the context of site plan or subdivision review. In order to allow for fire suppression, stockpiles and raw materials shall not exceed a height of twenty-five (25) feet and shall be fully accessible to fire and emergency equipment. Flammable stockpiles, including mulch piles, compost piles and wood piles shall be arranged in windrows in order to permit access by fire equipment and prevent the spread of fire. Any stockpiles with the capacity to leach chemicals or metals into the ground shall be stored on an impervious surface and shall be subject to all necessary State approvals. The Planning Board shall have the authority to review open storage as part of its site plan review process, to impose supplemental conditions beyond the conditions imposed by the Zoning Board of Adjustment on any special exception and to adopt regulations pertaining to open storage including the authority to require that monitoring wells be installed on the perimeter of stockpiles.

**SECTION VI  
PARKING REQUIREMENTS**

**6.1 OFF-STREET PARKING** On and after the effective date of this Ordinance, all new structures and developments as well as additions to or changes in use or intensification of use in existing structures shall be provided with off-street parking spaces in accordance with the following specifications in Section 6.3. The Planning Board may alter the specifications of Section 6.3 when, after testimony of the Applicant, it determines it is in the best interest of the Town and all other parties involved, and subject to any condition(s) the Planning Board may impose as it deems appropriate.

**6.2 LOCATION OF PARKING SPACES** Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve; or, when practical differences as determined by the Planning Board prevent their establishment upon the same lot, they shall be established no further than 500 feet from the premises to which they are appurtenant.

**6.3 REQUIRED SPACES** Parking spaces shall be provided in accordance with the following criteria:

Type of Use	Minimum Number of Required Spaces
(a) One and two family dwelling	Two (2) for each dwelling unit.
(b) Multi-family dwelling	One and one-half (1-1/2) for each dwelling unit.
(c) Bed and Breakfast Home and Bed and Breakfast Inn	Two (2) spaces for the owner plus one space for each Lodging Unit.
(d) Theater, restaurant, auditorium, church or similar place of public assembly.	One (1) for each four (4) seats of total seating capacity. In VR-1, VB-1, and VM-1 one (1) space for each five (5) seats of total seating capacity.
(e) Automotive retail and service establishment and other retail and service establishments utilizing extensive display areas, either indoor or outdoor which are usually extensive in relation to customer traffic.	One (1) per 1,000 sq. ft. of gross floor space. In the case of outdoor display areas, one (1) for each 1,000 sq. ft. of lot area in such use.
(f) Other retail, service, finance, insurance, real estate establishment, antique shop or business/professional offices.	One (1) per each 300 sq. ft. of gross floor space. In VR-1, VB-1 and VM-1, one (1) per each 400 sq. ft. of gross floor space.
(g) Hotel	Two (2) spaces for the owner (if owner occupied) plus one (1) space for each Lodging Unit plus one (1) space for each 200 sq. ft. of public meeting room and restaurant space.
(h) Wholesale establishment, warehouse or storage establishment.	One (1) per each 1,000 sq. ft. of gross floor space.
(i) Manufacturing or industrial establishment.	One (1) per each 600 sq. ft. of gross floor space OR 0.75 per each employee of the combined employment of the two largest successive shifts, whichever is larger.
(j) Hospital	Two (2) per bed at design capacity.
(k) Nursing Home	One (1) per bed at design capacity.
(l) Business, trade or industrial school or college.	One (1) for each 200 sq. ft. of gross floor area in classrooms.
(m) Nursery schools or daycare centers.	One (1) for each five (5) children at maximum capacity with a minimum of two (2) spaces required.

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<b>Type of Use</b>	<b>Minimum Number of Required Spaces</b>
(n) Other school	Two per classroom in an elementary and junior high school; four per classroom in a senior high school plus space for auditorium or gymnasium, whichever has the larger capacity.
(o) Community facility (town building, recreation, etc.)	One per each 400 sq. ft. of gross floor space.
(p) Dormitory, fraternity, sorority, YMCA or similar use.	One for each sleeping room.
(q) Public Utility	One for each 400 sq. ft. of gross floor area devoted to office use. One for each 800 sq. ft. of gross floor area per other use.
(r) Transportation terminal	One for each 600 sq. ft. of gross floor area.
(s) Mixed Use	Sum of various uses computed separately.
(t) Any use permitted by this Ordinance not interpreted to be covered by this schedule.	Closest similar use as shall be determined by the Building Inspector.

**6.4 PARKING SPECIFICATIONS**

**6.4.1 Size:** Each required parking space shall be not less than 10 feet wide and shall have a minimum area of one hundred eighty (180) square feet, exclusive of drives or aisles. In VR-1, VB-1, and VM-1, each required parking space shall not be less than 9 feet wide and shall have a minimum area of one hundred sixty-two (162) square feet, exclusive of drives or aisles.

**6.4.2 Travel Lanes:** Travel lanes shall not be less than: 22 feet wide for 90 degree angle parking; 18 feet wide for 60 degree angle parking; 15 feet wide for 45 degree angle parking; and 12 feet wide for 30 degree angle parking.

**6.4.3 Surface:** All uses that require Site Plan Review shall have all parking areas and access drives and aisles surfaced with bituminous concrete, or concrete in order to prevent erosion and raising of dust. Paved lots shall be striped to delineate parking spaces. In some circumstances to prevent excessive run-off or because of aesthetics, the Planning Board, as part of Site Review may permit a compacted crushed gravel or stone dust surface.

**6.4.4 Islands:** The use of landscaped islands to control traffic flow shall be encouraged.

**6.4.5 Arrangement:** All parking lots shall have parking spaces so arranged as not to necessitate backing of automobiles into any street.

## SECTION VII SIGN ORDINANCE

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**7.1 PURPOSES** The purposes of this Section VII, Sign Ordinance, are to:

- 7.1.1. Encourage the effective use of signs as a means of communication in the Town of Hopkinton;
- 7.1.2. Maintain and enhance the appearance and aesthetic environment of the Town;
- 7.1.3. Attract and encourage economic development and growth;
- 7.1.4. Improve pedestrian and traffic safety;
- 7.1.5. Minimize potential adverse effects of signs on nearby public and private property; and
- 7.1.6. Enable fair and consistent enforcement of these sign regulations.

**7.2 PERMIT REQUIRED FOR SIGNS** Except as otherwise provided in this Section VII, no sign may be erected, placed, replaced, moved, enlarged, or substantially altered in the Town of Hopkinton without a permit issued in accordance with the provisions of this Section VII. Except for uses allowed under Subsection 7.10, Other Allowed Signs, no permit for a sign related to a non-residential use shall be issued until a Signage Plan is filed by the property owner or his designee pursuant to Subsection 7.5, Non-Residential Lot Signage Plan, with the Town of Hopkinton for the parcel on which the permit is being sought. A permit application and fee shall be submitted to the Building Inspector together with a set of plans at an appropriate scale, together with architectural elevations or photographs showing the location, size, colors, copy, method of illumination, and materials proposed for said sign. The Building Inspector shall review the permit application, refer it for action to the appropriate Board or Committee if required by the provisions of this Section VII, or otherwise act to approve or deny it. If approval for development of the parcel on which a sign is to be located is required pursuant to the Town of Hopkinton Site Plan Review Regulations, said site plan approval shall include all signs proposed on the premises and must be received from the Planning Board prior to issuance of any permit for a sign on the premises. Other approvals for signs are required pursuant to Section IV-A, Architectural Design Review Ordinance, of this Ordinance and the New Hampshire State Building Code.

**7.3 SIGNS EXEMPTED FROM PERMIT REQUIREMENTS** The following signs are exempt from the permit requirements of Subsection 7.2, Permit Required for Signs, but are subject to the design, illumination and other standards contained in this Section VII. Any failure to comply with these standards and any other provisions of this Section VII shall be considered a violation of this Section VII:

**7.3.1 Residential Signs.** Signs not exceeding four (4) square feet in area that are customarily associated with a principal residential use and that are not of a commercial nature, including nameplate signs indicating property identification names or the numbers or names of occupants, and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

**7.3.2 Governmental Signs.** Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.

**7.3.3 Public Utility Signs.** Official signs of a non-commercial nature erected by public utilities.

**7.3.4 Governmental Flags.** Flags of any governmental organization when not displayed in connection with a commercial promotion or as an advertising device.

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**7.3.5 Directional Signs.** Signs related to parking spaces, loading spaces, stacking lanes, entry and exit drives, direction of traffic flow, and pedestrian ways on private property that do not exceed four (4) square feet each.

**7.3.6 Real Estate Signs.** One (1) sign per lot containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent together with information identifying the owner or agent. Such signs shall not be illuminated and shall not exceed six (6) square feet in area in residential districts or thirty-two (32) square feet in area for non-residential districts, and shall be removed immediately after sale, lease or rental.

**7.3.7 Real Estate “Lead” Signs.** Directional real estate signs to a subject property are allowed off-site, but shall be located on land outside the traveled right-of-way and with the permission of the property owner adjacent to the right-of-way where the sign is to be located.

**7.3.8 Temporary Construction Site identification Signs.** Such temporary signs shall not be illuminated, and may identify the project, the owner or developer, architect, engineer, contractor, subcontractors, and funding sources. Such signs shall not exceed thirty-two (32) square feet in area in the aggregate, shall not be erected prior to the issuance of a building permit for the construction project to which they pertain, and shall be removed upon discontinuance of construction of said project or within thirty (30) days after the issuance of a Certificate of Occupancy for said project, whichever occurs first.

**7.3.9 Window Advertising.** Signs attached temporarily to the interior of a building window or glass door, individually or collectively, may not cover more than thirty-five (35) percent of the surface area of the transparent portion of the window or door to which they are attached.

**7.3.10 Political Signs.** Signs erected in connection with elections or political campaigns pursuant to RSA 664:14-17-a, Political Advertising, subject to the following conditions:

- (a) Such signs are allowed no sooner than forty-five (45) days prior to an election and must be removed within ten (10) days of the closing of the polls. All signs remaining after the 10 days shall be subject to confiscation by the Town and fines in accordance with Section XX, Violations and Penalties, of this Ordinance.
- (b) Such signs shall not exceed twenty (20) square feet in area; and
- (c) Such signs shall not be painted, or pasted on the exterior of a building, or placed or affixed in any manner on public property or within street rights-of-way.

**7.3.11 Residential Banner Signs.** One (1) banner sign per property that does not exceed four (4) square feet in area.

**7.3.12 Building/Historic Marker Signs.** Building marker signs, and historic marker signs that do not exceed four (4) square feet in area;

**7.3.13 National Register Signs.** Signs indicating the National Register status of a property; and

**7.3.14 Commercial Flags or Banners.** Such signs displaying an “Open” or “Sale” message, provided that only one (1) of said flags or banners shall be allowed per principal use, that the size of said flag or banner shall be no greater than three (3) feet by five (5)

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feet, that the flag or banner shall be flown only during hours when the principal use is open for business, and that the height of any pole or support for said flag or banner shall not exceed fifteen (15) feet.

**7.4 DESIGN, CONSTRUCTION, AND MAINTENANCE OF SIGNS** All signs shall be designed, constructed, and maintained in accordance with the requirements of this Section VII. Except for portable, mobile, banner and flag signs as defined in this Ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building or other structure. Consideration should be given to sign form, color, lighting and materials that are compatible with the building and its surroundings.

**7.5 NON RESIDENTIAL LOT SIGNAGE PLAN** A permit for a sign related to a non-residential use shall not be issued for an individual sign requiring a permit unless and until a Signage Plan for the lot on which the sign will be erected has been submitted. A sign permit shall not be issued if the Signage Plan reveals that the total existing sign area on a lot, or the total existing sign area for an individual principal use on a lot is in excess of the sign area standards contained in this Ordinance. If the total existing sign area on a lot or for an individual principal use on a lot is reduced so as to comply with the sign area standards, then additional sign permits may be issued, provided that the lot or the individual principal use on a lot remains in compliance with the sign area standards at all times. Where a Signage Plan is included in the approval of a development pursuant to the Site Plan Review Regulations of the Town of Hopkinton, any subsequent proposed changes in the design of signs, or any subsequent proposed increase in the number or size of signs shall be subject to review and approval in the same manner as the original Signage Plan. A Signage Plan may be phased where the development for which the Plan is submitted is to be phased. Subsequent phases of a Signage Plan shall be subject to review and approval in the same manner as the original phase of the Signage Plan. The Signage Plan shall contain the following:

**7.5.1 Site Plan.** An accurate plan of the lot, to scale, showing the location of buildings, parking lots, driveways, and landscaped areas;

**7.5.2 Building Locations.** Photographs or architectural elevations of existing buildings, and elevations of any proposed buildings;

**7.5.3 Existing Sign Location.** An accurate indication on the plan, photographs, and architectural elevations of the location of all existing signs;

**7.5.4 Existing Sign Descriptions.** A photograph and description of each existing sign including type, size, colors, copy, height above ground, materials, and method of illumination; and

**7.5.5 Proposed Sign Descriptions.** An accurate indication on the plan, photographs, and architectural elevations of the location of proposed or future signs for which applications for permits will be submitted, and a description and depiction of the type, size, colors, copy, height above ground, materials, and method of illumination.

### **7.6 SIGN AREA AND HEIGHT COMPUTATIONS**

**7.6.1 Computation of Area of Individual Signs.** The area of a sign shall be the surface area of the sign, which shall be considered to include all lettering or elements of a sign, accompanying designs and symbols, together with the background, whether open or closed,

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on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself and which are not designed to attract attention. Where a sign consists of letters or symbols affixed to a surface or building, without any distinguishing border, panel or background, the area of the sign shall be considered to be the smallest, rectangle or shape which encompasses all of the letters or symbols. The area of one side of a double faced sign shall be regarded as the total area of the sign provided that such sign faces are either parallel or at an angle of thirty (30) degrees or less to each other, and are part of the same sign structure, and not more than forty-two (42) inches apart at any point.

**7.6.2 Computation of Height of a Free-standing Sign.** The height of a free-standing sign shall be computed as the distance from the ground at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of the following:

- (a) The existing grades of the lot before construction, or
- (b) The newly established grade of the lot after construction exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.
- (c) No free-standing sign shall exceed six (6) feet in height, unless otherwise specified in this Ordinance. No free-standing sign or any part thereof shall be placed closer than ten (10) feet to any lot line, except for the front lot line, or be placed such that the sign interferes with sight distances from any driveway providing access to the lot from the adjacent street. No free-standing sign shall have a horizontal dimension in excess of five (5) feet.

**7.7 SIGNS PROHIBITED UNDER THIS ORDINANCE** All signs not expressly allowed under Subsection 7.8, Signs Allowed in Residential Districts, Subsection 7.9, Signs Allowed in Non-Residential Districts, and Subsection 7.10, Other Allowed Signs, are prohibited in the Town of Hopkinton. Such signs include but are not limited to the following:

- 7.7.1** Signs which physically or visually move, rotate or create an illusion of movement, or which have parts of surfaces that physically or visually move, or which emit audible sound or noise;
- 7.7.2** Beacons, or any light directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source;
- 7.7.3** Pennants, inflated devices, and tethered balloons (other than temporary balloons for residential uses or special events for which a permit has been issued in accordance with Subsection 7.10.4);
- 7.7.4** Signs painted directly on the exterior surface of a building;
- 7.7.5** On corner lots, signs of a height between two and one-half (2 1/2) and eight (8) feet above curb grade in a triangular area bounded by the adjacent street right-of-way lines and a straight line joining points on the right-of-way lines which are thirty (30) feet from the point of intersection of the right-of-way lines;
- 7.7.6** Signs, or any point on a sign, located higher than the roof ridge, the plate of a flat roof, or the highest point of the roof;
- 7.7.7** Signs, other than signs erected by or on behalf of a governmental body, that are located in, or on the traveled right-of-way;

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- 7.7.8** Signs which appear animated or projected, or which are intermittently or intensely illuminated or of a traveling, tracing, scrolling, or sequential light type, or signs which contain or are illuminated by animated or flashing light;
- 7.7.9** Wall signs located such that any part thereof covers, obstructs, or is placed over any existing windows on the same wall, or placed above the sills of the first level of windows above the first story on the same wall, or placed more than twenty-five (25) feet above grade, except as may otherwise be allowed where a special exception has been granted by the Zoning Board of Adjustment pursuant to Subsection 15.8.2, Special Exceptions, of this Ordinance;
- 7.7.10** Projecting signs that are lower than ten (10) feet or greater than twenty-five (25) feet above grade, protrude above the sills of the windows above the first story, project more than six (6) feet from the building, or contain more than twenty-four (24) square feet of area;
- 7.7.11** Signs attached to a utility pole;
- 7.7.12** Signs, other than traffic control signs, that use the words “stop”, “yield”, “caution”, and “danger”, or that contain red, amber, and green lights that may resemble traffic control signs or lights;
- 7.7.13** Billboards and signs unrelated to the principal use or uses of the premises on which the sign is located, except as provided in Subsection 7.10.3;
- 7.7.14** Illuminated signs that direct the illumination onto adjacent streets or onto property other than the premises on which the sign is located;
- 7.7.15** Signs that resemble Town of Hopkinton street identification signs;
- 7.7.16** Signs attached to, or painted on, vehicles or trailers which are parked and visible from a street or limited access highway, except where such vehicles or trailers are regularly and customarily used to transport persons, goods, or materials as part of the principal use of the premises;
- 7.7.17** Signs which by reason of position, wording, illumination, size, shape or color that obstruct, impair, obscure, interfere with the view of, or may be confused with, any traffic control sign, signal or device; and
- 7.7.18** Electronic message type signs.

**7.8 SIGNS ALLOWED IN RESIDENTIAL DISTRICTS**

**7.8.1 Signs Allowed.** The following signs are allowed in residential districts:

- (a) **Exempt Signs.** Signs exempted from permit requirements in accordance with Subsection 7.3, Signs Exempted from Permit Requirements.
- (b) **Residential Signs.** Signs allowed in accordance with Subsection 7.2, Permit Required for Signs, upon receipt of a permit from the Building Inspector.

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- (c) **Non-Residential Signs.** Upon receipt of a permit from the Building Inspector one (1) sign of up to fifteen (15) square feet in area for each conforming, principal, non-residential use may be allowed under the terms of this Ordinance, except as may otherwise be allowed where a Special Exception has been granted by the Zoning Board of Adjustment pursuant to Subsection 15.8.2, Special Exceptions, of the Ordinance. The sign may be a free-standing sign or a building sign provided that there is no more than one (1) free-standing sign per lot;
- (d) **Other Signs.** Signs allowed in accordance with Subsection 7.10, Other Allowed Signs, upon receipt of a permit from the Building Inspector.

**7.8.2 Design Standards.**

- (a) All signs in residential districts shall conform to the design, illumination and other standards of this Section VII.
- (b) No free-standing sign shall exceed six (6) feet in height. No free-standing sign or any part thereof shall be placed closer than ten (10) feet to any lot line, or be placed such that the sign interferes with sight distances from any driveway providing access to the lot from the adjacent street. No free-standing sign shall have a horizontal dimension in excess of five (5) feet.

**7.9 SIGNS ALLOWED IN NON-RESIDENTIAL DISTRICTS**

**7.9.1 Table of Maximum Sign Dimensions for Non-Residential Districts.**

Non-Residential Districts	Building Signs	Free-Standing Signs	
	Max. Sign Area per Bldg. Frontage as per § 7.9.2(a)(1) (sf):	Max. Sign Area as per § 7.9.2(a)(2) (sf):	Maximum Height (ft)
B-1	60	40	10
M-1	60	40	10
VB-1	30	20	10
VM-1	45	20	10

**7.9.2 Building Signs.** The following building signs are allowed in non-residential districts, upon receipt of a permit from the Building Inspector:

- (a) For each building frontage, a maximum of three (3) building signs of any type are allowed subject to the following limitations:
  - (1) The total area of all building signs shall not exceed the lesser of (a) one (1) square foot per linear foot of building frontage; or (b) the maximum area for building signs specified in Subsection 7.9.1, Table of Maximum Sign Dimensions for Non-Residential Districts.
  - (2) Where the building frontage is on the side of a building which does not contain the principal public entry to the primary floor of a principal use, the side which does contain the principal public entry may be used as building frontage in lieu of said side which does not contain the principal public entry.

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- (b) Where a building is three (3) or more stories in height, the Zoning Board of Adjustment may, upon satisfaction of the requirements set forth in Subsection 15.8.2, Special Exceptions, of this Ordinance, grant a special exception to allow one (1) wall sign for each discrete principal use, to be located between rows of windows or above the top row of windows or on the wall at a height in excess of twenty-five (25) feet above grade, provided that no window or exterior window trim is obstructed by the sign, and further provided that the sign identifies a principal use which is the sole occupant of the building, or the sign identifies the name or address of a building which is occupied by multiple principal uses. A wall sign for which a permit has been issued by the Zoning Board of Adjustment shall be considered to be one of the allowable signs for the parcel or lot and is subject to the area limits specified therein.
- (c) On a lot with multiple principal uses, where one or more buildings are sited such that no side of the primary floor of a principal use faces a street, and therefore there is no building frontage for said principal use, the Zoning Board of Adjustment may, upon satisfaction of the requirements set forth in Subsection 15.8.2, Special Exceptions, of this Ordinance, grant a special exception to allow the building frontage for such a principal use to be measured along a side or sides of the primary floor which face a common parking lot or exterior pedestrian area and which provide a main public entrance to the principal use.
- (d) Where a principal use is located on upper or lower floors with no building frontage, window signs are allowed as are building signs at the ground floor entry door located within three (3) feet of the edge of said door providing access to said principal use, each such sign not to exceed four (4) square feet in area.

**7.9.3 Free-standing Signs.** The following free-standing signs are allowed in non-residential districts, upon receipt of a permit from the Building Inspector:

- (a) Except as otherwise allowed in this Section VII, one (1) free-standing sign is allowed per lot, subject to the following dimensional and location requirements:
  - (1) Except as otherwise allowed in this Section VII, the maximum height limit of the free-standing sign shall be as specified in Subsection 7.9.1, Table of Maximum Sign Dimensions for Non-Residential Districts.
  - (2) Except as otherwise allowed in this Section VII, the maximum area of a free-standing sign shall not exceed the lesser of the following:
    - (i) An area equal to one (1) square foot per linear foot of building frontage, where the principal use is within a building on the lot; or
    - (ii) An area equal to one-quarter (1/4) square foot per linear foot of lot frontage, where the principal use consists of an outdoor display or storage, or the principal use is not otherwise contained within a building on the lot; or
    - (iii) The maximum area for free-standing signs specified in Subsection 7.9.1, Table of Maximum Sign Dimensions for Non-Residential Districts.
  - (3) No free-standing sign shall have a horizontal dimension in excess of five (5) feet.

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- (4) No free-standing sign or any part thereof shall be placed closer than ten (10) feet to any lot line, or be placed such that the sign interferes with sight distances from any driveway providing access to the lot from the adjacent street, or be located less than fifty (50) feet from the boundary of a residential district.
- (5) No permanent on-premises free-standing sign shall be erected within (40) feet of any other permanent on-premises free-standing sign.
- (b) Where multiple principal uses are located on the same lot, the free-standing sign may be a directory sign on which each principal use may be identified by a sign panel such that the total area of all sign panels does not exceed the maximum area specified herein unless otherwise allowed by special exception granted by the Zoning Board of Adjustment pursuant to Subsection 15.8.2, Special Exceptions, of this Ordinance.
- (c) Where there is more than one (1) principal use in a building or more than one (1) building on a lot and each building contains discrete principal uses, and the lot is not eligible for more than one (1) free-standing sign (pursuant to the provisions of Subsection 7.9.2(f), in lieu of erecting a single free-standing sign on the lot a monument sign may be allowed for each building, identifying the building or the principal use therein, subject to the granting of a special exception by the Zoning Board of Adjustment pursuant to Subsection 15.8.2, Special Exceptions, of this Ordinance provided that:
- (1) Each monument sign does not exceed six (6) feet in height; and
  - (2) The total sign area of all directory or monument signs shall not exceed the maximum area of the single free-standing sign that would otherwise be allowed on the lot.
- (d) Where a lot shares a driveway with an adjacent parcel, and the lot has no direct access to the street, a free-standing sign that is allowed for the lot lacking direct access to the street may, subject to the granting of a special exception by the Zoning Board of Adjustment pursuant to Subsection 15.8.2, Special Exceptions, of this Ordinance, be located off-site and on the adjacent parcel on which the driveway is located, subject to the following conditions:
- (1) The off-site free-standing sign shall be located no closer than five (5) feet to the common driveway and on the side of the driveway closest to the lot intended to be identified;
  - (2) The off-site free-standing sign shall be located no closer than forty (40) feet to any free-standing sign serving the parcel on which the driveway is located;
  - (3) The off-site free-standing sign shall require an easement or agreement between the lot owners relative to its placement, a copy of said easement or agreement to be provided to the Planning Board;
  - (4) No other free-standing sign shall be placed on the lot lacking direct access except where additional free-standing signs are allowed pursuant to subsection 7.9.3(f); and

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- (5) If the driveway ceases to be shared, and a new driveway is created such that both lots have direct access to the street, then the free-standing sign for the lot that was formerly lacking direct access shall be removed from the adjacent parcel.
- (e) Where it is proposed that three (3) or more lots share a driveway or driveways entering a street such that the number of driveways is fewer than the number of lots, then a free-standing directory sign may, subject to the granting of a special exception by the Zoning Board of Adjustment pursuant to Subsection 15.8.2, Special Exceptions, of this Ordinance, be located adjacent to each shared driveway, subject to the following conditions:
- (1) A master access plan of the driveways proposed to be shared shall be submitted for approval as part of the application for a special exception, and there shall be no more than two (2) driveway entrances serving up to four (4) lots, or three (3) driveway entrances serving five (5) or more lots.
  - (2) A free-standing directory sign shall be located no closer than forty (40) feet to any other free-standing sign on any of the lots served by a shared driveway;
  - (3) A free-standing directory sign shall require an easement or agreement among the lot owners relative to its placement, a copy of said easement or agreement to be provided as part of the application for a conditional use permit;
  - (4) A free-standing directory sign shall be located only adjacent to driveway which is for both entry and exit purposes or for entry purposes exclusively;
  - (5) On a free-standing directory sign, one (1) sign panel shall be allowed for each lot to provide direction to the principal use on that lot. No individual sign panel shall exceed ten (10) square feet in area. The combined area of all sign panels shall not exceed the maximum area for free-standing signs as specified in Subsection 7.9.1, Table of Maximum Sign Dimensions for Non-Residential Districts. Where more than one (1) free-standing directory sign is allowed, the total area of each additional free-standing directory sign shall not exceed one-half (1/2) of the maximum sign area for free-standing signs as specified in Subsection 7.9.1, Table of Maximum Sign Dimensions for Non-Residential Districts.
  - (6) The height of any free-standing directory sign shall not exceed the height for free-standing signs as specified in Subsection 7.9.1, Table of Maximum Sign Dimensions for Non-Residential Districts.
- (f) In the Commercial (B-1), Village Industrial (VM-1) and Industrial (M-1) Districts, a free-standing sign, as allowed in Subsection 7.9.3(a), may be allowed at a greater height, and additional free-standing signs may be allowed on a lot, provided that the lot on which the signs are to be located meets the lot size and frontage standards contained in the following table. Where more than one (1) free-standing is allowed on a lot, the free-standing signs shall be located at least two hundred (200) feet apart, and a minimum of twenty-five (25) feet from side and rear lot lines.

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Standards for Additional Height and Number of Free-Standing Signs in Certain Districts								
District	Required Lot Size (acres)	Required Lot Frontage* (ft.)	Free-Standing Signs Per Lot					
			1		2		3	
			Max. Sign Area (sq. ft.)	Max. Height (ft.)	Max. Sign Area (sq. ft.)	Max. Height (ft.)	Max. Sign Area (sq. ft.)	Max. Height (ft.)
B-1 VM-1	3	500	As per §7.9.3(a) (2)	20	One half (1/2) of the area of Sign #1	15	Not Allowed	Not Allowed
	5	1,000					One half (1/2) of the area of Sign #1	15
M-1	10	1,500	As per §7.9.3(a) (2)	25	One half (1/2) of the area of Sign #1	20	One half (1/2) of the area of Sign #1	15

\*The required lot frontage may be the total of frontages on more than one (1) street. Where three (3) free-standing signs are allowed on a lot, the lot shall have the minimum frontage, as specified in Subsection 4.2, Table of Dimensional Regulations, of this Ordinance, on at least two (2) streets.

**7.9.4 Other Signs.** The following signs are also allowed in non-residential districts:

- (a) Exempt Signs. Signs allowed and exempted from permit requirements in accordance with Subsection 7.3, Signs Exempted from Permit Requirements.
- (b) Other Signs. Signs allowed in accordance with Subsection 7.10, Other Allowed Signs. Upon receipt of a permit from the Building Inspector.

**7.10 OTHER ALLOWED SIGNS** The following signs other than free-standing and building signs are allowed in residential and non-residential districts upon receipt of a permit from the Building Inspector:

**7.10.1 Temporary Signs.** New businesses may erect no more than one (1) temporary mobile or portable sign while awaiting the arrival of a permanent sign. Such temporary signs shall be allowed only until the permanent sign(s) is installed or for thirty (30) days, whichever is shorter and shall conform to the area and dimensional requirements required of the permanent sign to be installed.

**7.10.2 Additional Free-Standing Directory Signs.** On sites with multiple buildings for office, institutional, or industrial uses, additional free-standing directory signs may be allowed subject to the granting of a special exception by the Zoning Board of Adjustment pursuant to Subsection 15.8.2, Special Exceptions, of this Ordinance. Such free-standing directory signs shall not exceed twenty (20) square feet in area or six (6) feet in height and are subject to other requirements regarding free-standing signs. These signs are for directional purposes only, shall bear no advertising or logos, and may contain only the

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names of the buildings and tenants, and indications of special entrances or available services such as parking, together with directional wording and symbols. The Zoning Board of Adjustment may approve a number of such signs that bears a reasonable relation to the number of driveway entrances to the site, the number of buildings and entrances to said buildings on the site, and the number of discrete parking facilities on the site.

**7.10.3 Off-Premises Business Signs.** Signs for uses allowed in the zoning district, but which relate to such uses that are located outside of the zoning district, may be erected provided each such sign shall not exceed eight (8) square feet in area, and such signs shall conform to the following additional requirements:

- (a) The sign shall relate to a Hopkinton business;
- (b) The sign shall be placed on private property, and with the written permission of the owner of such property, and shall comply with the setback requirements otherwise set forth in this Section VII.
- (c) The sign shall not impede sight distances at any driveway entrance, exit or street intersection.
- (d) No electrical devices shall be used in conjunction with these types of signs.
- (e) A maximum of one such sign shall be allowed on a property unless otherwise part of a Non-Residential Lot Sign Permit as set forth in Subsection 7.5, Non-Residential Lot Signage Plan.

**7.10.4 Special Event Signs.** Portable signs for business-related or non-business related special events or promotions shall be allowed for a period not to exceed twenty-one (21) consecutive days and not more frequently than four times in any calendar year, provided each sign shall not exceed eight (8) square feet in area, and such signs shall conform to the following additional requirements:

- (a) The sign shall relate to a Hopkinton business or event or promotion taking place in the Town of Hopkinton;
- (b) The sign shall be placed on private property only and not in the public right-of-way, unless the Applicant files with the Building Inspector a certificate of insurance indemnifying the Town of Hopkinton against any form of liability in a minimum amount as specified by the Board of Selectmen. No permit shall be issued prior to the receipt of said certificate and the permit shall be valid only so long as the certificate remains in effect.
- (c) The sign shall not impede sight distances at any driveway entrance, exit or street intersection.
- (d) No electrical devices shall be used in conjunction with these types of signs.
- (e) A maximum of two (2) signs for such business, organization, group or individual, whether for profit or not, shall be allowed on a property.
- (f) Signs shall be exempt from the requirements of Subsection 7.5, Non-Residential Lot Signage Plan.

**7.10.5 Residential Subdivision/Development Signs.** For the purpose of identifying the name of a residential subdivision, multi-family development, or manufactured housing park of eight (8) units or more, one (1) permanent free-standing sign of up to twenty (20) square feet in area may be placed at an entrance to such residential development.

**7.10.6 Home Business Signs.** One (1) sign of up to four (4) square feet in area for a

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Home Business use allowed pursuant to paragraphs 2.1.H.1 and 3.7.3, Home Business, of this Ordinance.

**7.10.7 Agriculture, Farm Signs.**

- (a) In residential districts one (1) permanent sign, whether free-standing or a wall sign, advertising the name of a farm and/or farm products for sale, as well as directional information, shall be allowed on the property of the farm provided that the sign does not exceed twenty (20) square feet in area. Nothing contained herein shall be deemed to limit agricultural, farm signs in non-residential districts. Such signs shall be subject to the provisions of Subsection 7.9, Signs Allowed in Non-Residential Districts.
  
- (b) Temporary off-premises free-standing signs advertising the name of a farm and/or farm products for sale, as well as directional information, shall be allowed provided that there are not more than four (4) signs, each sign not exceeding eight (8) square feet in area. Signs shall be placed on private property only and not in the public right-of-way unless the Applicant files with the Building Inspector a certificate of insurance indemnifying the Town of Hopkinton against any form of liability in a minimum amount as specified by the Board of Selectmen. An easement or agreement between the lot owners relative to its placement is required. A copy of said easement or agreement is to be provided to the Building Inspector at the time of securing a permit. It is understood that these signs are not in addition to the signs referenced in Subsections 7.10.3 and 7.10.4.
  
- (c) Signs shall in no way impede sightline at any driveway entrance, exit or street intersection.

**7.11 SIGN ILLUMINATION** No sign in any district may be illuminated from within, but may be illuminated by a shielded external light source pursuant to the terms of Section XVII, Outdoor Lighting Ordinance, of this Ordinance. No sign in a residential district may be illuminated between the hours of 9:00 p.m. and 7:00 a.m., except to the extent that a sign which is accessory to a permitted non-residential use may be illuminated during those hours that such permitted non-residential use is open or in operation pursuant to the terms of this Ordinance or by permit issued by a Board of the Town.

**7.12 REQUIREMENT FOR ARCHITECTURAL DESIGN REVIEW** All signs for a non-residential use to be located in a residential zone and all signs to be located in a non-residential zone shall be subject to review and approval by the Planning Board consistent with the requirements of Subsection 7.5, Non-Residential Lot Signage Plan, and Section IV-A, Architectural Design Review Ordinance, of this Ordinance.

**7.13 CHANGE OF TENANT** Replacement of a sign by a new tenant of the same dimensions and using the same supporting structures as the previous sign that does not change location, lighting or form will not require review by the Planning Board, but will require a permit to be issued for the new sign by the Building Inspector.

**7.14 STATUS OF NONCONFORMING SIGNS** A sign installed prior to the date of adoption of this Section VII for which a permit has been previously issued, and which is not in conformance with the provisions and requirements of this Section VII, shall be deemed to be a permitted non-conforming sign. Such non-conforming signs shall be subject to the following:

**7.14.1 Alterations.** No non-conforming sign shall be altered in any way in structure or

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material which makes the sign less in compliance with the requirements of this Section VII than it was before the alteration;

**7.14.2 Relocation.** No non-conforming sign shall be relocated to a position making it less in compliance with the requirements of this Section VII;

**7.14.3 Removal.** If the non-conforming sign is removed, it shall be replaced only with a sign that is in conformance with the provisions of this Section VII; and

**7.14.4 Destruction and Reconstruction.** Should a non-conforming sign be destroyed by any means to an extent of more than seventy-five (75) percent of its replacement cost at the time of its destruction, it shall not be reconstructed except in conformity with the provisions of this Section VII.

**7.15 INSURANCE REQUIREMENTS FOR NONGOVERNMENTAL SIGNS OVER A PUBLIC RIGHT OF WAY**

**7.15.1** Any applicant for a permit to locate a projecting sign over a public right-of-way, in accordance with this Section VII, shall file with the Building Inspector a certificate of insurance indemnifying the Town of Hopkinton against any form of liability in a minimum amount as specified by the Board of Selectmen. No permit shall be issued prior to the receipt of said certificate and the permit shall be valid only so long as the certificate remains in effect. The policy shall provide for advance notification to the Building Inspector in the event of cancellation. If the policy should lapse or be canceled, the applicant shall remove the sign immediately.

**7.15.2** Signs projecting over a public right-of-way shall be safely and securely affixed to and supported by a building such that no part of the sign is lower than ten (10) feet above the sidewalk or if there is no sidewalk, the surface of the right-of-way.

**7.16 REMOVAL OF CERTAIN SIGNS FROM A PUBLIC RIGHT-OF-WAY OR PUBLIC PROPERTY**

The Building Inspector shall cause to be removed any sign placed on or over any public right-of-way or public property that is without a valid permit or is not in compliance with the terms of a valid permit, or where such a sign is exempt from permit requirements, the sign is not in compliance with the standards and provision of this Section VII.

**7.16.1 Political Advertising.** Any political advertising that is placed on or over any public right-of way or public property in violation of this Section VII or State statutes shall be removed in accordance with RSA 664:17, Placement and Removal of Political Advertising.

**7.16.2 Signs Related to an Adjacent Principal Use.** Where a sign that is placed on or over any public right-of-way or public property in violation of this Section VII is related to a principal use or adjacent private property, the Building Inspector shall notify the owner of the principal use or the property that a violation exists and shall specify a time limit for removal of the sign. If the owner fails to comply with the order for removal, the Building Inspector shall remove the sign and the owner shall be liable for the cost of said removal and subsequent storage. If the owner does not redeem the sign within thirty (30) calendar days from the date that the sign is removed, the sign shall be deemed to be abandoned and may be disposed of by the Town as abandoned property; and

**7.16.3 Other Signs.** Where a sign that is placed on or over any public right-of-way or

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public property in violation of this Section VII is not erected in connection with elections or political campaigns, and is unrelated to a principal use of adjacent private property, the Building Inspector shall remove the sign and it shall be deemed to be abandoned and may be disposed of by the Town as abandoned property.

## SECTION VIII CONSERVATION SUBDIVISIONS

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**8.1 AUTHORITY** This Section is enacted in accordance with the provisions of RSA 674:21 in addition to the provisions of RSA 674:16-20.

**8.2 PURPOSE** The purpose of this Conservation Subdivision Section is to provide flexibility in the design and development of land to conserve open space, retain and protect important natural and cultural features, provide for more efficient use of Town services, and promote the development of balanced residential communities in harmony with the natural landscape.

**8.3 OBJECTIVES** The objectives of this Section are to:

- (a) Permanently preserve natural topography and features and provide open space and recreation opportunities in close proximity to dwelling units;
- (b) Encourage flexibility and creativity in the design of developments through a carefully controlled process of negotiation of particular plans rather than the strict pre-regulation of all plans within a zone;
- (c) Encourage a less sprawling form of development that makes more efficient use of land, requires shorter networks of streets and utilities, and fosters more economical development and less consumption of rural land;
- (d) Provide an efficient procedure that can ensure appropriate, high-quality design and site planning and a high-level of environmental amenity;
- (e) Avoid development of portions of sites that contain important natural and/or cultural features, including, for example, scenic views, wildlife habitat (e.g., large un-fragmented blocks of undeveloped land, areas of highest quality habitat identified by NH Fish and Game's Wildlife Action Plan), water resources (e.g., drinking water supply areas and watersheds, wetlands, streams and rivers), and historic structure; and
- (f) Avoid development of portions of sites that are ill-suited for development, including, for example, areas with poor soil conditions, a high water table, that are subject to flooding, or that have excessively steep slopes.

### **8.4 APPLICABILITY AND PROCEDURES**

**8.4.1 Applicability.** To facilitate implementation of the goals of the Hopkinton Master Plan, all subdivisions for residential use in R-4, R-3, R-2, R-1, M-1, VM-1 and VR-1 districts shall be developed as a Conservation Subdivision in accordance with the standards specified in this section and in the Subdivision Regulations, unless exempted under Section 8.4.2 or issued a special use permit under Section 8.4.3.

**8.4.2 Exemptions.** Subdivisions meeting any one of the following criteria shall be exempt from the requirements of this section (unless a landowner elects to follow the standards of this section).

- (a) The subdivision is in the R-4, R-3, or R-2 district and creates lots that are, on average, equal to or greater than 435,600 square feet (10 acres) in size and provided the deed for each lot created contains a restriction prohibiting the further subdivision of the lot;

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- (b) The parent parcel is nine (9) acres or less in total size and the subdivision does not require a new road; or
- (c) The subdivision creates five (5) or fewer dwelling units and does not require a new road.

**8.4.3 Authorization to Issue a Special Use Permit.** Notwithstanding other provisions of Hopkinton's zoning ordinance, authority is hereby granted to the Planning Board, as allowed under RSA 674:21 II, to issue a special use permit to modify the requirements of this section as follows:

- (a) The Planning Board may issue a special use permit for the parcel to be developed as a conventional subdivision in accordance with Section IV when it finds that:
  - 1. The parcel is ill-suited for development using Conservation Subdivision design or a conventional design provides greater or equal benefits to the community;
  - 2. The parcel has no area with 4 or more "points" on the Town of Hopkinton's Natural Resource Inventory co-occurrence map; and
  - 3. The conventional subdivision design protects important natural and/or cultural features identified by the Planning Board.
- (b) The Planning Board may issue a special use permit for a modified Conservation Subdivision design to allow for variations from certain requirements of this section as specified herein. Such modifications shall be consistent with the purposes and standards of this Section fall within the guidelines contained herein, and shall not be detrimental to public health, safety or welfare.

**8.4.4 Sequential Subdivisions.** The provisions of this ordinance shall apply to the sequenced development of a parent parcel over time through separate successive applications. When a subdivision is proposed that involves part of a larger parcel or includes lots that are capable of further subdivision, the Planning Board may require that a site inventory and a conceptual (non-binding) long-range plan be submitted for the entire parcel and used to evaluate the proposed subdivision.

**8.4.5 Review Process.** A subdivision application under this Section shall comply with the standard application and review process specified in the Subdivision Regulations and the following procedures:

- (a) The applicant shall submit a detailed site inventory and preliminary conceptual plan for consultation with the Planning Board prior to submitting a formal application for subdivision;
- (b) The site inventory and preliminary conceptual plan shall be reviewed at a public meeting of the Planning Board against the standards and goals of this section with input provided by the Planning Board and other interested parties on how to satisfy the requirements of this Section;

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- (c) Sections of the Subdivision Regulations that are clearly not applicable to a Conservation Subdivision design shall not be imposed on the applicant by the Planning Board.

**8.4.6 Legal Review.** Prior to final approval by the Planning Board, the applicant shall submit for review by the Town Counsel any restrictive covenants, condominium or cooperative agreements, conservation easement, or other legal agreements proposed for use in the Conservation Subdivision. The Town Counsel shall advise the Planning Board of the adequacy of such legal provisions.

**8.5 PERMITTED USES**

**8.5.1 Uses.** All uses permitted in the district within which the Conservation Subdivision lies, as specified in Section 3.6, shall be allowed.

**8.5.2 Additional Uses Permitted within a Conservation Subdivision.** The following uses are permitted within a Conservation Subdivision development (without a special exception) in addition to those specified in Section 3.6.

District	Additional Permitted Uses
R-3	Multi-family buildings with up to four (4) dwelling units per building, provided that all units have direct access (not through a common corridor) to the ground and will have some living area at ground level.
R-2, VR-1	Multi-family buildings with up to eight (8) dwelling units per building, provided that all units have direct access (not through a common corridor) to the ground and will have some living area at ground level.

**8.5.3 Ownership of Units.** Units built as part of a Conservation Subdivision may be of condominium or cooperative form of ownership.

**8.6 DEVELOPMENT DENSITY**

**8.6.1 Base Number of Buildings and Dwelling Units.** The base number of buildings and dwelling units allowed within a Conservation Subdivision shall be determined by one of the following approaches. Except as provided below, the applicant may elect to use either the Formula or the Yield Plan approach to determine the base number of buildings and dwelling units allowed within the Conservation Subdivision.

- (a) **Formula Approach.** Under the Formula Approach, the base number of allowable residential buildings is determined by the following formula: **[(Net Area) x (Factor)] ÷ Conventional Minimum Lot Size**

**Where Net Area** = Total Area of Parcel (sq. ft.) - Wetlands on the Parcel (sq. ft.) – [Total area (sq. ft.)/1,089,000\*100,000]

**Conventional Minimum Lot Size** = Lot size determined from Table 4.3 for a Single-Family Building, Two-Family Building, or Multi-Family Building (or combination of the above as permitted)

**Factor** = Number determined by the following:

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<b>Percentage of Parcel that is Wetlands</b>	<b>Factor</b>
0-<10%	0.85
10-<20%	0.8
20-<30%	0.75
30% or more	Use Yield Plan Approach

Where the result is rounded down to the next whole number for buildings containing more than one dwelling unit the total number of dwelling units is calculated by adding up the number of dwelling units per building for all buildings.

If more than 15 percent of the total area of the parcel consists of steep slopes (i.e., areas with slope greater than 15 percent), then 65 percent of the steep area shall be subtracted from the total parcel area in the top line of the formula (in the same way that wetland area is subtracted).

- (b) **Yield Plan Approach.** Under this approach, the applicant presents a Yield Plan to the Planning Board to determine the number of allowable buildings and dwelling units permitted within the Conservation Subdivision. The Yield Plan is a rough sketch of conventional subdivision development plan that fully complies with the requirements for a conventional subdivision, including the dimensional standards specified in Section IV.
  
- (c) **Exceptions.**
  - 1. If more than 30 percent of the area of the parcel consists of wetlands or steep slopes, then the applicant shall use the Yield Plan Approach to determine the allowable number of buildings and dwelling units.
  
  - 2. The Planning Board may require the preparation of a Yield Plan if the subdivision creates 20 or more dwelling units as determined by the Formula Approach. The Planning Board may require the use of the Yield Plan for determining the permitted number of buildings and dwelling units to be developed if it finds, upon review of the Yield Plan, that the characteristics of the site permit fewer than 90% of the number of dwelling units determined using the Formula Approach to be created.

**8.6.2 Incentive Units.** Additional dwelling units (rounded to the nearest whole number of units), not to exceed twenty percent (20%) over and above the base number of dwelling units as determined under 8.6.1, may be awarded at the discretion of the Planning Board for the following:

- (a) Conservation of greater than the minimum required area of the parcel as Designated Open Space shall receive a five percent (5%) increase in the allowable number of dwelling units for every additional ten percent (10%) of the parcel that is included in the Designated Open Space; and/or
  
- (b) Allowing all residents of Hopkinton access to the Designated Open Space, including access to active recreation areas and/or facilities, shall be eligible for a five percent (5%) increase in the number of allowable dwelling units; and/or

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- (c) Providing a permanent conservation easement, acceptable to the Planning Board and Conservation Commission and held by a recognized conservation organization or land trust, shall be eligible for a five percent (5%) increase in the number of allowable dwelling units.

**8.7 LOT AND DIMENSIONAL REQUIREMENTS**

**8.7.1 Ownership.** Buildings in a Conservation Subdivision may be located on individual residential lots, or on common lots with more than one building on a lot, or a combination thereof. If more than one dwelling unit will be located on a lot, the ownership and management arrangements for that lot, and the units thereon, shall be detailed as part of the subdivision application and those arrangements shall be subject to approval by the Planning Board in accordance with the Subdivision Regulations.

**8.7.2 Lot Sizes.** The following minimum lot sizes shall apply for the specified districts and the specified conditions, except as provided for under 8.7.3 and 8.7.4:

District	Minimum Lot Size
R-4	60,000 sq. ft. for each building (containing one or two dwelling units)
R-3	45,000 sq. ft. for each building containing a single dwelling unit  For buildings containing more than one attached dwelling unit, 45,000 sq. ft. for the first dwelling unit and 10,000 sq. ft. for each additional attached dwelling unit.
R-2	The number of square feet specified below for each building containing a single dwelling unit. For buildings containing more than one attached dwelling unit, the lot must include an additional 8,000 sq. ft. per building for each additional dwelling unit.  45,000 sq. ft. – No public water or sewer 40,000 sq. ft. – If public water, but no public sewer 35,000 sq. ft. – Public water and public sewer
R-1	The number of square feet specified below for each building containing a single dwelling unit. For buildings containing more than one attached dwelling unit, the lot must include an additional 8,000 sq. ft. per building for each additional dwelling unit.  40,000 sq. ft. – No public water or sewer 35,000 sq. ft. – If public water, but no public sewer 30,000 sq. ft. – Public water and public sewer
VR-1	7,500 sq. ft. for each building containing a single dwelling unit and an additional 2,000 sq. ft. per building for each additional attached unit.
M-1	55,000 sq. ft. for each building (containing one or two dwelling units)
VM-1	25,000 sq. ft. for each building (containing one or two dwelling units)

**8.7.3 Alternative Lot Sizing.** The Planning Board may authorize variations from the minimum lot sizes specified under 8.7.2 by special use permit issued pursuant to Section 8.4.3, provided the Planning Board determines that the following conditions are met:

- (a) Each lot has a minimum of 20,000 square feet of contiguous dry land (except in the VR-1 district);
- (b) Minimum lot sizes comply with the New Hampshire Department of Environmental Services requirements for wastewater management under a standard or *cluster subdivision*, using an individual, joint, or community septic system(s) and an individual, joint or community well(s); and

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(c) The goals and design specifications of this section are otherwise achieved.

**8.7.4 Design Specifications for Lots.** Lots created as part of a Conservation Subdivision shall conform to the following design specifications:

(a) Except as provided below, Conservation Subdivisions developed pursuant to this Section are exempt from the dimensional requirements specified in Table 4.3 and shall, instead, comply with the following minimum dimensional requirements when delineating lots and building envelopes. Other provisions of Section IV of this ordinance shall continue to apply.

District	Frontage	Min. Front/Rear Setback	Min. Side Setback
R-4	100 ft.	60 ft.	25 ft.
R-3	75 ft. or 30 ft. per unit whichever is greater	50 ft.	25 ft.
R-2	50 ft. or 25 ft. per unit whichever is greater	30 ft.	20 ft.
R-1	40 ft. or 20 ft. per unit whichever is greater	30 ft.	15 ft.
VR-1	40 ft. or 20 ft. per unit whichever is greater	30 ft.	15 ft.
M-1	100 ft.	50 ft.	25 ft.
VM-1	50 ft.	25 ft.	20 ft.

- (b) The size of the lots shall be shown on the subdivision plan and shall be subject to Planning Board approval. Lots may be required by the Planning Board to be larger than the minimums above to meet the stated objectives or satisfy other requirements of this section, particularly the dimensional and design standards of this section, to support the goals stated in the Master Plan, or to comply with other elements of Hopkinton's zoning ordinance to protect human health, welfare and public safety.
- (c) Any building utilizing access from an existing Town road may be required to comply with some or all of the conventional dimensional requirements specified in Section IV, Table 4.3.
- (d) Except in the VR-1 and R-1 districts, lots created may be required to maintain up to a 150 foot vegetated buffer between any new structure and an existing public road. The buffer area shall remain free of buildings, parking, or other structures as well as lawns, leach fields, and detention basins and shall be maintained in mature, forested cover. If inadequate vegetation is present, the Planning Board may require additional plantings. This buffer shall be protected by deed restriction on the subject properties.
- (e) Building envelopes, indicating the anticipated location of the well, septic tank and field, and any structures on the lot, shall be identified for each lot subject to the dimensional specifications provided herein. Future construction on the lot is encouraged, but not required, to be located within the identified building envelop for each lot; however, construction outside of the designated building envelop shall comply with the setback requirements for a conventional development as specified in Section IV.
- (f) Building envelopes for each new lot shall ensure an adequate separation between new primary structures and between new primary structures and existing structures on

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adjacent lots according to the scale below. For building envelopes for new lots the standard is applied to the average distance between building envelopes on adjacent new lots (i.e., the actual distance of separation may vary and be less than the minimum specified for some lots, provided that, on average, the minimum distance of separation is achieved across all new lots created). Where there is more than one building containing one or more dwelling units on a common lot, the minimum distance between such structures shall be fifty (50) feet.

District	Minimum Separation Distance of Building Envelopes for New Lots From Existing Structures on Adjacent Parcels	Minimum Average Separation Distance Between Building Envelopes for New Lots
R-4, R-3	200'	120'
R-2	125'	80'
R-1	*50'	*50'
VR-1	*30'	*25'
M-1	*60'	*40'
VM-1	*50'	*30'

\* The minimum separation distance may be reduced to the average separation between structures on adjacent or neighboring properties.

- (g) Building height shall not exceed 35 feet, in all districts.
- (h) Applicants are encouraged to vary lot sizes, lot dimensions, and the location of building envelopes and structures from the access road from lot to lot within the subdivision to retain significant, natural vegetation along the road; provide increased privacy for residents on adjacent lots; and increase the visual variety provided by the arrangement of homes within the subdivision.
- (i) Lots may be irregular in shape provided they conform to the natural topography and features of the parcel (e.g., the lot lines follow an existing stone wall, stream, or other natural dividing feature).
- (j) The Planning Board may authorize variations from the above standards by up to fifty percent (50%) by special use permit issued pursuant to Section 8.4.3, to allow flexibility in the design of the subdivision to meet the objectives of this section or to support the creation or continuation of a traditional village-style development pattern.

**8.7.5 Streets and Utilities.** The installation of streets and utilities shall comply with applicable sections found elsewhere in this ordinance and requirements specified in the Subdivision Regulations, including the posting of bonds.

**8.7.6 Design Standards for Developed Areas.** Subdivision plans shall comply with any additional applicable standards governing the location and layout of lots and structures found elsewhere in this ordinance and as set forth in the Subdivision Regulations.

**8.8 DESIGNATED OPEN SPACE**

**8.8.1 Area of Designated Open Space.** At least fifty percent (50%) of the total area of the parcel shall be permanently protected as Designated Open Space subject to the additional conditions below. No more than fifty percent (50%) of the Designated Open Space may

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consist of wetlands or water bodies. The Planning Board may authorize a slight reduction in the area of Designated Open Space by special use permit issued pursuant to Section 8.4.3, when it finds that (1) the reduction is necessary to enable the use of the Conservation Subdivision approach based on the characteristics of the parcel, and (2) the proposed subdivision adequately meets all other requirements of this ordinance. In no case, shall the Designated Open Space represent less than forty percent (40%) of the total area of the parcel.

**8.8.2 Areas Excluded from the Calculation of the Required Area of Designated Open Space.** Portions of the parcel that comprise part of an individual house lot, roadway, driveway, access road, roadway right-of-way, existing utility easement (e.g., power line easement), other new or existing right-of-way, buffer between any new structure and an existing right-of-way, or that are less than 100 feet wide shall not count toward the calculation of the designated open space.

**8.8.3 Priorities for Inclusion in Designated Open Space.** Areas containing the following shall be considered high priority for inclusion in the designated open space:

- (a) Riparian areas, wetlands, streams, and other water resources and buffers for those resources;
- (b) Critical or high-quality habitat areas, including areas identified as the highest statewide or eco-region importance by the NH Fish and Game's Wildlife Action Plan, and buffers or supporting landscapes to these areas;
- (c) Significant stands of trees or significant individual trees;
- (d) High-quality soil resources (forest or agricultural soils);
- (e) Cultural and historic resources (e.g., stone walls, historic structures);
- (f) Existing trails;
- (g) Areas that connect to undeveloped open space on adjacent properties;
- (h) Ridgelines, particularly those that continue through the parcel;
- (i) Viewshed areas; and
- (j) Water supply protection areas.

**8.8.4 Design Standards for Designated Open Space.** The location and layout of the open space shall conform to the standards and process set forth in the Subdivision Regulations.

**8.8.5 Allowable Uses in Designated Open Space.**

- (a) Any use of the Designated Open Space is subject to approval of the Planning Board and conservation commission and shall demonstrate that such uses shall not negatively impact the natural and/or cultural amenities preserved through the Conservation Subdivision design.

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- (b) The following uses generally are permitted in the designated open space, unless specifically prohibited or restricted as a condition of subdivision approval for the purposes of protecting important natural features or characteristics of the parcel:
  - (1) Forest management;
  - (2) Agricultural cultivation;
  - (3) Passive (non-motorized) trails and recreational uses; and
  - (4) Snowmobile trails.
- (c) Up to fifteen percent (15%) of the Designated Open Space may be used by special use permit issued by the Planning Board under Section 8.4.3 for the following provided that the goals and provisions of this section are otherwise met. The Planning Board may impose specific criteria or restrictions on such uses as deemed necessary to support the goals of this section.
  - (1) Agriculture involving animal husbandry;
  - (2) Active outdoor recreation uses, including formal playgrounds and fields;
  - (3) Parking areas for access to the designated open space;
  - (4) Support facilities necessary for the subdivision including community wells, storm water management facilities, underground utility lines and related facilities such as sewer pump stations; and
  - (5) Individual or group wells and/or transmission pipes for a storm water or wastewater disposal system, provided that this use was approved as part of the subdivision plan and that appropriate legal arrangements are established and approved by the Planning Board for the maintenance and operation of these facilities.
- (d) The Designated Open Space shall not be used as the location for dwelling units, roadways, other access, recreational structures/play equipment or other accessory structures associated with an individual dwelling unit, or other nonresidential buildings or parking except as provided above.
- (e) The Designated Open Space shall not be disturbed during construction of the dwelling units or other structures or facilities on site, except in areas identified for permitted uses as provided above.
- (f) The Designated Open Space shall be retained in a natural, undisturbed state, except for those activities permitted as provided above, or managed according to a plan written by a qualified natural resource professional.

**8.8.6 Protection and Management of Open Space**

- (a) Area Boundaries of the Designated Open Space shall be clearly identified:

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- (1) Boundaries shall be clearly delineated on plans including plats;
  - (2) Boundaries shall be clearly marked prior to commencing construction activities (temporary markings are acceptable, temporary fencing may be required in sensitive areas to prevent disturbance during construction);
  - (3) Boundaries shall be clearly and permanently marked in the field with tree blazes and signage approved by the Planning Board to identify the area as protected open space.
- (b) Future development in and/or subdivision of the Designated Open Space shall be prohibited and shall be so noted on the approved subdivision plan/plat.
- (c) Prior to the sale of any lots, the Designated Open Space shall be protected and controlled by one or more of the following methods subject to Planning Board approval:
- (1) Transfer, with permanent deed restrictions or conservation easement, to a land trust or other recognized conservation organization (subject to acceptance by the organization);
  - (2) Ownership by one or more private individuals (separately or in common) or by an association of the owners of the dwelling units within the subdivision (i.e., homeowner's association) with a conservation easement granted to the municipality and/or recognized conservation or land trust organization;
  - (3) For Designated Open Space areas of 30 acres or less, ownership by one or more private individuals (separately or in common) or by an association of the owners of the dwelling units within the subdivision (i.e., homeowner's association) with a deed restriction on the Designated Open Space that is enforceable by any land owner within the association, any owner of a separate land parcel adjacent to the open space, or the municipality; or
  - (4) Transfer to the municipality as open space, with permanent deed restrictions or conservation easement (subject to acceptance by the municipality).
- (d) Said deed restrictions and/or conservation easement documents shall be placed on file with the Town Clerk upon receipt of Planning Board subdivision approval and duly recorded at the County Registry of Deeds, where appropriate. Such documents shall clearly indicate whether the property is open to all residents of the municipality or open only to residents of the subdivision.
- (e) A management plan for the Designated Open Space and facilities shall be prepared and approved by the Planning Board and Conservation Commission, which includes the following:
- (1) Identifies the entity assuming responsibility for stewardship and management of the Designated Open Space, including regular inspections to confirm continued compliance with the terms of the subdivision approval and conservation easement or deed restrictions;

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CONSERVATION SUBDIVISIONS**

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- (2) Includes detailed standards and schedules for maintenance of the Designated Open Space, including maintenance of vegetation;
- (3) Allows for municipal maintenance in the event that the maintenance specified under the agreement is not completed and recovery of costs incurred from the designated management entity or the owners of the Designated Open Space within the subdivision; and
- (4) Provides that any amendments to the plan shall be reviewed and approved by the Conservation Commission and the Planning Board.
- (f) For properties containing Designated Open Space protected under a conservation easement to be held and enforced by the town or a third-party, a one-time stewardship fee, as determined by the town or third-party easement holder, shall be collected and provided to the town or third-party to be held in a separate trust account and used to support the monitoring and enforcement of the conservation easement.
- (g) A brochure identifying the development as a Conservation Subdivision and detailing the location and use restrictions of the Designated Open Space shall be prepared by the applicant, subject to approval of the Planning Board, and provided to all purchasers of property within the subdivision. Additional copies of the brochure shall be provided to the municipality to be distributed to future property owners after any change of ownership.

**SECTION IX  
MANUFACTURED HOUSING**

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**9.1 AUTHORITY** This Section is enacted in accordance with the provisions of RSA 674:31-32.

**9.2 PURPOSES** The purposes of this Section are to allow for the placement of manufactured housing within specific areas of the community and to provide for standards therefore.

**9.3 LIMITATIONS** After the effective date of this Section, no manufactured housing shall be located otherwise than in a manufactured housing park or manufactured housing subdivision except as specifically provided in this Section. A manufactured house lawfully existing on the effective date of this Section on land out of a manufactured housing park or subdivision, or a replacement thereof if such housing unit is destroyed by fire or casualty or is in a state of disrepair and its replacement is located on the land within 180 days after such fire or casualty may be maintained as a non-conforming use, provided that when such use shall have been discontinued by the removal of such housing unit for a period in excess of 180 days, the use of such land shall thereafter conform to the provisions of this Ordinance.

**9.4 MANUFACTURED HOUSING PARKS** Manufactured housing parks will be allowed by special exception providing the following requirements are met:

**9.4.1 Approval.** No manufactured housing park shall be established or operated without approval from the Planning Board of a plan which clearly defines the area of the proposed park, as well as all mobile home sites, all utilities, and such other requirements as shall be required by the **Subdivision Regulations** of the Town of Hopkinton as may be adopted from time to time.

**9.4.2 Size.** Manufactured housing parks shall consist of a minimum of ten (10) acres and at least two (2) sites. The maximum number of sites shall not exceed seventy (70). Open space shall not include wetlands, water bodies, roads, severe slopes or open space on individual sites.

Maximum Number of Units	Minimum % of Open Space	Minimum Lot Size (sq ft)	Minimum Street Frontage (ft)
50	30%	10,000	100
60	40%	15,000	125
70	50%	20,000	150

**9.4.3 Site Size.** Each site must contain not less than 10,000 square feet and shall have a depth of at least 100 feet and a frontage of at least 100 feet on a public or private street.

**9.4.4 External Dimensional Requirements.** Same as Conservation Subdivision requirements.

**9.4.5 Placement.** No site shall contain more than one manufactured housing unit. No unit shall be placed closer than 150 feet to an existing residence or State or Town road nor shall the unit be placed within fifty (50) feet of any other boundaries of the park.

**9.4.6 Marking.** Each site shall be clearly marked.

**9.4.7 Setbacks.** Front yard setbacks shall be at least 25 feet. Rear yard setbacks shall be at least 20 feet. Side yard setbacks shall be at least 15 feet.

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MANUFACTURED HOUSING**

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**9.4.8 Other Uses.** No other principal building shall be located in a manufactured housing park except for laundry, recreation, or other ancillary necessary buildings maintained in connection with the operation of the manufactured housing park.

**9.4.9 Parking.** Each site shall contain parking for at least two vehicles.

**9.4.10 Roadways.** All roadways shall have a minimum pavement width of 20 feet and a minimum right-of-way of 40 feet. They shall be paved with bituminous concrete, well drained and reasonably lighted. They shall be privately maintained.

**9.4.11 Recreation.** Recreation areas shall be provided within the open space and maintained and restricted to such active and passive recreation use. They shall be protected from roadways and parking areas by adequate fencing, if deemed necessary by the Planning Board.

**9.4.12 Garbage and Refuse Disposal.** It shall be the responsibility and duty of the owner or the manager of the park to see that all garbage and refuse is stored, collected and disposed of in a regular and sanitary manner approved by the Board of Selectmen.

**9.4.13 Additions, Alterations.** All additions, alterations to manufactured housing or other structures shall comply with this ordinance and the Town's building code, if any.

**9.4.15 Buffer.** There shall be a 25 foot visual buffer strip around the perimeter of the manufactured housing park, and this shall not be considered part of the required open space.

**9.5 MANUFACTURED HOUSING SUBDIVISION** Manufactured housing subdivisions will be allowed providing the following requirements are met.

**9.5.1 Where Allowed.** Manufactured housing subdivisions, consisting of a minimum of twelve (12) acres, are permitted in residential zones provided that all requirements which pertain to single family houses are met.

**9.5.2 Maximum Number of Units:** The maximum number of units in any manufactured housing subdivision shall not exceed fifty (50).

**9.5.3 Conservation Subdivision Option:** A manufactured housing subdivision may be developed as a conservation subdivision in accordance with Section VIII of this Ordinance provided that all of the provisions of that Section are complied with. However, in no case shall manufactured housing in a conservation subdivision be attached to create more than one dwelling unit per building.

**9.5.4 Labeling:** If a plat is submitted with a request for approval for a manufactured housing subdivision and such plat is approved, the plat shall bear the legend that it is "approved for manufactured housing."

**9.5.5 Approval:** The subdivision shall be approved by the Planning Board.

**SECTION X  
RECREATIONAL CAMPING PARKS/  
RESIDENTIAL TENTING AND RECREATIONAL CAMPING VEHICLES**

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**10.1 PURPOSES** The purposes of this Section are to allow for the placement of seasonal recreational camping parks, and residential tenting and recreational camping vehicles within specific areas of the community and to provide for standards.

**10.2 LIMITATIONS** After the effective date of this Section, recreational camping parks or residential tenting and recreational camping vehicles shall be located in accordance with this Section. A recreational camping park lawfully existing on the effective date of this Section may be maintained as a non-conforming use, provided that when such use shall have been discontinued by the removal of recreational camping vehicles and/or seasonal sites, the use of such land shall thereafter conform to the provisions of this Ordinance. However, recreational camping parks shall not be expanded unless they are in conformance with the provisions of this Section.

**10.3 RECREATIONAL CAMPING PARKS** Recreational camping parks will be allowed providing the following requirements are met:

**10.3.1 Approval:** No recreational camping park shall be established or operated without the approval of the Planning Board of a plan which clearly defines the area of the proposed park, as well as the seasonal recreational vehicle sites, all utilities, and such other requirements as the Town of Hopkinton requires.

**10.3.2 Size:** Recreational camping parks shall consist of a minimum of ten (10) acres.

**10.3.3 Site Size:** The minimum site size is three thousand (3,000) square feet per tenting or recreational vehicle site. The maximum number of sites shall not exceed five per acre of the total tract of land.

**10.3.4 Placement:** No site within the recreational camping park shall be located within one hundred and fifty (150) feet of the nearest boundary of any State or Town road, or of any other boundaries of the park.

**10.3.5 Marking:** Each site shall be clearly marked.

**10.3.6 Setbacks:** The setbacks shall be at least ten (10) feet from the boundaries delineating the site. No camping site shall be closer than ten (10) feet from any building or within twenty (20) feet from an adjacent camping unit.

**10.3.7 Other Uses:** No principal building shall be located in a recreational camping park except buildings maintained in connection with the operation of the recreational camping park, including one owner's residence.

**10.3.8 Screening:** Between any State and Town road within the 150 foot setback there shall be a visual screen of suitable shrubs and trees which must be approved by the Planning Board.

**10.3.9 Roads:** The minimum roadway surface width shall be 16 feet, and the minimum right-of-way shall be 36 feet. Roads shall be semi-paved (crushed gravel, etc.), well drained, and well designed. Roads shall be privately owned, maintained and approved by the Planning Board.

**SECTION X  
RECREATIONAL CAMPING PARKS/  
RESIDENTIAL TENTING AND RECREATIONAL CAMPING VEHICLES**

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**10.3.10 Refuse Disposal:** It shall be the responsibility of the owner or manager of the camping park to dispose of garbage and refuse in a regular, sanitary manner approved by the Health Officer.

**10.3.11 Records:** The manager or owner of a recreational camping park shall keep a record of all park uses, noting the name and address of each site's occupant(s), the license number of each automobile and each recreational camping vehicle, and the dates of arrival and departure. This register shall be available at all times for inspections by representatives of the police and health departments.

**10.4 RESIDENTIAL TENTING/RECREATIONAL CAMPING VEHICLES** Residential tenting and recreational vehicles will be allowed provided that the following requirements are met.

**10.4.1 Limitations:** Such occupancy of either tents or recreational vehicles at any residence shall not exceed a total of sixty (60) days per year. No more than one such unit may be occupied in connection with any residence.

**10.4.2 Location:** Any tent or recreational vehicle temporarily placed upon a lot in conjunction with a residence shall be located as inconspicuously as possible so as to minimize to the greatest degree possible the unit's visibility from public roads or neighboring lands. Children's tents, used by the minor children of the occupants of the residence, are exempt from this paragraph.

**SECTION XI**  
**LOCAL REGULATION OF EXCAVATION**

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**11.1 AUTHORITY** This Ordinance is enacted pursuant to the authority granted the Town of Hopkinton to regulate earth moving activities within its boundaries under the provisions of Chapter 155-E:1-11 inclusive, of the N.H. Revised Statutes Annotated.

**11.2 PURPOSES** The purposes of this Section is to provide for the control of excavation of sand, gravel, rock, soil or construction aggregate and to provide an orderly procedure for such removal to take place while protecting the health, safety, and general welfare of the community.

**11.3 REGULATOR** The Planning Board of the Town of Hopkinton is designated the Regulator as provided in RSA 155-E:1-11, inclusive.

**11.4 DEFINITIONS** Definitions in this section shall mean:

- (a) **“Applicant”** means owner of the excavation site or the owner’s designee.
- (b) **“Dimension stone”** means rock that is cut, shaped, or selected for use in blocks, slabs, sheets, or other construction units of specified shapes or sizes and used for external or internal parts of buildings, foundations, curbing, paving, flagging, bridges, revetments, or for other architectural or engineering purposes. Dimension stone includes quarry blocks from which sections of dimension stone are to be produced. Dimension stone does not include earth as defined in subsection 11.4(a).
- (c) **“Earth”** means sand, gravel, rock, soil, or construction aggregate proposed by quarrying, crushing or any other mining activity or such other naturally occurring unconsolidated materials that normally mask the bedrock.
- (d) **“Excavation”** means a land area which is used, or has been used, for the commercial taking of earth, including slopes.
- (e) **“Excavation area”** means the surface area within an excavation site where excavation has occurred or is eligible to occur under the provisions of Ordinance and Chapter 155-E:1-11 inclusive.
- (f) **“Excavation site”** means any area of contiguous land in common ownership upon which excavation takes place.
- (g) **“Owner”** an individual or corporation who claims ownership of the land, containing the excavation site, by virtue of a properly executed deed filed at the Merrimack County Registry of Deeds.
- (h) **“Permit”** means written permission granted by the regulator.

**11.5 PERMIT** A permit will be required for the excavation of sand, gravel, rock soil or construction aggregate with the exception of:

- (a) **Existing Excavations.** The owner of an excavation which lawfully existed as of August 24, 1979, from which earth material of sufficient weight or volume to be commercially useful has been removed during the 2-year period before August 24, 1979, may continue such existing excavation on the excavation site without a permit, subject to the provisions of RSA 155-E:2, I.

**SECTION XI**  
**LOCAL REGULATION OF EXCAVATION**

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- (b) **Construction or Alteration of a Building or Structure.** Excavation that is exclusively incidental to the lawful construction or alteration of a building or structure or the lawful construction or alteration of a parking lot or way including a driveway on a portion of the premises where removal occurs.
- (c) **Agricultural or Silvicultural Activities.** Excavation that is incidental to agricultural or silvicultural activities, normal landscaping or minor topographical adjustment.
- (d) **Stationary Manufacturing Plants.** Excavation from an excavation site which on August 4, 1989, was contiguous to or from contiguous land in common ownership with, stationary manufacturing and processing plants in operation as of August 24, 1979 from which earth was obtained, subject to the provisions of RSA 155-E:2, II.
- (e) **Granite Quarry.** Excavation from a granite quarry for the purpose of producing dimension stone, if such excavation requires a permit under RSA 12-E Mining and Reclamation.
- (f) **Highway Excavations.** Excavation performed exclusively for the lawful construction, reconstruction or maintenance of a Class I, II, III, IV, or V highway by a unit of government having jurisdiction for the highway or agent of the unit of government which has a contract for the construction, reconstruction or maintenance of the highway, provided that a copy of the pit agreement executed by the owner, the agent and the government unit shall be filed with the Regulator prior to the start of excavation and shall be subject to the provisions of RSA 155-E:2, IV.

**11.6 APPLICATION FOR PERMIT** Any owner or owner's designee shall, prior to excavation of his/her land, apply to the Regulator for a permit for excavation. The applicant shall also send a copy of the application to the Conservation Commission. Such application shall be signed and dated by the applicant and shall contain at least the following information:

- (a) The name and address of the owner of the land to be excavated, the person who will actually do the excavation and all abutters to the premises on which the excavation is proposed;
- (b) A sketch and description of the location and boundaries of the proposed excavation, the number of acres to be involved in the project and the municipalities and counties in which the project lies;
- (c) A sketch and description of the access and visual barriers to public highways to be utilized in the proposed excavations;
- (d) The breadth, depth and slope of the proposed excavation and the estimated duration of the project;
- (e) The elevation of the highest annual average ground water table within or next to the proposed excavation;
- (f) A detailed explanation of specific actions to be taken on the excavation site relative to fuel and chemical handling and storage, dust control, traffic, noise control and abatement, and comprehensive site safety of unauthorized persons; and

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- (g) A plan for the reclamation of the area affected by the excavation in compliance with RSA 155-E:5 Minimum and Express Reclamation Standards and RSA 155-E:5-a Incremental Reclamation. Such plan shall address the effects of the proposed excavation on soil, surface water and groundwater, vegetation, overburden, topography, and fill material and may address future land use consistent with the approved Master Plan, including a time table for reclamation of the fully depleted areas within the excavation site during said project. Such plan shall also include:
- (1) A detailed written explanation of the reclamation plan.
  - (2) A diagram, acceptable to the Regulator, showing the restored topography and drainage at the completion of the reclamation phase. The topography shall be left so that water draining from the site leaves the property at the original, natural drainage points and in the natural proportion of flow. For excavation projects which require a permit from the NH Department of Environmental Services, pursuant to RSA 485-A:17, the provisions of that statute and rules adopted under it shall supersede this paragraph as to areas of excavation sites covered thereby. The excavator shall file a copy of permits issued with the Regulator.
  - (3) A written report and diagram explaining the phasing of site reclamation showing designated areas and completion dates, if the site is not to be restored all at once.
  - (4) Seeding and mulching specifications.
  - (5) Vegetation suitable to prevent erosion and with soils suitable to sustain such vegetation, except for exposed rock ledge.
  - (6) Debris resulting from the excavation buried or removed.
  - (7) All slopes, except for exposed ledge, graded to natural repose for the type of soil of which they are composed so as to control erosion or at a ratio of horizontal to vertical proposed. Changes of slope shall not be abrupt and shall blend with the surrounding terrain.
  - (8) The elimination of any standing bodies of water created in the excavation project as may constitute a hazard to health and safety unless the Regulator specifies different reclamation.
  - (9) Such other information or other special investigative studies as the Regulator may reasonably deem necessary.

**11.7 PROFESSIONAL REVIEW OF PROPOSED EXCAVATION PLANS** The Regulator of the Town of Hopkinton in the interest of the Public Welfare of its citizens institutes the following relative to the professional review of the proposed excavation plans:

- (a) The Regulator may require that excavation proposals be reviewed by outside professionals.

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**LOCAL REGULATION OF EXCAVATION**

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- (b) The decision of whether or not an outside consultant is needed shall be made by the Regulator.
- (c) The Board of Selectmen shall select and contract the consultant to provide the necessary services to the Regulator.
- (d) The applicant for the excavation shall provide the Town with an irrevocable letter of credit, cash or passbook (in the name of the Town) to cover the estimated cost of the service.
- (e) The consultant shall invoice the applicant directly with a copy of the invoice sent to the Board of Selectmen. This invoice shall be paid within thirty (30) days. If not paid, the Board of Selectmen may draw on the security and pay the consultant.
- (f) The applicant shall be responsible for all cost of the professional review. The Board of Selectmen shall be the sole determiner as to whether the charges are reasonable.
- (g) After the review has been completed as determined by the Regulator and all invoices have been paid, the Board of Selectmen shall release the security.

**11.8 PROHIBITED PROJECTS** The Regulator shall not grant a permit:

- (a) Where the excavation would violate the operational standards of RSA 155-E:4-a;
- (b) Where an excavation is proposed below road level within 50 feet of any highway right-of-way as defined in RSA 229:1, unless such excavation is for the purpose of said highway;
- (c) For excavation within 50 feet of a boundary of a disapproving abutter or within 10 feet of the boundary of an approving abutter unless approval is requested by said abutter;
- (d) When the excavation is not permitted by zoning or other applicable ordinance;
- (e) When the issuance of the permit would be unduly hazardous or injurious to the public welfare;
- (f) Where existing visual barriers in the areas specified in Section 11.6 Application for Permit would be removed, except to provide access to the excavation;
- (g) Where the excavation would substantially damage a known aquifer, so designated by the United States Geological Survey;
- (h) When excavation is planned beneath or adjacent to inland surface waters in such a manner that a permit is required from the State or federal agencies with jurisdiction over the premises; but the Regulator may approve the application when all necessary permits have been obtained; or
- (i) Where the project cannot comply with the reclamation provisions required in Section 11.6 Application for Permit.

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**11.9 MINIMUM AND EXPRESS OPERATIONAL STANDARDS** It shall be a violation of this Ordinance for any person to excavate, or for any owner to permit excavation on his property, when such excavation is subject to a permit under this Ordinance, without complying with the following minimum standards or when such excavation is not subject to a permit pursuant to Section 11.5 without complying with the following express standards:

- (a) No excavations shall be permitted below road level within 50 feet of the right of way of any public highway as defined in RSA 229:1 unless such excavation is for the purpose of said highway.
- (b) No excavation shall be permitted within 50 feet of the boundary of a disapproving abutter, within 150 feet of any dwelling which either existed or for which a building permit has been issued at the time the excavation is commenced.
- (c) No excavation shall be permitted within 75 feet of any great pond, navigable river, or any other standing body of water 10 acres or more in area or within 25 feet of any other stream, river or brook which normally flows throughout the year, or any naturally occurring standing body of water less than 10 acres, prime wetland as designated in accordance with RSA 482-A:15, I or any other wetland greater than five (5) acres in area as defined by the Department of Environmental Services.
- (d) Vegetation shall be maintained or provided within the peripheral areas required by paragraphs (a) and (b) of the section.
- (e) Drainage shall be maintained so as to prevent the accumulation of free-standing water for prolonged periods. Excavation practices which resulting continued siltation of surface waters or any degradation of water quality of any public or private water supplies are prohibited.
- (f) No fuels, lubricants, or other toxic polluting materials shall be stored on-site unless in compliance with state laws or rules pertaining to such materials.
- (g) Where temporary slopes will exceed a grade of 1:1, a fence or other suitable barricade shall be erected to warn of danger or limit access to the site.
- (h) Prior to the removal of topsoil or other overburden material from any land area that has not yet been excavated; the excavator shall file a reclamation bond or other security as prescribed by the Regulator, sufficient to secure the reclamation of the land area to be excavated.
- (i) Nothing in this Ordinance shall be deemed to supersede or preempt applicable environmental standards or permit requirements contained in other state laws, and no exemption under this Ordinance shall be construed as an exemption from any other state statute.

**11.10 MINIMUM AND EXPRESS RECLAMATION STANDARDS** Within 12 months after the expiration date of the permit or the completion of the excavation, whichever first occurs, the owner of the excavated land shall have completed the reclamation of the area affected by the excavation to meet each of the following minimum standards or when such excavation is not subject to a permit under Section 11.5, to meet each of the following express standards:

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- (a) Except for exposed rock ledge, all areas which have been affected by the excavation or otherwise stripped of vegetation shall be spread with topsoil or strippings, if any, but in any case covered by soil capable of sustaining vegetation, and shall be planted with seedlings or grass suitable to prevent erosion. Areas visible from a public way, from which trees have been removed, shall be replanted with tree seedlings in accordance with acceptable horticultural practices.
- (b) Earth and vegetative debris resulting from the excavation shall be removed or otherwise lawfully disposed of.
- (c) All slopes, except for exposed ledge, shall be graded to natural repose for the type of soil of which they are composed so as to control erosion or at a ratio of horizontal to vertical proposed by the owner and approved by the Regulator. Changes of slope shall not be abrupt, but shall blend with the surrounding terrain.
- (d) The elimination of standing bodies of water created in the excavation project as may constitute a hazard to health and safety.
- (e) The topography of the land shall be left so that water draining from the site leaves the property at the original, natural drainage points and in the natural proportions of flow. For excavation projects which require a permit from the Department of Environmental Services pursuant to RSA 485-A:17 Terrain Alteration, the provisions of the statute, and rules adopted under it, shall supersede this paragraph as to areas of excavation sites covered. The excavator shall file a copy of permits issued under RSA 485-A:17 with the Regulator.

Any bond required by the Regulator under Section 11.11 shall not be released until reclamation satisfactory to the Regulator has been completed.

**11.11 INCREMENTAL RECLAMATION** Except for excavation sites of operating stationary manufacturing plants, any excavation area of five (5) contiguous acres or more, which is depleted of commercial earth materials, excluding bedrock, or any excavation from which earth materials of sufficient weight or volume to be commercially useful have not been removed for a two (2) year period, shall be reclaimed in accordance with Section 11.9, within 12 months following such depletion or two (2) year non-use, regardless of whether other excavation is occurring on adjacent land in contiguous ownership. Earth operator, other than the operator of stationary manufacturing plants which are exempt from permit requirements pursuant to RSA 155-E:2, III, shall prepare and submit for the Regulator's record a reclamation plan for the affected land, including a timetable for reclamation of the depleted areas within the reclamation site.

**11.12 EXCEPTIONS** The Regulator, upon application and following a hearing held in accordance with Section 11.10, may grant an exception in writing to the standards in Sections 11.9, 11.10 and 11.11 for good cause shown. The written decision shall state specifically what standards, if any, are being relaxed, and include reasonable alternative conditions or standards. The Regulator's decision on any request for such exception may be appealed in accordance with Section 11.16 of the Ordinance.

**11.13 APPLICATION FOR AMENDMENT** When the scope of a project for which an excavation permit has been issued is proposed to be altered so as to affect either the size or location of the excavation, the rate of removal or the plan for reclamation, the owner shall

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submit an application for amendment of his excavation permit which application shall be subject to approval in the same manner as provided for an excavation permit.

**11.14 HEARING** Prior to the Regulator approving an application for an excavation permit or an application for an amended excavation permit, a public hearing shall be held within thirty (30) days on such application. A notice of said hearing shall be sent to all abutters and shall specify the grounds for the hearing as well as the date, time and place. At least ten (10) days notice of the time and place of such hearing shall be published in a newspaper and posted in at least three (3) public places. The ten (10) days shall not include the day of the publications nor the day of the meeting, but shall include any Saturdays, Sundays and legal holidays within said period. Within 20 days of said hearing or any continuation thereof, the Regulator shall render a decision approving or disapproving the application, giving reasons for disapproval.

**11.15 ISSUANCE OF PERMIT** If the Regulator after the public hearing approves the application for a permit and determines it is not prohibited by RSA 155-E:4 it shall, upon receipt of an excavation fee not to exceed \$50.00 and the posting of a bond or other such surety with the Board of Selectmen in an amount, as it requires, reasonably sufficient to guarantee compliance with the permit, grant a permit to the applicant for an excavation. A copy of the permit shall be prominently posted at the excavation site or the principal access thereto. A permit shall not be assignable or transferable without the prior written consent of the Regulator. A permit shall specify the date upon which it expires. The Regulator may include in a permit such reasonable conditions as are consistent with the purpose of RSA 155-E and may include requirements for a permit for excavation which are more stringent than the standards set forth in RSA 155-E including the provision of visual barriers to the excavation, hours of operation, routes to be utilized, frequency of truck traffic, size and weight of trucks used and any other regulations as may be reasonably necessary to carry out the provisions of RSA 155-E:1-11, inclusive.

**11.16 APPEAL** Following the approval or disapproval of an application for an excavation permit, or an application for an amended permit, any interested person affected by such decision may appeal to the Regulator for a rehearing within 10 days of the decision appealed from. The Regulator shall either grant or deny the request for a rehearing within 10 days. If granted, the rehearing shall occur within 30 days. Any person affected by the Regulator's decision on a motion for rehearing may appeal in conformity with the procedures specified in RSA 677:4-15.

**11.17 ENFORCEMENT** The Regulator may appoint an Enforcement Officer to enforce the provisions of any permit issued hereunder. Said Enforcement Officer Regulator or shall have the powers and duties prescribed in RSA 155-E: 1-11, inclusive.

**SECTION XII**  
**WETLANDS CONSERVATION DISTRICT (OVERLAY)**

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**12.1 PURPOSES** The purpose of this Section is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which have been found to be subjected of high water tables for extended periods of time. Its further purposes are to control the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and ground water by sewage or toxic substances; prevent the destruction of, or significant changes to, natural wetlands which provide flood protection; protect unique and unusual natural areas; protect wildlife habitats and maintain ecological balances; protect potential water supplies and existing aquifers (water-bearing stratum) and aquifer recharge areas; and prevent the expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.

**12.2 AREA** The Wetlands Conservation District is defined as those areas delineated as very poorly and poorly drained soils by the U.S. Department of Agriculture, Soil Conservation Service in the Soil Survey of Merrimack County, New Hampshire. The Wetlands Conservation District also includes those areas such as swamps, marshes and bogs that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of vegetation adapted for life in saturated soil conditions, such as those species designated as obligate or facultative wetland plants in the lists of the Natural Wetlands Inventory of the U.S. Fish and Wildlife Service.

**12.3 LIMITATIONS** The limits of the Wetlands Conservation District are hereby determined to be areas of one acre or more in size, or of any size if contiguous to surface waters such as lakes, ponds and streams, subjected to high water tables for extended periods of time and includes, but are not necessarily limited to, all such areas delineated as wetlands by on-site mapping. No person shall fill areas occupied by swamps, streams or lakes, except as provided by the New Hampshire Statutes.

**12.4 WETLAND DELINEATION** It shall be the responsibility of the applicant for a permit to delineate those areas of the property which exhibit the wetland characteristics as described in Section 12.6 of this Ordinance. The wetland shall be delineated on the plan, and the plan shall be signed and stamped by a certified soil scientist and certified wetland scientist.

In the event there are no wetlands on the property, the plans shall so state and be signed and stamped by a certified soil scientist and certified wetland scientist. The Planning Board may waive the requirements of this section, if in its opinion, the wetlands do not significantly affect the intent of this ordinance.

Any necessary mapping, soil testing or other work for delineating the wetland areas shall be done at the cost of the applicant.

**12.5 RELATIONSHIP TO OTHER DISTRICTS** Where the Wetlands Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

**12.6 WETLAND AREA CHARACTERISTICS** Wetlands are areas where a significant part of the vegetational community and soil and land types consist of, but do not necessarily include all, of the following:

**12.6.1 Swamps:** Swamps are areas where the water table is at or near the ground surface for a significant part of the year. The vegetational community consists mostly of trees and woody shrubs, such as:

**SECTION XII**  
**WETLANDS CONSERVATION DISTRICT (OVERLAY)**

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Alders	Poison Sumac
Arrow-wood	Red Maple
Atlantic White Cedar	Rhodora
Black Ash	Sphagnum Moss
Black Gum	Spicebush
Black Spruce	Sweet Pepperbush
Buttonbush	Tamarack (Larch)
Common Elder	Willows
High-bush Blueberry	Winterberry
Marsh Rose	

**12.6.2 Marshes:** Marshes are treeless wetlands dominated by soft-stemmed herbaceous plants. The surface of the marsh is covered with water year-round, though seasonal fluctuations in water depth are expected. Marshes range from the wet meadows variety to deep marshes which can be covered with several feet of water. The vegetational community is made up of some or all of the following:

Arums	Leatherleaf
Bladder Worts	Pickeral Weeds
Bur-reeds	Rushes
Cat-tails	Sedges, including Bulrushes
Duckweeds	Cotton-grasses and Wool-grasses
Eelgrass	Smartweeds
Frog's-bits	Sweet Gale
Horsetails	Water-lilies
Hydrophylus Grasses	Water Milfoil

**12.6.3 Bogs:** Bogs consist of peat or muck deposits of significant depths and are characterized by a distinct group of trees and plants which are adapted to the bog's highly acidic conditions. The water in a bog is practically devoid of oxygen and nutrients. Bogs usually develop in undrained glacial depressions. Typical plants are:

Atlantic White Cedar	Pale Laurel
Black Spruce	Pitcher-plants
Bladder Worts	Rhodora
Bogbean or Buckbean	Sedges
Bog-laurel	Sheep Laurel
Bog-rosemary	Sphagnum Moss
Cotton Grass	Sundews
High-bush Blueberry	Sweet Gale
Leatherleaf	

**12.6.4 Very Poorly Drained Soils:** Soil series and land types commonly associated with wetlands, as described by the Soil Survey of Merrimack County, New Hampshire, include the following "very poorly drained" soils:

Marsh (Mh)	Saco (Sa)
Mixed Alluvial (Mn)	Scarboro (Sc)
Muck and Peak (MU)	

**SECTION XII**  
**WETLANDS CONSERVATION DISTRICT (OVERLAY)**

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**12.6.5 Poorly Drained Soils:** Soil series and land types commonly associated with wetlands, as described by the Soil Survey of Merrimack County, New Hampshire, include the following “poorly drained” soils:

Au Gres (AgA, AgB, AuB)  
Limerick variant (Lm)  
Ridgebury (RdA, RdB, RbA, RdB)  
Rumney (Ru)

**12.7 PERMITTED USES**

**12.7.1 General:** Permitted uses are those uses which will not require the erection or construction of any structures or buildings, will not alter the natural surface configuration by the addition of fill or by dredging, and uses that otherwise are permitted by the Zoning Ordinance. Such uses may include the following:

- (a) Forestry and tree farming, using best management practices in order to protect streams from damage and to prevent sedimentation.
- (b) Cultivation and harvesting of crops according to recognized soil conservation practices, including the protection of wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation.
- (c) Wildlife refuges.
- (d) Parks and recreation uses consistent with the purpose and intent of this Ordinance.
- (e) Conservation areas and nature trails.
- (f) Open spaces as permitted or required by the Subdivision Regulations or the Zoning Ordinance.

**12.7.2 Special Exceptions:** Special exceptions may be granted by the Board of Adjustment, after proper public notice and public hearing, for undertaking the following uses in the Wetlands Conservation District when the application has been referred to the Planning Board and the Conservation Commission, for review and comment at least thirty (30) days prior to the hearing:

- (a) Streets, roads and other access ways and utility right-of-way easements, including power lines and pipe lines, if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands.
- (b) Water impoundments.
- (c) The undertaking of a use not otherwise permitted in the Wetlands Conservation District, if it can be shown that such proposed use is not in conflict with the purposes and intentions listed in Paragraph 12.1 of this Section.

**SECTION XII**  
**WETLANDS CONSERVATION DISTRICT (OVERLAY)**

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**12.7.3 Special Provisions:**

- (a) No septic tank or leach field may be constructed or enlarged closer than seventy-five (75) feet to any wetland.
- (b) No part of a wetland may be considered as part of the minimum size requirement of any lot. No wetland or part of a wetland may divide a lot in such a manner that its minimum lot size is not contiguous, unless:
  - (1) The lot contains at least one (1) acre of contiguous upland (the “buildable area”), and
  - (2) Such buildable area is served by municipal water or is proved to support on-site water without a variance or waiver from Town or State regulations, and
  - (3) Such buildable area is served by municipal sewer or is proved to support on-site sewage disposal without a variance or waiver from Town or State regulations.
- (c) The provisions of Section XII of this Ordinance shall not apply to the Federal, State, or Town governments who are building, altering, or reconstructing public streets, roads, highways, or other projects needed to serve the general public.

**SECTION XIII  
GROWTH MANAGEMENT  
AND  
INNOVATIVE LAND USE CONTROL**

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**13.1 AUTHORITY** The Section is enacted in accordance with RSA both 674:21 and 674:22.

**13.2 PURPOSES** The purposes of this section of the Zoning Ordinance are as follows:

- (a) Promote the development of an economically sound and environmental stable community which considers and balances regional development needs.
- (b) Determine, monitor, evaluate, and establish a rate of residential growth in the Town that does not unreasonably interfere with the Town's capacity for planned, orderly, and reasonable expansion of its services to accommodate such growth.
- (c) Provide a temporary mechanism to allow for phased development of residential projects to manage the impact on municipal services.
- (d) Provide a temporary mechanism when municipal services are strained or overloaded to reduce the rate of residential growth to allow the Town time to correct any deficiencies that have developed.
- (e) Protect the health, safety, convenience, and general welfare of the Town's residents.

**13.3 FINDINGS** The Town hereby finds that:

- (a) Between 1970 and 2010, the Town's population increased between 3.5 and 28.4 percent a decade, a rate significantly higher than Merrimack County.
- (b) Hopkinton's share of Merrimack County's population increased 3.72 percent in 1970 to 3.82 percent in 2010.
- (c) From 2000 to 2010, Hopkinton's population increased by 4.7 percent. In the same period, Hopkinton and its seven abutting towns increased their population by 7.1 percent, Merrimack County grew by 7.5 percent and the State grew by 6.5 percent.
- (d) From 2000 to 2010, the seven abutting towns grew by 26.9 percent and Hopkinton grew by 24.5 percent.
- (e) The 2010 US Census reported 2,381 year-round housing units, an increase of 7.74 percent from 2000.
- (f) From 2000 to 2010, Hopkinton and its seven abutting towns added 14.1 percent more housing units. Merrimack County and the State experienced a slightly lower percentage increase in housing units.
- (g) In 2000, Hopkinton's population per housing unit was 2.7 percent. In 2010, it was 2.0 percent. In Merrimack County, in 2000 the population per housing unit was 2.7 percent; it was 2.9 percent in 2010.

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- (h) Based on building permits, the total housing units in Hopkinton in 2000 was 2,210, an increase of 7.7 percent since 2010. During the same time, Merrimack County experienced a 11.2 percent growth.
- (i) From 1978 through the writing of the 1987 Master Plan, the Town had a series of growth management ordinances which limited the amount of residential permits in order to plan and provide for the increased municipal services to accommodate the growth which occurred. In 1988, Hopkinton adopted a Growth Management and Innovative Land Use Control Ordinance.
- (j) Hopkinton's population for 2010 was 5,589. The NH Office of Energy and Planning projects Hopkinton's population for 2020 to be 6,460. For the year 2030, it is projected to be 6,970.
- (k) The projected population increase between 2010 and 2020 is 9.5 percent and between 2020 and 2030 an increase of 7.9 percent.
- (l) The NH Office of Energy and Planning estimates Hopkinton's population in 2020 as 6,460 a 9.5 percent increase from 2010. From 2010 to 2020, Hopkinton and the seven abutting towns is estimated to grow by 9.8 percent, the County by 9.7 percent and the State by 6.0 percent.
- (m) Hopkinton's school enrollment for the 2003/2004 school year was 1,042. For the 2010/2011 school year, it was 975. The enrollment has fluctuated decreasing 6.4 percent or 67 students over eight years.
- (n) In 2003/2004 the Harold Martin Elementary School had an enrollment of 271 students in grades K-3. In 2010/2011 the enrollment was 289. The total increase of 18 students represents a 4.1 percent increase in student population. In 1988 the Harold Martin School had an addition to accommodate any previous class size or space concerns for the primary grade students.
- (o) In 2003/2004 the Maple Street Elementary School had an enrollment of 238 students in grades 4-6. In 2010/2011 the enrollment was 202. The enrollment has fluctuated decreasing 15.1 percent or 36 students over eight years.
- (p) In 2003/2004 the Hopkinton Middle/High School had an enrollment of 533 in grades 7-12. In 2010/2011 the enrollment was 484. The enrollment increased to 538 in 2006/2007. Each of the other eight years enrollment decreased. The total decrease of 49 students represents a 9.4 percent decrease in population.
- (q) The Maple Street School had needs for better library space, a music classroom, cafeteria, two additional classrooms, a computer lab, an art classroom and administrative space, as many of the student services for guidance, health and special education had consumed all available space. The entire facility also needed its heating and venting upgraded as well as a sprinkler system installed.

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- (r) The Hopkinton Middle/High School also needed a complete upgrade of its heating and ventilation system and a sprinkler system installed. There was also need for a new gymnasium, as the current space was no longer adequate, a new kitchen and cafeteria, a better entrance to the site and the facility, the library/media center needed to be expanded to accommodate emerging technologies, better administrative areas, additional classrooms and an upgrade of public access to meeting space.
- (s) In 1997 the Town approved a \$6.9 million school construction bond for renovations and additions to the Maple Street Elementary and Hopkinton Middle/High Schools. As a result, the 7-8 grades have been separated from the 9-12 grades through redesign of the facility.
- (t) Between 2000 and 2010, the school share of the property tax ranged between 68.9 and 75.5 percent.
- (u) Between 2000 and 2010, Hopkinton's full value tax rate ranged between \$20.84 and \$25.95 according to the Department of Revenue Administration.
- (v) The full value tax rate of Hopkinton was 16 percent higher than the County and 30 percent higher than the State in 2010.
- (w) In 2003, the Contoocook Village Precinct made its last annual payment on a \$1.1 million bond for the construction of a water filtration plant/pipeline replacement.
- (x) In 1990, the Town authorized an \$800,000 bond for the construction of the transfer station. The last payment occurred in 2009.
- (y) In 1996, the Town authorized a \$1,980,000 bond for the closure of the landfill. Payment of the bond began in 1998 with the final payment in 2018.
- (z) In 1997, the Town authorized a bond of \$388,000 for the construction of an access road and site preparation for playing fields on Town-owned land (former Houston property). Payment of the bond began in 1998 with the final payment in 2003.
- (aa) In 1997, the Town appropriated \$1.6 million for the construction of the library, and authorized a \$850,000 bond to be paid beginning in 1998. The final payment occurred in 2007.
- (ab) In 2012, the Town will be asked to appropriate funds for a study to evaluate the need for an addition to or replacement of the Contoocook Fire Station and the Town may incur future expenses with respect thereto.

**13.4 INDICATORS OF GROWTH IMPACT** The Town hereby determines that the presence of the following conditions constitutes an indicator of growth impact. An indicator of growth impact occurs when:

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- (a) The average annual percent increase in building permits for dwelling units in Hopkinton for the past five years exceeds the same average of the combined seven abutting communities.
- (b) The most recently published average annual percent population growth for Hopkinton as reported by the New Hampshire Office of Energy and Planning exceeds the same average of the combined seven abutting communities.
- (c) The number of public school students enrolled or projected for the coming year for the combined schools in the Hopkinton School System exceeds 90 percent of its stated capacity as defined by the Hopkinton School Board.
- (d) The annual full value tax rate of Hopkinton as reported by the New Hampshire Department of Revenue Administration exceeds the average annual full value tax rate of the combined seven abutting communities or Merrimack County for the reporting year. (For comparison purposes, the tax rates will be equalized to full value.)
- (e) The number of dwelling units of all projects combined, for which approval is being sought from the Planning Board, at any time of reporting, if approved could result in conditions defined by a., b., c., or d. above.
- (f) The number of public school students enrolled or projected for the coming year for the combined schools in the Hopkinton School System exceeds 100 percent of its stated capacity as defined by the Hopkinton School Board.
- (g) The annual capital expenditures including debt service and capital outlay for combined municipal and school expenditures exceeds 20 percent of the total municipal and school department expenditures combined.

**13.5 PLANNING BOARD MONITORING** It is the responsibility of the Planning Board to monitor growth in the Town and report on the following:

**13.5.1 Annual Dwelling Unit Count:** The Planning Board will by February 15 of each year report on the total number of dwelling units existing at the end of its previous calendar year. Existing units mean all those units previously constructed and occupied plus those units constructed and for which certificates of occupancy were issued in the reporting year.

**13.5.2 Semi-Annual Reporting:** The Planning Board by July 20 and January 20 (of the next year) will report on the number of building permits and certificates of occupancy issued for the previous six months for all dwelling units. In the same report, the Planning Board shall report on the status, as appropriate, of any phasing requirements or permit limitations in force in the reporting period.

**13.5.3 Notice of Growth Impact:** The Planning Board may at any time issue a Notice of Growth Impact, if it has determined that any of the conditions in 13.4 exist.

Said notice would include a statement of whether those conditions could result in either 13.6 Phasing or 13.7 Permit Limitations.

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**13.5.4 Periodic Reporting:** The Planning Board may at any time it thinks it is appropriate or necessary, issue written reports on the status of growth activity in the Town covering such topics as the number of dwelling units or lots being proposed for approval, or for which building permits are being sought, the condition and capacity of any municipal or school facility, the tax burden existing or anticipated on the Town's residents and/or any other topic affecting or related to the growth or finances of the Town.

Pursuant to the monitoring in 13.5.1, 13.5.2, 13.5.3 or 13.5.4, the Planning Board shall make appropriate findings of fact, recommendations for action, or take actions provided for in Section XIII of the Zoning Ordinance as a result of its monitoring and reporting responsibilities.

**13.6 PHASING OF DEVELOPMENTS** If the Planning Board through its monitoring finds that indicator 13.4 a., b., c., d., or e. has occurred then the Planning Board may at its discretion issue a Notice of Growth Impact in conformance with 13.5.3 to the Board of Selectmen, the Building Inspector, and the general public by posting a notice in the Town Hall. The phasing of future residential developments, as provided in RSA 674:21, is to prevent a strain on municipal services and therefore, to provide for orderly growth in Town. Phasing may be implemented as provided below:

**13.6.1 Phasing Required:** The Planning Board may require the phasing of a development for a period up to five years for a project which is proposed to have 50 dwelling units (lots or less. The Planning Board may require a longer period of phasing based on the size of the project and the potential impact of the number of type of units on the municipal services of the Town. The Planning Board shall make appropriate finding of fact to substantiate the need for required phasing.

**13.6.2 Effect of Phasing:** Once a phasing plan has been approved by the Planning Board, the project shall not be affected by any permit limitations subsequently enacted under the provision of Section 13.8.4 of this Ordinance, provided that the developer secures permits for and begins substantial construction on the project on the units in each yearly phase. In the event that substantial construction is not undertaken in any yearly phase, then the vesting of that phase shall be forfeited and the developer shall be subject to any limitations imposed by 13.8.4. For the purpose of this section, substantial construction shall mean either (a) all dwelling units in that phase are constructed to a weather tight condition or (b) 50 percent of all dwelling units in that phase are completed and a Certificate of Occupancy has been issued.

**13.7 LIMITING THE ISSUANCE OF PERMITS** If the Planning Board finds through its monitoring that either a., b., c., d., or e., plus one or more of indicators f., or g. has occurred then the Planning Board may at its discretion issue a Notice of Growth Impact in conformance with 13.5.3 to the Board of Selectmen, the Building Inspector, and the general public by posting a notice in the Town Hall.

**13.7.1 Interim Permit Limitation:** Once a Notice of Growth Impact is issued, then no residential building permits shall be approved by the Building Inspector until after the hearing in Section 13.8 is held and until after the Planning Board has set the number of permits delineated in 13.8. The Planning Board shall set the number of permits within 45 days of the Notice of Growth Impact being issued.

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**13.8 PROCEDURES FOR PHASING AND PERMIT LIMITATIONS** Once a Notice of Growth Impact pursuant to 13.5.3 has been issued then the following procedures will be observed:

**13.8.1 Planning Board Findings:** The Planning Board will issue appropriate findings of fact to accompany any Notice of Growth Impact issued pursuant to 13.5.3.

**13.8.2 Public Hearing:** Prior to invoking 13.6 Phasing or 13.7 Permit Limitations, the Planning Board shall hold a public hearing with ten days' notice to seek input from the general public.

**13.8.3 Determination of Action:** After public hearing in Section 13.8.2, the Planning Board shall deliberate and decide whether (a) phasing should be invoked, (b) permit limitations should be imposed, or (c) other appropriate action, and issue its decision(s). Any decision will be issued within 45 days of Notice of Growth Impact.

**13.8.4 Permit Limitations:** The following provisions shall apply:

- (a) The Planning Board as part of its decisions may specify what limitations are necessary in the issuance of permits for residential units up until and during any corrective action is taken by the Town and/or School district. In determining the number of permits to be issued, the Planning Board shall consider the severity of the municipal service burden, the amount of capacity remaining in the service, and the amount of time needed to correct the service problem. After determining those facts, the planning Board shall set the number of dwelling unit permits that can reasonably be issued on an annual basis.
- (b) After the public hearing, the Planning Board shall set the number of permits to be issued for the one year period following enactment of the limit or such other shorter period as may be desirable. At the end of the year or such other shorter period, the Planning Board shall hold a hearing to determine if the permit limitation should be removed or altered. After making findings of fact, the Planning Board may (a) extend the permit limitation, (b) alter the permit limitation, or (c) remove the permit limitation.

**13.8.5 Phasing:** The Planning Board as part of its decision may require phasing in accordance with the provisions of Phasing 13.6.

**13.8.6 Equitable Distribution:** In order to insure equitable distribution of available permits, no individual, partnership, corporation, or other entity or its related or affiliated entities or in the case of individuals their relatives or persons associated in business, may receive more than 10 percent of the permits or permits for eight units, whichever is less, available during the limitation period.

- (a) The Building Inspector shall consult with the Planning Board, and the Planning Board shall devise an administrative procedure necessary to insure equitable distribution of available dwelling unit permits under guidelines expressed above.
- (b) No application for a building permit will be accepted from any person, who in an attempt to avoid the building permit limitations of this Ordinance, has failed to pay fair consideration as defined by RSA 545:3 or any other person or entity who has the purpose of evasion of the limitations of Section XIII of this Ordinance.

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**13.9 SUNSET** This Ordinance shall expire at the Annual Town Meeting in 2017 unless re-adopted at that meeting. The Planning Board shall make recommendations as to the necessity and desirability of re-adopting this Ordinance prior to said Annual Town Meeting.

**SECTION XIII-A  
IMPACT FEES**

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**13-A.1 PURPOSE** This Ordinance is enacted pursuant to RSA 674:21, and in order to: Promote the public health, safety and welfare and prosperity;

1. Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Hopkinton.
2. Prevent scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services;
3. Provide for the harmonious development of the municipality and its environs;
4. Ensure the proper arrangement and coordination of streets; and,
5. Ensure streets of sufficient width to accommodate existing and prospective traffic.

**13-A.2 DEFINITIONS**

**Impact Fee:** Shall mean a fee or assessment imposed upon development, including subdivision, building construction or other land-use change, in order to help meet the needs occasioned by the development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the, municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public libraries; and public recreation facilities, not including public open space.

**13-A.3 AUTHORITY TO ASSESS IMPACT FEES** The Planning Board is hereby authorized to assess impact fees, as herein defined, and, in accordance with the standards herein set forth. The Planning Board shall have the authority to adopt regulations to implement the provisions of this ordinance.

**13-A.4 ASSESSMENT METHODOLOGY** The amount of any impact fee shall be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

**13-A.5 ADMINISTRATION OF IMPACT FEES** Each in fact impact fee shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the governing body, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are collected to meet. All impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. Between the date of assessment and collection, the Planning Board may require developers to post security, in the form of a cash bond, letter of credit or performance bond so as to guaranty future payment of assessed impact fees. Impact fees shall be collected as a condition for the issuance of a Certificate of Occupancy; provided however, in projects where off-site

## **SECTION XIII-A IMPACT FEES**

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improvements are to be constructed simultaneously with a project's development, and where the Town has appropriated the necessary funds to cover such portions of the work for which it will be responsible, the Town may advance the time of collection of the impact fee to the issuance of a building permit. The Planning Board and the assessed party may establish an alternate, mutually acceptable schedule of payment of impact fees.

If the full impact fee assessed under this ordinance is not encumbered or otherwise legally bound to be spent for the purpose for which it was collected within six (6) years, the fee shall be refunded to the assessed party, with any accrued interest. Whenever the calculation of the impact fee has been predicated upon some portion of capital improvement costs being borne by the Town, a refund shall be made upon the failure of the Town Meeting to appropriate the Town's share of the capital improvement costs within six (6) years from the date of payment thereof.

**13-A.6 APPLICABILITY** This Ordinance shall not be deemed to affect the existing authority of the Planning Board over subdivisions and site plans, including, but not limited to the authority to declare a development to be premature or scattered in accordance with the regulations of the Board and in accordance with RSA 674:36, II (a).

## SECTION XIV ADMINISTRATION

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**14.1 POWER AND AUTHORITY** For the purposes of this Ordinance, the Board of Selectmen is hereby given the power to appoint a Building Inspector who shall perform the duties of his office as designated in the various provisions of this Ordinance and then shall make inspections of all buildings in the process of building or reconstruction and report all violations to the Board of Selectmen. In the absence of a Building Inspector, the Board of Selectmen shall be given the Building Inspector's power enumerated herein.

**14.1.1 Building Inspector:** The duty of administering and enforcing the provisions of this Ordinance and Building Code, if any, is hereby conferred upon the Building Inspector. It shall be the duty of the Building Inspector to:

- (a) Review all applications for building/use, demolition, or other permits to determine that the purpose for which the permit is sought will conform to the provisions of this Section and issue permits if appropriate, after all needed approvals have been secured.
- (b) Investigate promptly all possible Zoning Ordinance violations and report his/her findings in writing to the Board of Selectmen.

**14.2 BUILDING/USE PERMITS** The following conditions shall be observed.

**14.2.1 Permit Required:** It shall be unlawful for any person to erect, construct, reconstruct, or alter a structure without applying for and receiving from the Building Inspector 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 Building Inspector a use permit.

**14.2.2 Actions Limited:** No excavation for foundation nor the erection, construction or structural alteration of any structure or part of any structure shall be undertaken until a permit is issued by the Building Inspector.

**14.2.3 Compliance:** No building permit may be issued for any premises unless the buildings and other structures and use of the premises comply with the provisions of this Ordinance or the terms of a variance granted by the Board of Adjustment; provided that a permit may be issued when the effect of the construction, reconstruction or alteration is to eliminate all violations of this Section on the premises.

**14.2.4 Other Approvals:** No building permit may be issued unless all necessary subdivision, site plan review, variance and/or special exception approvals have been issued.

**14.2.5 Pending Changes:** The Building Inspector shall not issue any building permit where application for such permit is made after the first legal notice of the adoption of a building code, if any, on proposed changes in the building code has been posted pursuant to the provisions of RSA 156-A:1-a or 156-A:1-b, or the first legal notice of the proposed changes in the Zoning Ordinance has been posted pursuant to the provisions of RSA 674:16-18, if the proposed changes in the building code or Zoning Ordinance would, if adopted, justify refusal of such a permit. After final action has been taken on the proposed changes in the building code or the Zoning Ordinance, the Building Inspector shall issue or refuse to issue such a permit which has been held in abeyance pursuant to this subsection.

**14.2.6 Permit Time Limits:** Any work for which a permit has been issued by the Building Inspector for the construction of new residential buildings shall be actively prosecuted within

## SECTION XIV ADMINISTRATION

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four months. For purposes of this section, “actively prosecuted” shall mean that the building foundation is completed and capped. Any other work for which a permit has been issued by the Building Inspector shall be actively prosecuted within six months. Failure to actively prosecute work within these time limitations shall result in an automatic lapse of the permit. All work for which a permit has been issued by the Building Inspector must be completed within two years of the date of the issuance of the permit provided that any permit issued for a project which is actively prosecuted for one year may be extended at the discretion of the Building Inspector.

### **14.3 CERTIFICATE OF OCCUPANCY** The following conditions shall be observed.

**14.3.1 Certificate Required:** No structure shall be erected, occupied, structurally altered or changed in use until a certificate of occupancy shall have been issued by the Building Inspector.

**14.3.2 Coincident Application:** A certificate of occupancy either for the whole or a part of a new building or for the alteration of an existing building may be applied for coincident with the application for a building permit or when the project is complete and shall be issued within ten days after the erection or alteration of such building or part shall have been completed in conformity the provisions of this Ordinance.

**14.3.3 Approval Before Occupancy:** A certificate of occupancy for the use or occupancy of vacant land or for a change in the use of the land or for a change in the use of an existing building shall be applied for and issued before any such land shall be occupied or used or such land or building changed in use and such certificate shall be issued within ten days after application has been made providing such proposed use is in conformity with the provisions of this Ordinance.

**14.3.4 Compliance:** No certificate of occupancy shall be issued for any premises unless the proposed use of the land, buildings, driveway and other structures thereon comply with:

- (a) The provisions of this Ordinance or the terms of a variance and/or special exception issued by the Board of Adjustment.
- (b) The provisions of a subdivision and/or site plan review approval.
- (c) All applicable housing, health, fire, life safety, building codes and ordinances.

### **14.4 PROCEDURES FOR PERMITS** The following procedures shall be followed for a building and/or certificate of occupancy permits.

**14.4.1 Applications:** Applications for building permits, driveway permits, and certificates of occupancy must be made by the owner of the premises or his/her authorized agent. Applications for building permits and certificates of occupancy shall be in writing on forms prescribed by the Building Inspector.

**14.4.2 Supporting Materials:** All applications for building permits shall be accompanied by a plan drawn to scale showing the actual dimensions of each lot to be built upon. The size and location of each building existing and proposed upon each lot and such other information as may be necessary to enable the Building Inspector to determine the proposed structure and use of land will conform to the provisions of this Ordinance.

## SECTION XIV ADMINISTRATION

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**14.4.3 Additional Permits:** The Building Inspector may require, when appropriate to the project, submission of approvals for energy conservation compliance from the Public Utilities Commission, driveway permits from the Department of Transportation on State roads, driveway permit from the Superintendent of Public Works on Town roads, septic system (or bedroom addition) approval from the Water Supply and Pollution Control Commission, or any other relevant government approvals.

**14.4.4 Records:** A record of all building permits shall be kept on file in the office of the Building Inspector and shall be a public record.

**SECTION XV**  
**BOARD OF ADJUSTMENT**

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**15.1 POWERS** The Board of Adjustment shall have the powers and duties specifically granted to it under RSA 674:33.

**15.2 MEMBERSHIP** The Board of Adjustment shall consist of five regular members and up to three alternate members who shall be appointed by the Board of Selectmen and be residents of the community as provided by the New Hampshire Revised Statutes Annotated under RSA 673:3 and 673:6. Each person shall be appointed to a term ending three years from the date of expiration of the term of his/her predecessor and a person appointed to fill a vacancy shall be appointed for the unexpired term.

**15.3 RULES** The Board of Adjustment shall adopt rules and regulations governing meetings, hearings, fees, and other matters for the proper functioning of the Board. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings showing the vote, indicating such fact and shall keep records of its examinations and other official actions. Every rule or regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and become a matter of public record.

**15.4 MEETINGS** Meetings of the Board of Adjustment shall be held upon the call of the Chairperson. All meetings shall be open to the public.

**15.5 APPLICATIONS** Applicants appealing an administrative decision, seeking a special exception, or requesting a variance shall be in writing, shall be signed by the property owner/applicant, shall be accompanied by such fees as the Board deems necessary to defray its costs in processing the application, and shall be accompanied by a drawn to scale plan of the property in question. The property plan shall contain such information as the Board determines to be necessary for it to reach a decision. In appropriate cases, the Board may require that the plan be prepared by a registered professional engineer or registered land surveyor. The application shall list the name and current mailing addresses of each abutter to the property in question.

**15.6 HEARING NOTICE** The Board of Adjustment shall hold a public hearing on each application within a reasonable time as specified in its rules. Notice thereof shall be given as follows:

**15.6.1 Mail:** The applicant and all abutters shall be notified of the public hearing by certified mail, return receipt requested, stating the time and place of the hearing, and such notice shall be given not less than five days nor more than thirty days before the date fixed for the hearing of the appeal.

**15.6.2 Public Notice:** A public notice of the hearing shall be posted at the Town Hall and one other public place and shall be published in a newspaper with a general circulation in the area, not less than five nor more than thirty days before the date fixed for the hearing of the appeal.

**15.6.3 Costs:** The cost of advertising and the cost of mailing the notices of hearing shall be payable prior to the hearing by the person making the appeal. In no event shall the costs be less than two dollars (\$2.00).

**SECTION XV**  
**BOARD OF ADJUSTMENT**

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**15.7 HEARINGS** Hearings before the Board shall be conducted by the Chairperson, or, in his/her absence the Acting Chairperson, who may administer oaths and compel the attendance of witnesses.

**15.7.1 Burden:** At all hearings before the Board, the burden shall be upon the applicant to establish that the administrative decision appealed from is erroneous; or to show that the applicant has met the conditions established for a special exception; or to show that the applicant has met the criteria for granting a variance.

**15.7.2 Testimony:** The Board shall hear all abutters desiring to submit testimony and all non-abutters who can demonstrate that they are affected directly by the proposal under consideration. The Board may hear other persons as it deems appropriate.

**15.7.3 Decisions:** The Board in accordance with the provisions of this Ordinance may reverse or affirm, wholly or partly, or may modify any such order, requirements, decision or determination made by the Building Inspector. The concurring vote of three members of the Board shall be necessary to reverse or modify any order, requirement, decision or determination of the Building Inspector or to decide in favor of the appellant on any matter upon which it is required to pass or to effect any variance from the strict applications of the provisions of this Ordinance.

**15.8 SCOPE OF REVIEW** The Board of Adjustment shall hear and decide appeals from the decisions or orders of the Building Inspector, requests for special exceptions as provided for in this Ordinance, and requests for variances to the terms of this Ordinance in accordance with the provisions delineated herein.

**15.8.1 Administrative Appeals:** The Board shall hear and decide appeals from the decisions or orders of the Building Inspector concerning the administration or enforcement of this Ordinance.

**15.8.2 Special Exceptions:** The Board shall hear and decide requests for special exceptions provided for in this Ordinance. The Board shall grant requests for special exceptions which are in harmony with the general purpose and intent of this Ordinance and meet the standards of this subsection. Appropriate conditions as set forth in subsection 15.8.2 (b) may be placed on special exception approvals when necessary. The Board shall deny requests for special exceptions that do not meet the standards of this Section.

- (a) Special Exceptions shall meet the following standards:
- (1) Standards provided by this Ordinance for the particular use permitted by special exception.
  - (2) No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.
  - (3) No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor(s), smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.

**SECTION XV**  
**BOARD OF ADJUSTMENT**

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- (4) No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.
  - (5) No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.
  - (6) No significant increase of storm water runoff onto adjacent property or streets.
  - (7) An appropriate location for the proposed use.
  - (8) Not affect adversely the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.
  - (9) In the public interest and in the spirit of the ordinance.
- (b) Special exception approvals may be subject to appropriate conditions including the following:
- (1) Front, side, or rear yards in excess of the minimum requirements of this Ordinance.
  - (2) Screening of the premises from the street or adjacent property by walls, fences, or other devices.
  - (3) Modification of the exterior features or buildings or other structures.
  - (4) Reasonable limitations on the number of occupants and methods and times of operation.
  - (5) Grading of the premises for proper drainage.
  - (6) Regulation of design of access drives, sidewalks, and other traffic features.
  - (7) Regulation of the number, size, and lighting of signs more stringent than the requirements of this Ordinance.

**15.8.3 Variances:** The Board of Adjustment shall hear and decide requests to vary the terms of this Ordinance. At the hearing on the application, the applicant shall present testimony and other evidence to establish that all five conditions for a variance have been met. Testimony shall be allowed in accordance with the provisions of 15.7.2 of this Section.

- (a) No variance shall be granted unless all of the following conditions are met.
- (1) No decrease in the value of surrounding properties would be suffered.
  - (2) Granting the variance would not be contrary to the public interest.
  - (3) By granting the variance, substantial justice would be done.
  - (4) The spirit and intent of the Ordinance will not be broken by granting the variance.

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- (5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
- (a) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:
- (i) No fair and substantial relationship exists between the general public purposes of the Ordinance provision and the specific application of that provision to the property.
- (ii) The proposed use is a reasonable one.
- (b) If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of “unnecessary hardship” set forth in subparagraph (5) shall apply when the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

**15.8.4 Equitable Waivers:** The Board shall hear and decide requests for equitable waivers when a lot or structure thereupon, is discovered to be in violation of dimensional requirements imposed by the Zoning Ordinance. To grant equitable waivers to the dimensional requirements of the Zoning Ordinance, the applicant must prove to the Board’s satisfaction each and every element of the following:

- (a) That the violation was unknown to the owner, owner’s predecessors, owner’s agent or representative, or municipal official, until after the structure in violation had been substantially completed, or until after a lot or other division of land in violation had been conveyed to a bona fide purchaser for value (i.e. an innocent purchaser who had no knowledge or reason to know of any problems and who, in good faith, paid full value);
- (b) That the violation was caused by a good faith error in measurement or calculation by an owner or agent or an error in interpretation of the Ordinance or its applicability by a municipal official in the process of issuing a permit, while that official was acting within the scope of his/her authority;
- (c) That no public or private nuisance may be created by the violation;
- (d) That there will be no diminution in the value of other property in the area;
- (e) That the violation will not interfere with or adversely impact any present or permissible future uses of any such property; and

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- (f) That due to the degree of past construction or investment, the cost to correct the violation so far outweighs the public benefit to be gained that it would be inequitable to require the violation to be corrected.

In lieu of the findings required by the Board under subparagraphs (a) and (b) above, the owner may demonstrate to the satisfaction of the Board that the violation has existed for ten (10) years or more and no enforcement action, including written notice of violation, has been initiated regarding the violation by the Town or anyone directly affected by the violation.

Waivers shall be granted under this section only from physical layout, mathematical, or dimensional requirements (e.g. setbacks, frontage or area), and not from use restrictions. An equitable waiver granted under this section shall not be construed as a non-conforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

**15.9 FINDINGS OF FACT** The Board of Adjustment shall present findings of fact for all its decisions and shall enter such findings in its records.

**15.10 REPRESENTATIONS** Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or uses which are subject to regulation pursuant to subsection 15.8.2 or 15.8.3 shall be deemed conditions upon such special exception or variance.

**15.11 MODIFICATIONS** The granting of any appeal by the Board shall not exempt the applicant from any provision of this Ordinance not specifically ruled upon by the Board or specifically set forth as expected in this particular case from a provision of this Ordinance. It shall be unlawful for any owner or person to reconstruct, convert or alter a structure or change the use, increase the intensity of use, or extend or displace the use of any building, other structure or lot, or change any required limitations or special conditions imposed by the Board in authorizing a special exception or variance without appealing to the Board as a new case over which the Board shall have complete administrative power to deny, approve or modify.

**15.12 EXPIRATION OF SPECIAL EXCEPTIONS AND VARIANCES** Unless otherwise specified in the decision granting the special exception or variance in questions, a special exception or variance granted by the Zoning Board of Adjustment shall expire if:

- (a) The special exception or variance is not used within two years following the date of a final decision granting such special exception or variance; or
- (b) The special exception or variance is discontinued for a period of two years or more following the date of the final decision granting such special exception or variances.

The provisions of paragraph 15.12 shall apply only to special exceptions and variances granted after the effective date of this paragraph. *Note: Effective date March 13, 2007.*

**SECTION XVI  
AFFORDABLE HOUSING  
INNOVATIVE LAND USE CONTROL**

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**16.1 AUTHORITY** This Section is enacted in accordance with the provisions of RSA 674:21 which authorize municipalities to establish inclusionary zoning designed to produce affordable housing by offering incentives for the production of such housing.

**16.2 PURPOSES** The purposes of this Section are to:

- (a) Provide a realistic opportunity for low and moderate income individuals and families to obtain affordable housing in the Town of Hopkinton,
- (b) Provide appropriate incentives to encourage the production of such housing,
- (c) Provide standards and safeguards to make certain that the housing produced remains affordable to those in need.

**16.3 DEFINITIONS** The following words are specifically defined for purposes of this Section of the Zoning Ordinance:

**16.3.1 Affordable Housing:** A housing unit which is (a) a rental unit in which the rent, including heat and utilities, does not exceed 30 percent of the income of a low or moderate income household living therein, or (b) an owner occupied unit, including a condominium, for which the total cost of monthly mortgage (principal and interest), taxes, insurance, and condominium fees do not exceed 30 percent of a low or moderate income household living therein.

**16.3.2 Eligible Elderly Household:** An individual or couple in which the individual or at least one person of the couple is 60 years of age or older and who by income qualifies as a low income or moderate income household as defined in this Section.

**16.3.3 Fair Share:** A community's share of low and moderate income individuals and families having a need for housing as calculated every five years by the Central New Hampshire Regional Planning Commission in accordance with the provisions of RSA 36:47 II.

**16.3.4 Low Income Person/Family:** A person or family which has a household income of 80 percent or less of the median income adjusted for family size of Merrimack County as published annually by the U.S. Department of Housing and Urban Development.

**16.3.5 Moderate Income Person/Family:** A person or family which has a household income of from 80 to 120 percent of the median income adjusted for family size of Merrimack County as published annually by the U.S. Department of Housing and Urban Development.

**16.4 PROCEDURES** The Planning Board is authorized to review and approve plans for affordable housing in the same manner specified in Section 8.4.1 of this Ordinance or Sections 9.4 or 9.5, as applicable, unless modified in this Section.

**16.4.1 Authorized Incentives:** The Planning Board is hereby authorized as administrator of this Innovative Land Use Control Ordinance to approve projects under this Section which are designed to provide incentives for the creation of affordable housing. Unless changed in this Section, the remaining provisions of Sections VIII and IX shall prevail.

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AFFORDABLE HOUSING  
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**16.5 AFFORDABLE HOUSING CRITERIA** The Planning Board will authorize development incentives providing the following affordable housing development characteristics are met:

**16.5.1 Minimum Affordable Units:** In order to be considered an affordable housing development, at least 40 percent of the total number of dwelling units in the project must be available for and occupied by individuals and families whose total household income at the time of occupancy is no greater than 120 percent of the median income adjusted to household size of the annual Merrimack County figure and who, when they occupy the unit, will pay no more than 30 percent of their income for housing costs as defined in Section 16.3.1. The developer may elect to construct up to 100 percent of the units meeting the affordable criteria.

**16.5.2 Bedroom Mix:** No more than 25 percent of the affordable units may be one bedroom or studio units, unless the entire development is limited to the elderly. No more than 25 percent of the affordable units may be three bedroom units or more.

**16.5.3 Guarantee of Affordability:** In order to qualify as an affordable housing development, the developer must present covenants and/or other contractual guarantees, approved by the Town Counsel, which assure that no less than 40 percent of the total units will be affordable and made available to low and moderate income families for at least 20 years.

The developer may propose to meet the guarantee by:

- (a) Constructing housing financed by the Farmer's Home Administration, Section 515, and presenting certification from the FHA that the affordability criteria have been met for each low or moderate income household occupant.
- (b) Constructing housing financed by the New Hampshire Housing Finance Authority or any other governmental agency and presenting certification from the governmental agency that the affordability criteria have been met for each low or moderate income household occupant.
- (c) Constructing privately financed housing and presenting certification from the Concord Housing Authority, New Hampshire Housing Finance Authority, or other appropriate agency acceptable to the Planning Board that the affordability criteria has been met for each low or moderate income household occupant.

**16.6 AFFORDABLE HOUSING INCENTIVES FOR SECTION VIII** The Planning Board is authorized to permit the following incentives provided that the criteria in Section 16.5 are met:

**16.6.1 Where Allowed:** Affordable housing conservation subdivisions will be allowed in R-3, R-2 and R-1 Districts, provided that the project is in compliance with Section VIII, Conservation Subdivisions and Section XVI Affordable Housing, Innovative Land Use Control, of this Ordinance. Elderly Affordable Housing will be allowed in the B-1 District and those portions of the R-1 and VR-1 Districts serviced by municipal sewer and water by Special Exception.

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**16.6.2 Dwelling Unit Configuration:** Dwelling units may be configured in the following ways:

District	Configuration
R-3	Single family detached or attached units with up to four units per building, providing all units have direct access (not through a common corridor) to the ground and have some living area at ground level, either site built or pre-site built.
R-2, R-1, VR-1	Single family detached or attached units with up to twelve units per building providing all units have direct access (not through a common corridor) to the ground and have some living area at ground level, either site built or pre-site built.
B-1, R-1, VB-1, and VR-1 within the Contoocook Precinct serviced by municipal water & sewer for Elderly Affordable Housing only.	<p>Single family detached or attached units with up to twelve units per building providing all units have direct access (not through a common serviced by Municipal water corridor) to the ground and have some living area at ground level.</p> <p>The above density and design limitations may be waived by grant of Special Exception by the Zoning Board of Adjustment if the applicant can prove to the Board's satisfaction that an increased number of units and design modifications promote the health and welfare of the residents of the building(s) without, in any way, adversely affecting surrounding properties. All other requirements for a Special Exception must be met.</p>

The units may be rental units or of condominium or cooperative form of ownership.

**16.6.3 Dwelling Unit Density:** The total acreage, measured in square feet, excluding the surface area of water bodies and excluding wetlands, shall be divided by the square feet per dwelling unit specified below to calculate the maximum allowable density within the conservation subdivision.

Density	Square Feet Per Dwelling Unit
R-3	60,000 sq. ft.
R-2	45,000 sq. ft. if neither public water or sewer.
	40,000 sq. ft. if public water but no sewer.
	35,000 sq. ft. if public water and sewer.
R-1, VR-1	40,000 sq. ft. if neither public water or sewer.
	35,000 sq. ft. if public water but no sewer.
	30,000 sq. ft. if public water and sewer.
B-1 and VB-1 (special exception), R-1 and VR-1 within Contoocook Precinct Elderly Affordable Housing.	15,000 sq. ft. and 2,000 sq. ft. for each dwelling unit more than one in a building.

All projects must receive the approval of the Water Supply and Pollution Control Commission showing that no pollution will occur as a result of these densities.

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**16.6.4 Site Size:** There shall be no minimum site size as specified in Section 8.6.3. All structures may be placed on the conservation subdivision site in a manner to minimize environmental impact providing the structures comply with the dimensional requirements in Section 8.6.4 unless modified in Section 16.6.5.

**16.6.5 Dimensional Requirements:** The conservation subdivision shall comply with Section 8.6.4 except that the minimum spacing between structures shall be 35 feet.

**16.7 BUILDING CONFIGURATION** In no case shall manufactured housing allowed herein be attached to create more than one dwelling unit per building.

**16.8 MAXIMUM PROJECT SIZE** No affordable housing development, proposed pursuant to this Section, shall exceed 50 units in total size.

**16.9 MAXIMUM NUMBER OF AFFORDABLE UNITS** No more than 50 affordable housing units will be approved by the Planning Board in any calendar year.

**16.10 TERMINATION OF INCENTIVES** This Section shall terminate when the Planning Board has approved the Town's total fair share of low and moderate income housing units for each decade. The Planning Board will notify the Board of Selectmen when this figure has been met.

**16.11 REINSTATEMENT OF INCENTIVES** The fair share calculation of low moderate income housing needs shall be recalculated following each decennial U.S. Census. Any unmet fair share unit accommodation balance shall not be carried over to the subsequent decade. The fair share housing calculation, once determined, shall be filed with the Board of Selectmen. The incentive system shall be reinstated, without further ordinance adoption, when a fair share housing need is calculated.

**SECTION XVII**  
**FLOODPLAIN DEVELOPMENT ORDINANCE**

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The following regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency in its “**Flood Insurance Study of the County of Merrimack, NH**” dated April 19, 2010, together with the associated Flood Insurance Rate Maps dated April 19, 2010, and are declared to be part of the Hopkinton Floodplain Development Ordinance.

**17.1 DEFINITION OF TERMS.**

**17.1.A.1 Area of Special Flood Hazard** is the land in the flood plain with a community subject to a one percent or greater chance of flooding in any given year. The area is designated a Zone(s) “A” and “AE” on the Flood Insurance Rate Map.

**17.1.B.1 Base Flood** means the flood having a one percent chance of being equaled or exceed in any given year.

**17.1.B.2 Basement** means any area of the building having its floor subgrade (below ground level) on all sides.

**17.1.B.3 Building** See “Structure.”

**17.1.D.1 Development** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**17.1.F.1 FEMA** means the Federal Emergency Management Agency.

**17.1.F.2 Flood or Flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**17.1.F.3 Flood, 100 Year** See “Base Flood.”

**17.1.F.4 Flood Elevation Study** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-rated erosion hazards.

**17.1.F.5 Flood Insurance Rate Map (FIRM)** means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

**17.1.F.6 Flood Insurance Study** See “Flood Elevation Study”.

**17.1.F.7 Floodplain or Flood-prone Area** means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

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**17.1.F.8 Flood Proofing** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**17.1.F.9 Floodway** See “Regulatory Floodway.”

**17.1.F.10 Functional Dependent Use** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, or ship building and ship repairs facilities, but does not include long-term storage or related manufactured facilities.

**17.1.H.1 Highest Adjacent Grade** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**17.1.H.1 Historic Structure** means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior, or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

**17.1.L.1 Lowest Floor** means the lower floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor: Provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**17.1.M.1 Manufactured Home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

**17.1.M.2 Manufactured Home Park or Subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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**17.1.M.3 Mean Sea Level** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**17.1.N.1 New Construction** means, for the purpose of determining insurance rates, structure for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, **new construction** means structures for which the **start of construction** commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**17.1.R.1 Recreation Vehicle** means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**17.1.R.2 Regulatory Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. These areas are designated as floodways on the Flood Insurance Rate Maps.

**17.1.R.3 Riverine** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**17.1.S.1 Special Flood Hazard Area** means an area having special flood mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FIRM as Zone "A" or "AE". (See Area of Special Flood Hazard)

**17.1.S.2 Start of Construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within the time limit designated by the Hopkinton Zoning Ordinance. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; or does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**17.1.S.3 Structure** means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**17.1.S.4 Substantial Damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

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**17.1.S.5 Substantial Improvement** means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of a building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places.

**17.1.V.1 Violation** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR § 60.3(b) (5), (c) (10), (d) (3), (e) (2), (e) (4), or (e) (5) is presumed to be in violation until such time as the documentation is provided.

**17.1.W.1 Water Surface Elevation** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or the datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

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

**17.3** The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**17.4** Where new and replacement water and sewer systems (including on-site systems) are proposed in flood-prone areas the applicant shall provide the Building Inspector with assurance that new and replacement sanitary sewage systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

**17.5** The Building Inspector shall maintain for public inspection, and furnish upon request, any certification of flood-proofing and the as built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement. If the structure has been flood-proofed, the as built elevation (in relation to mean sea level) to which the structure was flood-proofed. This information must be furnished by the applicant.

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**17.6** The Building Inspector shall review proposed developments to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. It shall be the responsibility of the applicant to certify these assurances to the Building Inspector.

**17.7** In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector.

Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse has been maintained.

Along watercourses that have a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the designated Regulatory Floodway that would result in any increase in flood levels within the community during the base flood discharge. In Zone "A" the Building Inspector shall obtain, review, and reasonably utilize any floodway data available from a Federal, State, or other source as criteria for requiring that development meet the floodway requirement of this section.

Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zone "A1-30" and "AE" on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

**17.8**

- (1) In special flood hazard areas the Building Inspector shall determine the 100 year flood elevation in the following order of precedence according to the data available.
  - (a) In Zone "AE" refer to the elevation provided in the communities Flood Insurance Study and accompanying FIRM or FHBM.
  - (b) In "A" zones the Building Inspector shall obtain, review, and reasonably utilize any 100 year flood elevation data available from Federal, State, development proposals submitted to the community (example subdivisions, site approvals, etc.) or other source.
- (2) The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in Zones "AE" and "A" that:
  - (a) All new construction and substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level;

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- (b) That all new construction and substantial improvement of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:
  - (i) Be flood-proofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
  - (iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;
- (c) All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
- (d) Recreation vehicles placed on sites within Zones "AE" and "A" shall be either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the Elevation and Anchoring Requirements for "Manufactured Homes" in paragraph (c) of Section 60.3;
- (e) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided the enclosed areas meet the following requirements: (1) the enclosed area is unfinished or flood resistant, useable solely for parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
- (f) Proposed structures to be located on slopes in Special Flood Hazard Areas, Zones "AH" and "AO", shall include adequate drainage paths to guide flood waters around and away from the proposed structures.

**17.9 Variances and Appeals:**

- (1) Any order, requirement, decision or determination of the Building Inspector made under this Ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

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- (2) If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
- (a) That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
  - (b) That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
  - (c) That the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (3) The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

The Floodplain Development Ordinance was adopted under Article 7 at the Hopkinton, N.H. Town Meeting held March 9, 1988.

## SECTION XVIII OUTDOOR LIGHTING ORDINANCE

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### **18.1 TITLE AND AUTHORITY**

**18.1.1** This Ordinance shall be known and cited as the “Outdoor Lighting Ordinance” for the Town of Hopkinton, New Hampshire.

**18.1.2** This Outdoor Lighting Ordinance was adopted by the Town of Hopkinton, NH on March 14, 2005 and is effective the same date.

**18.1.3** The authority for this Ordinance is found in New Hampshire Revised Statutes 674:16 (Grant of Power) and 674:21 (Innovative Land Use Controls).

**18.1.4** The Planning Board may alter the specifications of this Ordinance, when after testimony of the Applicant, it determines it is in the best interest of the Town and all other parties involved, and subject to any condition(s) the Planning Board may impose as it deems appropriate.

### **18.2 PURPOSE AND INTENT**

**18.2.1** Pursuant to recommendations of the Town of Hopkinton Master Plan Chapter IV Current and Future Land Use, the purpose of this Ordinance is to provide guidelines and standards for outdoor lighting.

**18.2.2** It is the intent of this Ordinance to recognize the benefits of outdoor lighting and provide guidelines for its installation so as to help maintain and compliment the character of Hopkinton. Appropriately regulated, and properly installed, outdoor lighting will contribute to the safety and welfare of the residents of the Town while eliminating excessive glare, light trespass, loss of privacy, and forms of signage which should not be permitted.

**18.2.3** It is the intent of this Ordinance to encourage, through the regulation of the types, kinds, construction, installation, and uses of outdoor electrically powered illuminating devices, lighting practices, and systems, to conserve energy without decreasing safety, utility, security, and productivity while enhancing nighttime enjoyment of property.

**18.2.4** It is also the intent of this Ordinance to minimize the intrusion of lighting across property lines, therefore avoiding disruption of the quality of life for nearby private residences, and, to avoid the disruption of natural instinctive cycles of flora and fauna within nearby natural areas.

**18.2.5** The provisions of this Ordinance are not intended to prevent the use of any design, material, any method of installation, or any operation not specifically prescribed by this Ordinance, provided any such alternate has been approved by the Planning Board.

### **18.3. APPLICABILITY AND REGULATIONS:**

**18.3.1** All outdoor electrically powered illuminating devices shall be installed in conformance with the provisions of this Ordinance, the Building Code, the Electrical Code, and the Section VII of the Zoning Ordinance (“Sign Ordinance”) of the Town of Hopkinton as applicable and under appropriate permit and inspection. All previous language in Hopkinton bylaws and ordinances regarding outdoor lighting is replaced with this ordinance.

**SECTION XVIII**  
**OUTDOOR LIGHTING ORDINANCE**

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**18.3.2 General Lighting Restrictions:**

- (a) Any luminaire with a lamp or lamps rated at a total of MORE than 2000 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of MORE than 2000 lumens shall be fully shielded.
- (b) Any luminaire with a lamp or lamps rate at a total of MORE than 2000 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of MORE than 2000 lumens, shall be mounted at a height equal to or less than the value  $3 + (D/3)$ , where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire may not exceed 25 feet.
- (c) No luminaire may be aimed, directed or focused so as to cause direct light from the luminaire to be projected onto adjacent or nearby properties or to create glare perceptible to persons operating motor vehicles on public (or private) ways.
- (d) Lighting shall be designed to limit any increase in off-site illumination to a maximum of two-tenths (.0.2) of a foot candle as measured at all property boundary lines.

**18.3.3 Canopies:** Luminaries mounted on a canopy shall be recessed in the ceiling of the canopy so that the lens cover is recessed or mounted flush with the ceiling of the canopy and is fully shielded. Luminaries shall not be mounted on the sides or top of the canopy, and the sides or fascias of the canopy shall not be illuminated.

**18.3.4 Outdoor Advertising Signs:**

- (a) **Top Mounted Fixtures Required:** Lighting fixtures when used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure. All such fixtures shall comply with the shielding requirements of Section 18.3.2 above. Bottom-mounted outdoor advertising-sign lighting shall not be used.
- (b) **Internally Illuminated signs are prohibited:** Internally illuminated signs within a building which are visible from the exterior of the building are also prohibited.
- (c) **Compliance Limit:** Existing outdoor advertising structures shall be brought into conformance with this Ordinance within ten years from the date of adoption of this provision.
- (d) **Prohibitions:** Electrical illumination of outdoor advertising off-site signs is prohibited.

**18.3.5 Prohibitions:**

- (a) **Laser Source Light.** The use of laser source light or any similar high intensity light for outdoor advertising, when projected above the horizontal is prohibited.
- (b) **Searchlights.** The operation of searchlights for advertising purposes is prohibited.
- (c) **Flashing and rotating lights** are prohibited.

**SECTION XVIII**  
**OUTDOOR LIGHTING ORDINANCE**

---

**18.3.6 Non-Conforming Outdoor Lighting:**

- (a) Nonconforming temporary outdoor lighting may be permitted by the Planning Board after considering the public and/or private benefits that will result from the outdoor lighting as well as considering any annoyance or safety problems that may result from the use of the outdoor lighting.
- (b) The applicant shall submit a detailed description of proposed nonconforming lighting to the Planning Board, who shall consider the request at a duly called public meeting.

**18.4. EXCEPTIONS** The following are exempt from these regulations:

- 18.4.1** Temporary luminaries required for construction projects.
- 18.4.2** Luminaries related to police, fire, or other emergency services.
- 18.4.3** Hazard warning luminaries required by Federal regulatory agencies.
- 18.4.4** Temporary seasonal luminaries (not to exceed 45 days) in any calendar year.
- 18.4.5** Events pursuant to the authority of the Board of Selectmen and Zoning Board of Adjustment.
- 18.4.6** Lighting of architecturally significant buildings, structures, or monuments or building features subject to Planning Board approval.

**18.5. DEFINITIONS** For the purposes of this Ordinance, terms used shall be defined as follows:

**Cut-off Angle (of a luminaire):** The angle, measured up from the nadir, between the vertical axis and the first line of sight at which the bare source is not visible.

**Fixture:** The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

**Flood or Spot light:** Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

**Fully Shielded Lighting:** Lighting in which the light rays emitted by the fixture are projected below the horizontal plane.

**Glare:** Light emitting from a fixture with intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

**Internally Illuminated Sign:** Internally Illuminated means a sign illuminated by light sources enclosed entirely within the sign cabinet and not directly visible from outside the sign.

**Light Trespass:** Any artificial light falling outside of the boundaries of the property upon which it is installed.

## SECTION XVIII OUTDOOR LIGHTING ORDINANCE

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**Lumen**: A unit of luminous flux. One foot-candle is one lumen per square foot. For the purposes of this Ordinance, the lumen-output values shall be the initial lumen output ratings of a lamp.

**Luminaire**: This is a complete lighting system, and includes a lamp or lamps and a fixture.

**Outdoor Lighting Fixture**: Outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination, decoration, or advertisement. Such devices shall include, but are not limited to search, spot, and flood lights at or on

- (1) Buildings and structures,
- (2) Recreational areas,
- (3) Parking lot lighting,
- (4) Landscape lighting,
- (5) Billboards and other signs (advertising or other),
- (6) Street lighting,
- (7) Product display area lighting.

**Photometric/Photometry**: The measurement of light as produced by specific light fixtures indicating the foot-candle intensities of visible light.

### **18.6 SUBMISSIONS**

**18.6.1** Commercial, Retail, and multifamily projects shall comply with the following submission requirements in addition to any other requirements within the zoning ordinance.

**18.6.2** Submission Contents: The applicant for any permit required by any provision of the laws of this jurisdiction in connection with proposed work involving outdoor lighting fixtures shall submit (as part of the application for permit) evidence that the proposed work will comply with this Ordinance. The submission shall contain but shall not necessarily be limited to the following, all or part of which may be part or in addition to the information required elsewhere in the laws of this jurisdiction upon application for the required permit:

- (a) Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;
- (b) Description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufacturers and drawings;
- (c) Photometric data, such as that furnished by manufacturers or similar showing the angle of cut off or light emissions.

**18.6.3** Additional Submission: The above required plans, descriptions and data shall be sufficiently complete to enable the plans examiner to readily determine whether compliance with the requirements of this Ordinance will be secured. If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so

**SECTION XVIII  
OUTDOOR LIGHTING ORDINANCE**

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provided that these tests shall have been performed and certified by a recognized testing laboratory.

The chart below is provided to assist the reader in understanding the lumen output values. The chart is not intended to be adopted as part of this ordinance.

Type		Shape	Wattage	Lumens	Life/Hours	
Incandescent	A19	Standard soft white bulb	100W	1690	750	A19
Incandescent	A19	Standard A19 clear	100W	1720	750	
Incandescent	A19	Standard A19 clear	75W	1200		
Incandescent	A19	Standard soft white bulb	60W	850	1,000	
Incandescent	A19	Sylvania "daylight"	60W	640		
Incandescent	R30/FL	Flood Light	65	640	2,000	
Incandescent	150FL	Flood Light	150W	1350	2,000	
Compact Fluorescent	CF	Sylvania Dulux	30W	2000	6,000	CF
Compact Fluorescent	CF	Sylvania Dulux	20W	1200	10,000	
Compact Fluorescent	CF	Sylvania Dulux	13W	800	8,000	
Compact Fluorescent	CF/BR	Sylvania Dulux / Reflector	15W	560	6,000	
Halogen	PAR/38	Halogen Flood light	120W	1800	3,000	
Halogen	BT	Sylvania Halo Bright	100W	1710	3,000	
Halogen	BT	Sylvania	60W	880	3,000	

**SECTION XIX  
AMENDMENTS**

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**19.1 PROCEDURE** The provisions of this Ordinance may be amended or changed at any regular or special Town Meeting by a majority of the voters present as provided by the Revised Statutes Annotated of the State of New Hampshire.

**SECTION XX  
VIOLATIONS AND PENALTIES**

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**20.1 VIOLATIONS** Upon information from the Building Inspector that the provisions of this Ordinance are being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of this Ordinance as provided by the Revised Statutes Annotated of the State of New Hampshire.

**20.2 PROSECUTION OF VIOLATION** If the notice of violation and order is not complied with promptly, the Selectmen shall institute the appropriate action or proceeding at law or inequity to prevent any unlawful action, use or condition and to restrain, correct, or abate such violation.

**20.3 PENALTIES** Any person, firm or corporation violating any provisions of this Ordinance shall be subject to a fine of \$100.00 for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the municipality that he is in violation of any ordinance or regulation adopted under this title, whichever date is earlier.

**SECTION XXI  
VALIDITY AND EFFECT**

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**21.1 SEPARABILITY** If any section, clause, provision or portion of this Ordinance or boundary shown on the Zoning Map shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect or impair any other section, clause, provision or portion of this Ordinance or the Zoning Map.

**22.2 DATE OF EFFECT** This Ordinance, and amendments, shall take effect immediately upon passage.

**APPENDIX A**  
**ZONING AMENDMENTS BY YEAR**

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**ZONING ORDINANCE**

Town of Hopkinton, New Hampshire

**Adopted: November 8, 1988**

**Amended: March 14, 1989, Town Meeting, Article II**

- Rezone an area in West Hopkinton from M-1 to R-3.
- Rezone an area on the northerly side of Patch Road from R-3 to R-4.
- Section IV, Dimensional and Density Requirements.
- Section IV, 4.2 Table of Dimensional Requirements.
- Section IV, 4.3 Explanatory Notes of Table of Dimensional Requirements.
- Section IV, 4.5 Maximum Units Per Development.
- Section IX, 9.4.2 Size of Manufactured Housing Parks.
- Section XIII, 13.4 Indicators of Growth Impact.
- Section XIII, 13.6.1 Phasing Required for Developments.
- Section XVI, 16.6.1, Affordable Housing, Where Allowed.
- Section XVI, 16.6.2 Dwelling Unit Configuration for Affordable Housing.
- Section XVI, 16.6.3 Dwelling Unit Density for Affordable Housing.

**Amended: March 13, 1990 Town Meeting, Article II**

- Section II, 2.1.B.2.a Bed & Breakfast Home.
- Section III, Table of Uses 3.6.B.2 Bed & Breakfast Home.
- Section III, Table of Uses 3.6.B.3 Hotels, Motels, Inns.
- Section III, Table of Uses 3.6.F.2 Business Offices.
- Section III, Table of Uses 3.6.F.3 Professional Offices.
- Section III, 3.7.3 Home Occupation.
- Section III, 3.7.4 Bed & Breakfast Home.
- Section IV, 4.4.3 Principal Structure.
- Section X, 10.4 Residential Tenting/Recreational Camping Vehicles.

**Amended: March 12, 1991 Town Meeting, Article II**

- Section III, Table of Uses 3.6.F.16 Beauty Parlor, Barber Shop (note numerical change).
- Section IV, 4.2 Table of Dimensional Requirements.
- Section IV, 4.4.3 Principal Structure.
- Section V, 5.1.2 Expansion of a Non-Conforming Use, deleted in its entirety and substituted new language.
- Section VII, 7.3 Permitted Signs.
- Section XIII, 13.9 Re-adopt Growth Management & Innovative Land Use Control Ordinance.

**Amended: March 8, 1994 Town Meeting, Article II**

- Section II, 2.1.B.2.B Definition of Buffer (note alphabetical change)
- Section VI, 6.3.F Parking Spaces for Business/Professional Offices
- Section X, 10.4.1 (a) Residential Tenting/Recreational Camping Vehicles, limitations of occupancy at the Hopkinton Fair Grounds.
- Section XII, 12.4 Wetland Delineation.
- Section XVII, Flood Plain Development Ordinance.
- Section XVII, Item I, Definition of Recreational Vehicles.
- Section XVII, Item VIII (2), Placement of Recreational Vehicles.
- Section XVII, Item VIII (2), Change in alphabetical sequence of paragraphs.

**APPENDIX A**  
**ZONING AMENDMENTS BY YEAR**

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**Amended: March 14, 1995 Town Meeting, Article II**

- Rezone an area near the Hopkinton/Warner Town Line from M-1 to R-4.
- Section II, 2.1.H.1 Definition of Home Occupation (formerly known as).
- Section III, Table of Uses 3.6.F.10 Pet Grooming.
- Section III, Table of Uses 3.6.F (change numerical sequence of Commercial Uses).
- Section III, Table of Uses 3.6.H.1 Accessory Uses.
- Section III, 3.8 Fair District (overlay).
- Section X, 10.4.1 (a) Residential Tenting/Recreational Camping Vehicles, limitations of occupancy at the Hopkinton Fair Grounds (deleted).
- Section X, 10.4.2 Location of Residential Tenting/Recreational Camping Vehicles.
- Section XI, 6.4.3 Parking Specifications, Surface.
- Section XI, 11.3 Regulator of Location Regulation of Excavation.
- Section XI, 11.7 Professional Review of Proposed Excavation Plans.
- Section XIII, 13.9 Re-adopt Growth Management & Innovative Land Use Control Ordinance.
- Section XVI, 16.6.1 Affordable Housing, Where Allowed.

**Amended: March 12, 1996 Town Meeting, Article II**

- Section II, 2.1.E.1 Essential Services, change in definition.
- Section III, 3.8.4.2 Fair District (overlay), agency response.
- Section III, 3.8.4.4 Fair District (overlay), additional expenses.
- Section III, 3.8.5 and 3.8.5.1 Non-Fair Uses Permitted without a Special Use Permit.
- Section III, 3.8.5.1.1 (renumbered 3.8.5.1) Fair District Overlay, notification change.
- Section III, 3.8.5.1.2 (renumbered 3.8.5.2) Fair District Overlay, attendance change.
- Section III, 3.8.5.2.2 (renumbered 3.8.6.2) Fair District Overlay, attendance change.
- Section III, 3.8.5.2.3 (renumbered 3.8.6.3) Fair District Overlay, submittal requirement.
- Section III, 3.8.5.2.4 (renumbered 3.8.6.4) Fair District Overlay, notification change.
- Section III, Table of Uses 3.6.E.14 Institutional Uses/Community Facilities, Buildings necessary for the furnishing of non-essential services by a public utility.
- Section III, Table of uses 3.6.E Institutional Uses/Community Facilities (change the numerical sequence of uses)

**Amended: March 11, 1997 Town Meeting, Article II**

- Section II, 2.1.H.1 Home Occupation, deleting the definition of Home Occupation and substituting the definition of Home Business.
- Section II, 2.1.H.2 Home Occupation, adding new definition and changing numerical sequence of definitions.
- Section II, 2.1.T.1 Telecommuting, adding new definition and changing numerical sequence of definitions.
- Section II, 2.1.T.1 (renumber to 2.1.T.2)
- Section II, 2.1.U.3, Adult Uses, new definition.
- Section III, Table of Uses 3.6.A.8 Home Occupation, changing the words “Home Occupation” to “Home Business”.
- Section III, Table of Uses 3.6.A.11 adding the words, “Uses, Adult in accordance with Section III, paragraph 3.9” as a use permitted by special exception in the commercial district.
- Section III, Table of Uses 3.6.A.12 adding the words, “Telecommuting in accordance with Section III, paragraph 3.7.5” as a permitted use in all districts.
- Section III, Table of Uses 3.6.F.18 adding the words, “Uses, Adult in accordance with Section III, paragraph 3.9” as a use permitted by special exception in the commercial district.
- Section III, 3.7.3 Home Business
- Section III, 3.7.5 Telecommuting and Home Occupation
- Section III, 3.9 Use, Adult

**APPENDIX A**  
**ZONING AMENDMENTS BY YEAR**

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**Amended: March 11, 1997 Town Meeting, Article II (Continued)**

- Section III, 3.10 Wireless Telecommunication Facilities
- Section XVII, Item I Flood Plain Development Ordinance, add definition of FEMA, Historic Structure and Substantial Damage.
- Section XVII, Item I Flood Plain Development Ordinance, delete definition of Coastal High Hazard Zone, Flood Hazard Boundary Map and V-Zone.
- Section XVII, Item VIII.2.a Flood Plain Development Ordinance, elevation of new construction or substantial improvement of residential structures.
- Section XVII, Item VIII.1.d Flood Plain Development Ordinance, concerning recreational vehicles (renumber Item VIII.2.d).
- Section XVII, Item IX, Flood Plain Development Ordinance, add Variance and Appeals.

**Amended: March 10, 1998 Town Meeting, Article II**

- Section II, 2.1.B.2.a Bed and Breakfast Home, change title to Bed & Breakfast Home/Inn.
- Section II, 2.1.B.2.a Bed and Breakfast Home, changing the definition.
- Section II, 2.1.B.2.b Bed and Breakfast Inn, add new definition (renumber existing 2.1.B.2.b as 2.1.B.2.c)
- Section II, 2.1.D.6 Dwelling Unit, changing the definition.
- Section II, 2.1.H.4 Hotel, changing the definition.
- Section II, 2.1.L.2 Lodging Unit, changing the definition.
- Section III, Table of Uses 3.6.B.2 changing the words to “Bed & Breakfast Home/Inn in accordance with Section III, paragraph 3.7.3 and 3.7.4”.
- Section III, Table of Uses 3.6.B.3 Bed and Breakfast Inn as a permitted use in the commercial district, as a use permitted by special exception in all residential districts and as a prohibited use in the industrial district (renumber existing 3.6.B.3 as 3.6.B.4).
- Section III, 3.7.4 Bed and Breakfast Home, change title to Bed and Breakfast Home/Inn.
- Section III, 3.7.4 Bed and Breakfast Home, striking the existing text serving as the preamble and substituting new text.
- Section III, 3.7.4 Bed & Breakfast Home/Inn, increasing the allowable bedrooms.
- Section III, 3.7.4 Bed & Breakfast Home/Inn, increasing the allowable nights.
- Section III, 3.7.4.a Bed & Breakfast Home, concerning the number of lodging units.
- Section III, 3.7.4.b Bed & Breakfast Home, concerning off street parking.
- Section III, 3.7.4 Bed & Breakfast Home, renumber existing items b. through g. as items c. through h.
- Section III, 3.7.4.c Bed & Breakfast Home, concerning meals served to guest.
- Section III, 3.7.4.f Bed & Breakfast Home, concerning length of stay of guest.
- Section III, 3.7.6 Bed & Breakfast Inn.
- Section VI, 6.3.c Bed & Breakfast Home and Bed & Breakfast Inn parking requirements.
- Section VI, 6.3.g Hotel parking requirements.
- Section XIII, 13.3 Growth Management and Innovative Land Use Control Ordinance, update statistical information.
- Section XIII, 13.3 Readopt Growth Management and Innovative Land Use Control Ordinance.

**Amended: March 9, 1999 Town Meeting, Article II**

- Section II, 2.1.C.2.a Certified Soil Scientist, new definition.
- Section II, 2.1.C.2.b Certified Wetland Scientist, new definition.
- Section II, 2.1.C.2.c Child Care, Day Care Nursery, new definition.
- Section II, 2.1.C.2.d Child Care, Family Group Home, new definition.
- Section II, 2.1.C.2.e Child Care, Family Home, new definition.
- Section II, 2.1.C.2.f Child Care, Group Day Care Center, new definition.

**APPENDIX A**  
**ZONING AMENDMENTS BY YEAR**

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**Amended: March 9, 1999 Town Meeting, Article II (Continued)**

- Section II, 2.1.C.2.g Child Care Preschool Program, new definition.
- Section II, 2.1.C.2.h Child Care, School Age Program, new definition.
- Section II, 2.1.E.1 Essential Services, amends definition.
- Section III, Table of uses 3.6.H.15 insert new use “Child Care Family Group Home in accordance with Section III, paragraph 3.7.7,” permitted by special exception in all districts.
- Section III, Table of Uses 3.6.E.17 Essential Services, referencing definition.
- Section III, Table of Uses 3.6.H.14 delete existing use and insert new use “Child Care Family Home in accordance with Section III, paragraph 3.7.7,” permitted in all districts.
- Section III, 3.7.7 Child Care, outlines special provisions in order to provide child care services.
- Section III, 3.7.8 Unoccupied Utility Structures, inserting new paragraph.
- Section VIII, 8.6.1 Area required for Cluster Developments.
- Section VIII, 8.6.7 Common Open Space required for Cluster Developments.
- Section XII, 12.7.3 (b) Wetlands Conservation District (overlay), clarification concerning wetlands being included in the minimum lot size requirement.
- Section XV, 15.8.4 Equitable Waivers, inserting new paragraph.

**Amended: March 13, 2001 Town Meeting, Article II**

- Section II, 2.1.A.4 Agriculture, changing definition to make consistent with NH RSA 21:34.
- Section II, 2.1.C.3 Commercial Use, new definition.
- Section II, 2.1.I.1 Industrial Use, new definition.
- Section II, 2.1.S.3-5 Setbacks, changing definitions and inserting explanatory graphic.
- Section III, 3.7.7 (a) Child Care, revise special provisions in order to provide child care services. Section III, 3.10 Personal Wireless Service Facilities, repeal Wireless Telecommunications Facilities Ordinance and replace with new section.
- Section IV, 4.6 Waiver of Dimensional Requirements by the Planning Board, new section allowing Planning Board, during subdivision review process, to approve new non-conforming lots under certain conditions.
- Section VI, 6.1 Parking Requirements, granting Planning Board authority to waive requirements set forth in Section 6.3.
- Section XIII, 13.3 Readopt Growth Management and Innovative Land Use Control Ordinance.
- Section XIII-A, Impact Fees, new section granting authority to Planning Board to require off-site improvements for subdivisions and site plans under RSA 674:21.
- Section IV, 4.4.3 Principal Structure, allowing multiple principal commercial/industrial buildings and uses on a single lot in the B-1 and M-1 districts.

**Amended: March 12, 2002 Town Meeting, Article II**

- Section III, 3.1 Establishment of Districts and 3.5 Definition of Districts to include the VR-1 (f/k/a R-1), VB-1 (f/k/a B-1), VM-1 (f/k/a M-1) districts.
- Section III, 3.6 Table of Uses as follows:
  - A.1 – Single Family Dwellings in VB-1 changed from a non-permitted use to a use permitted by special exception.
  - A.8 – \*Home Business in VB-1 changed from a use permitted by special exception to permitted and in the VM-1 the use remains as a permitted use.
  - E.3 – Year-round Greenhouse in VB-1 change from a use permitted by special exception to permitted and in the VM-1 the use remains as a permitted use.
  - E.5 – Non-Profit Lodge in VM-1 changed from a non-permitted use to a use permitted by special exception.

**APPENDIX A  
ZONING AMENDMENTS BY YEAR**

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**Amended: March 12, 2002 Town Meeting, Article II (Continued)**

- E.6 – Museums, Historical Association or Society in VM-1 changed from a non-permitted use to a use permitted by special exception.
- F.8 – Motor Vehicle Dealership in VB-1 changed from a use permitted by special exception to non-permitted.
- Section III, 3.6 Table of Uses as follows:
  - F.12 – Airport in VM-1 changed from a use permitted by special exception to non-permitted.
  - F.15 – Commercial Parking Lot in VB-1 changed from a use permitted to non-permitted and in the VM-1 from a use permitted by special exception to non-permitted.
  - F.17 – Beauty Parlor in VR-1 changed from a non-permitted use to a use permitted by special exception.
  - G.3 – Warehousing in VM-1 changed from a permitted use to a use permitted by special exception.
  - G.4 – Freight and Trucking in VM-1 changed from a use permitted by special exception to non-permitted.
  - G.6 – Bulk Storage of Fuels in VB-1 changed from a non-permitted use to a use permitted by special exception and in the VM-1 the use remains as a permitted use.
  - G.7 – Earth Products Removal in the VM-1 changed from a use permitted by special exception to non-permitted.
  - G.11 – Open Storage in VM-1 changed from a use permitted by special exception to non-permitted.
  - G.12 – Closed Storage in VB-1 changed from a use permitted by special exception to non-permitted.
- Section III, 3.10.7.B.1 Personal Wireless Service Facilities Ordinance, Issuance of Conditional Use Permits clarifying the procedures on applications.
- Section III, 3.10.B.2 Personal Wireless Service Facilities Ordinance, Issuance of Conditional Use Permits clarifying appeals of Planning Board decisions.
- Section IV, 4.2 Table of Dimensional Requirements for the VR-1, VB-1 and VM-1 districts.
- Section VI, 6.3 (d) and 6.3 (f) Required Parking by including the requirements for the VR-1, VB-1 and VM-1 districts.
- Section VI, 6.4.1 Parking Size for the VR-1, VB-1 and VM-1 districts.
- Section VI, 6.5.6 Special Exception for use of public parking facilities.
- Section VII, 7.1 Purposes, Signs.
- Section VII, 7.2.4 Special Exception, Signs for the VB-1 and VM-1 districts.
- Section VII, 7.3 Permitted Signs to include the VR-1, VB-1 and VM-1 districts.
- Section VII, 7.4.3 Temporary Real Estate Signs to include the VR-1, VB-1 and VM-1 districts.
- Section VIII, 8.5.1 Cluster Developments, Residential Districts to include the VR-1 districts.
- Section VIII, 8.5.3 Cluster Developments, Dwelling Unit Configuration to include the VR-1 districts.
- Section VIII, 8.6.3 Cluster Developments, Site Size to include the VR-1 districts.
- Section VIII, 8.6.4 Cluster Developments, Dimensional Requirements to include the VR-1 district.
- Section VIII, 8.6.4 (b) Cluster Developments, Internal Dimensional Requirements omitting the spacing requirement of 50 feet between structures and in its place require a 25 foot setback from structures.
- Section XV, 15.8.3 (a)(2) and Section 15.8.3 (a)(5) Variances by modifying the standards for unnecessary hardship to be consistent with the New Hampshire Supreme Court decision in Simplex

## APPENDIX A ZONING AMENDMENTS BY YEAR

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### **Amended: March 12, 2002 Town Meeting, Article II (Continued)**

Technologies Inc. v. Town of Newington and by modifying the language concerning the standards for public interest to be consistent with the New Hampshire Revised Statutes Annotated.

- Section XVI, 16.6.1 Affordable Housing Innovative Land Use Control, Where Allowed by including reference to the VR-1 district serviced by municipal sewer and water.
- Section XVI, 16.6.2 Affordable Housing Innovative Land Use Control, Dwelling Unit Configuration to include the VR-1 and VB-1 districts.
- Section XVI, 16.6.3 Affordable Housing Innovative Land Use Control, Dwelling Unit Density to include the VR-1 and VB-1 districts.

Asterisks (\*) indicates that Site Plan Review will be required for Home Businesses in the VB-1 and VM-1 districts. For Home Businesses in all other districts they shall comply with Section 3.7.3 as currently noted in the Table of Uses.

### **Amended: March 11, 2003 Town Meeting, Article II**

- Section IV, Paragraph 4.4.3, Principal Structure to allow multiple structures and uses within structures in the Village Commercial (VB-1) and Village Industrial (VM-1) districts, so long as each use is listed as a permitted (P) use or use permitted by special exception (S) in paragraph 3.6 Table of Uses.
- Section VI, Paragraph 6.2, Location of Parking Spaces to change the allowable distance of off-premises parking from 200-feet to 500-feet.
- Section V, Paragraph 5.2.3, Reduction of Parking to allow individuals who have a non-conforming lot the ability to apply to the Zoning Board of Adjustment for a special exception to reduce the number of off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use.
- Section IV, Paragraph 4.2, Table of Dimensional Requirements and Paragraph 4.3, Explanatory Notes by adding a new footnote “i” to the Area column of the Village High Density Residential (VR-1) and Village Commercial (VB-1) districts that would require for each additional dwelling unit an additional 2,000 square feet of land area.
- Section IV, Paragraph 4.2, Table of Dimensional Requirements and Paragraph 4.3, Explanatory Notes by adding a new footnote “j” to the Zone column of the Village High Density Residential (VR-1) and Village Commercial (VB-1) districts that would require when the footnoted commercial or industrial uses abut residential uses or a residential district or are situated in a residential area, the minimum front setback shall be 25-feet and the minimum side setback shall be 25-feet from a property line abutting a residential use or district.
- Section IV, Paragraph 4.2, Table of Dimensional Requirements to increase the Minimum Lot Dimensions and Minimum Setback Dimensions in the Village High Density Residential (VR-1) district.
- Amend the Zoning Map to change the designation of certain lots in Contoocook Village currently included in the Village Commercial (VB-1) and Commercial (B-1) districts to a Village High Density Residential (VR-1) district. Properties affected are located along Cedar Street, Maple Street, Prospect Street, Highland Avenue, School Street and Camp Road, shown on Tax Map 102 as Lots 34 – 60.
- Section III, 3.6.A.3 Table of Uses to change Multi-Family Dwellings from a permitted use to a use permitted by special exception in the Village High Density Residential (VR-1) district.
- Section III, 3.6.A.4 Table of Uses to change Cluster Developments from a permitted use to a use permitted by special exception in the Village High Density Residential (VR-1) district.

**APPENDIX A**  
**ZONING AMENDMENTS BY YEAR**

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**Amended: March 11, 2003 Town Meeting, Article II (Continued)**

- Section III, 3.6.E.8 Table of Uses to change Places of Worship including customary ancillary religious facilities from a permitted use to a use permitted by special exception in the Village High Density Residential (VR-1) district.
- Section III, 3.6.E.9 Table of Uses to change Non-Profit Recreational Facilities from a permitted use to a use permitted by special exception in the Village High Density Residential (VR-1) district.
- Section III, 3.6.E.13 Table of Uses to change Town Buildings from a permitted use to a use permitted by special exception in the Village High Density Residential (VR-1) district. Section
- **Amended: March 11, 2003 Town Meeting, Article II (Continued)**  
III, 3.6.E.15 Table of Uses to change Business Offices from a non-permitted use to a use permitted by special exception in the Village High Density Residential (VR-1) district.
- Section III, 3.6.F.11 Table of Uses to change Convenience Stores from a use permitted by special exception to a non-permitted use in the Village High Density Residential (VR-1) district.
- Section III, 3.6.G.2 Table of Uses to change Research and Development Corporate, and Business Offices from a non-permitted use to a use permitted by special exception in the Village High Density Residential (VR-1) district.

**Amended: March 9, 2004 Town Meeting, Article II**

- Table of Contents, Section VIII by changing the words, “Cluster Developments” to “Conservation Subdivisions”.
- Section III, Establishment of Districts and Uses, by changing the words, “Cluster Developments” to “Conservation Subdivisions” in paragraphs 3.5.1, 3.5.2, 3.5.3, 3.5.4 and 3.5.8.
- Section III, Establishment of District and Uses, Table of Uses 3.6.A.4 by changing the words, “Cluster Developments” to “Conservation Subdivisions”.
- Section IV, Dimensional and Density Requirements, paragraph 4.3 (b) by changing the words, “Cluster Developments” to “Conservation Subdivisions”.
- Section VIII, Cluster Developments by changing the title from “Cluster Development” to “Conservation Subdivisions”.
- Section VIII, Cluster Developments by changing the words, “Cluster Development” to “Conservation Subdivision” in paragraph 8.2, 8.4.1, 8.4.1 (c), 8.4.2, 8.5.1, 8.5.2, 8.5.4, 8.6, 8.6.1, 8.6.5, 8.6.7 and 8.6.7 (a).
- Section VIII, Cluster Developments, paragraph 8.5.3 by inserting the word(s), “dwelling” or “dwelling units” in the configuration requirements for the R-4, R-3, R-2, R-1, VR-1 districts.
- Section VIII, Cluster Developments, paragraph 8.5.3 by allowing up to “four” units per building, rather than “eight”.
- Section VIII, Cluster Developments, paragraph 8.6.1 by referencing “dwelling units”, rather than “building lots”.
- Section VIII, Cluster Developments, paragraph 8.6.1 by omitting the requirements that lots created under this section shall not front on an existing Town road, and in its place require that no lot shall utilize access from an existing Town Road with the exception of access to the open space lot for forestry purposes.
- Section VIII, Cluster Developments, paragraph 8.6.2 by indicating that an applicant shall prepare a sketch development plan to demonstrate how the land would be developed using a conventional subdivision, rather than indicating that the Planning Board may require the sketch development plan.
- Section VIII, Cluster Development, paragraph 8.6.3 by reducing the Conservation Subdivision site size requirement for the R-3 district to 45,000 square feet, rather than 60,000 square feet for each detached single dwelling and for the first dwelling unit when

**APPENDIX A**  
**ZONING AMENDMENTS BY YEAR**

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**Amended: March 9, 2004 Town Meeting, Article II (Continued)**

there are attached dwelling units proposed. Additionally, clarification to the R-2, R-1 and VR-1 site size by making it clear that the additional 8,000 square foot requirement is for each additional attached dwelling unit, rather than detached units.

- Section VIII, Cluster Development, paragraph 8.6.4 (a) by requiring for external dimensional requirements that there be a 150-foot buffer strip established along an existing public highway. Furthermore, no buildings, driveways, parking areas, lawns, leach fields, or detention basins shall be built within the buffer. Existing trees within the buffer strip shall be maintained, and the Planning Board may require planting of trees or other vegetation if this area has been previously cleared.
- Section VIII, Cluster Development, paragraph 8.6.4 (a) by changing the external side and rear setback requirement from 50-feet to 60-feet to be consistent with the present requirements for conventional subdivisions.
- Section VIII, Cluster Development, paragraph 8.6.4 (b) by specifying a rear setback requirement of 25-feet. Additionally, when there is more than one principal building on a lot in the R-3, R-2, R-1, VR-1 districts, a minimum distance between principal buildings shall be 50-feet. For setback requirements for accessory structures reference is given to Section 4.4.1 of the Ordinance.
- Section VIII, Cluster Development, paragraph 8.6.7 (a) by requiring a minimum of fifty (50) percent, rather than twenty-five (25) percent, of the total site area for common open space. Further changes include typographical corrections to words within the paragraphs.
- Section VIII, Cluster Development, paragraph 8.6.7 (b) by omitting the paragraph in its entirety as the paragraph requires 100-feet of buffer of open space between the development and existing public highways. Omitting paragraph 8.6.7 (b) will require changing the alphabetical sequence of subparagraphs within paragraph 8.6.7. See proposed amendment to paragraph 8.6.7 (a) requiring a 150-foot buffer.
- Section IX, Manufactured Housing, paragraph 9.4.4 by replacing the word “cluster” with “Conservation Subdivision requirements”.
- Section IX, Manufactured Housing, paragraph 9.5.3 by changing the words “Cluster Development to “Conservation Subdivision”.
- Section XVI, Affordable Housing Innovative Land Use Control, paragraph 16.6.1 by changing the words “Cluster Developments to “Conservation Subdivisions”.
- Section XVI, Affordable Housing Innovative Land Use Control, by changing the words “Cluster Development” to “Conservation Subdivision” in paragraphs 16.6.3, 16.6.4 and 16.6.5.

**Amended: March 14, 2005 Town Meeting, Article II**

- Section III, paragraph 3.6.1, Use Regulations.
- Section IV, 4.3 Table of Dimensional Requirements, Section 4.3 Explanatory Notes, Section 4.4.3 Principal Structure, to include a maximum gross floor area of 40,000 square feet for commercial retail stores and restaurants within the B-1 (commercial) and M-1 (industrial) districts and a maximum gross floor area of 20,000 square feet for commercial retail stores and restaurants within the VB-1 (village commercial) and VM-1 (village industrial) districts.
- Section IV, paragraph 4.7, Increased Shoreland Protection Standard.
- Section IV-A, Architectural Design Review Ordinance to include architectural design criteria for non-residential and multi-family structures.
- Section V, paragraph 5.1.1, Expansion of Non-Conforming Lot Area.
- Section V, paragraph 5.1.2, Expansion of Non-Conforming Use.
- Section V, paragraph 5.4.5, Dumping or Disposal of Garbage and other Refuse.
- Section V, paragraph 5.6, Open Storage in the Industrial (M-1) Zone.
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## APPENDIX A ZONING AMENDMENTS BY YEAR

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### **Amended: March 14, 2005 Town Meeting, Article II (Continued)**

- Section XV, paragraph 15.8.3 VariANCES by modifying standards for unnecessary hardship to be consistent with the recent New Hampshire Supreme Court decision in Michael Boccia v. City of Portsmouth.
- Section XVIII, Outdoor Lighting Ordinance by including certain criteria and restrictions on exterior lighting. The addition of the Outdoor Lighting Ordinance required changing the numerical sequence of section of the Zoning Ordinance.

### **Amended: March 14, 2006 Town Meeting, Article II**

- Readopt Section XIII Growth Management and Innovative Land Use Control Ordinance for an additional five (5) years.
- Section XIII, subsection 13.4 (b) Indicators of Growth Impact by clarifying that the most recently published average annual population growth for Hopkinton would be used in determining whether the population growth exceeds the same average of the combined seven abutting communities.
- Section XIII, subsection 13.4 (c) Indicators of Growth Impact by clarifying that the number of public students enrolled or projected for the coming year for the combined schools, rather than individual schools, in the Hopkinton school system would be used in determining whether the enrollment exceeds ninety (90) percent of its stated capacity.
- Section XIII, subsection 13.4 (d) Indicators of Growth Impact by clarifying that the average annual full value tax rate for Hopkinton will be compared to the average annual full value rates of the combined seven abutting communities.
- Section XIII, subsection 13.4 (f) Indicators of Growth Impact by specifying that the number of public students enrolled or projected for the coming year for the combined schools, rather than individual schools, in the Hopkinton school system would be used in determining whether the enrollment exceeds one hundred (100) percent of its stated capacity.

### **Amended: March 13, 2007 Town Meeting, Article II**

- Section XV, Zoning Board of Adjustment, inserting subsection 15.12 Expiration of Special Exception and VariANCES by specifying that Special Exceptions and VariANCES would expire upon two (2) years of disuse or discontinuance. The provisions of subsection 15.12 shall apply only to Special Exceptions or VariANCES granted after the effective date of this paragraph.
- Section II, 2.1 Definitions by inserting the definition of Designated Open Space and changing the numerical sequence of remaining definitions.
- Section II, 2.1 Definitions by inserting the definition of Open Space, Designated and changing the numerical sequence of remaining definitions.
- Section III, 3.6 Use Regulations by omitting Table of Uses 3.6.A.4 pertaining to Conservation Subdivisions and changing the numerical sequence of remaining elements.
- Section IV, 4.1 General Requirements, 4.2 Table of Dimensional Requirements, 4.3 Table of Dimensional Requirements by inserting reference to Section VIII Conservation Subdivisions for the subdivision of land for residential purposes.
- Repeal Section VIII Conservation Subdivisions and replace with a new section entitled the same. New section establishes standards for residential development of land in conjunction with the permanent protection of a portion of the property as undeveloped open space. The revisions will require applicants to provide detailed information on a parcel and receive input from the Planning Board and public on their preferences for the layout of the subdivisions, prior to submitting a completed application. Revisions included a specific formula to determine the allowable number of dwelling units; providing incentives for conserving a greater portion of the property; providing public access, or protecting the land with a permanent conservation easement; and includes additional criteria with regards to the

**APPENDIX A  
ZONING AMENDMENTS BY YEAR**

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**Amended: March 13, 2007 Town Meeting, Article II (Continued)**

layout, allowed uses, and long-term management and protection of open space. The conservation subdivision approach will be the first option for all larger developments with conventional subdivisions only being permitted under specific conditions.

- Section II, 2.1 Definitions by inserting the definition of Construction and Demolition Debris and changing the numerical sequence of remaining definitions.

**Amended: March 11, 2008 Town Meeting, Article II**

- Section V, 5.4.7 Junk Vehicles by replacing paragraph with new language that allows no more than one uninspected motor vehicle may remain within any residential district unless the vehicle and its parts are enclosed within a building. New title 5.4.7 Uninspected Vehicles.
- Section XVII Floodplain Development Ordinance by amending as necessary to comply with requirements of the National Flood Insurance Program.

**Amended: March 10, 2009 Town Meeting, Article II**

- Section III, by correcting the referenced section in Table of Uses 3.6.G.7 Earth Products Removal.
- Section III, by inserting Table of Uses 3.6.H.16 Small Wind Energy Systems.
- Section III, by inserting a new subsection 3.11 Small Wind Energy Systems that includes the authority, purpose, definitions, and procedures for review, standards, abandonment, and violation and penalties.
- Section XV, 15.8.3 Variances by replacing the criteria required to demonstrate an “unnecessary hardship” with the new statutory definition RSA 674:33, I (b), effective January 1, 2010.
- Section XV, 15.8.3 Variances by omitting language with respect to decisions of the Board of Adjustment based on evidence presented, rather than allegations contained in the application.
- Section XVII, Floodplain Development Ordinance by updating the effective date of the Flood Insurance Study and Flood Insurance Rate Maps so that all lands designated as special flood hazard areas by the Federal Emergency Management Agency in its “Flood Insurance Study of the County of Merrimack, NH” dated April 19, 2010, together with the associated Flood Insurance Rate Maps dated April 19, 2010, are declared to be part of the Hopkinton Floodplain Development Ordinance. This amendment is necessary in order for Hopkinton to remain enrolled in the National Flood Insurance Program (NFIP).

**Amended: March 8, 2011 Town Meeting, Article II**

- Section VII, Sign Ordinance by repealing the Sign Ordinance and replacing it with a new ordinance entitled the same. The new ordinance addresses signs prohibited, signs allowed and exempt from permit requirements, signs requiring permits, design, construction and maintenance of signs, non-residential lot signage plan, sign area and height computations, signs permitted in residential and non-residential districts, signs for multiple principal uses or building on a lot, free-standing directory signs, temporary off-premises signs, agriculture and farming signs, sign illumination, architectural design review and change of tenant signs.
- Section II, Definitions by replacing the current definitions of various signs with new definition so that the language coincides with the types of signage referenced in amended Section VII, Sign Ordinance, of the Zoning Ordinance. This amendment includes a definition of the word “person” and requires the renumbering of all subsequent definitions.

## APPENDIX A ZONING AMENDMENTS BY YEAR

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### **Amended: March 13, 2012 Town Meeting, Article II**

- Section XIII, Growth Management and Innovative Land Use Control by re-adopting the Ordinance. The re-adoption includes updated statistical data as reported in subsection 13.3 Findings and a change in the expiration date reflected in subsection 13.9 Sunset.
- Section II, Definitions, subsection 2.1.A.4 Agriculture, Farm, Farming by amending the definition so that it is consistent with NH RSA 21:34-a. The amendment includes recognition of agritourism and farmers' markets.
- Section XI, Local Regulation of Excavation by amending the Ordinance so that it is consistent with NH RSA 155-E. The amendment addresses definitions, hearings, and minimum and express operational standards, minimum and express reclamation standards, incremental reclamation, and exceptions.

### **Amended: March 11, 2014 Town Meeting, Article II**

- Section III, 3.10 Personal Wireless Service Facilities so that it is consistent with revisions to NH RSA 12-K, which exempt collocation on or modification to an existing structure from review by the Planning Board, unless the collocation or modifications cause a "substantial change" to the structure. A determination of the extent of change is made through a process involving the issuance of a building permit.

### **Amended: March 10, 2015 Town Meeting, Article II**

- Section II, Definitions deleting definition 2.1.T.2 Travel Trailer and inserting new definition 2.1.R.2 Residential Tenting/Recreational Camping Vehicles. Amendment required changing the numerical sequence of remaining definitions.
- Table of Uses 3.6.H.4 deleting all references to "travel trailer" and inserting in its place the words, "Residential Tenting and Recreational Camping Vehicles of a Visitor".
- 10.4 Residential tenting/Recreational Camping Vehicles, 10.4.1 Limitations deleting reference to "four weeks per year" and inserting in its place "sixty (60) days per year" so that the language is consistent with the time frame already established in Table of Uses 3.6.H.4.
- Section II Definitions inserting new definition 2.1.E.1 Entertainment, 2.1.L.14 Lounge, and 2.1.P.2 Place of Entertainment. Amendment required changing the numerical sequence of remaining definitions.
- Section III Establishment of Districts and Uses inserting 3.7.9 Place of Entertainment outlining conditions that must be met, agreed to and demonstrated in compliance.
- Table of Uses 3.6 inserting 3.6.F.7 Lounge as a use prohibited in all residential districts and permitted by Special Exception in all commercial and industrial districts. Amendment required changing the numerical sequence of listed uses.
- Table of Uses 3.6 inserting 3.6.F.8 Place of Entertainment as a use prohibited in all residential districts and permitted by Special Exception in all commercial and industrial districts. Amendment required changing the numerical sequence of remaining definitions.
- Table of Uses 3.6 inserting cross-references for uses in which there are other relevant provisions of the Ordinance. Cross-reference Section IX Manufactured Housing with 3.6.A.6 Manufactured Housing Subdivision, Section XVI Affordable Housing Innovative Land Use Control with 3.6.A.9 Affordable Housing Option, Section X Recreational Camping Parks/Residential Tenting and Recreational Camping Vehicles with 3.6.H.4 Residential Tenting and Recreational Camping Vehicles of a Visitor, and Section XII Wetlands Conservation District (Overlay) with 3.6.H.9 Filling of Water or Wetland Area.
- 3.9 Use, Adult inserting other uses and locations (public place of worship, youth center, public park, public sports or recreation field or similar publicly-owned facility) in which an adult use shall be a minimum of 1,000 feet from property lines.

### **Amended: March 8, 2016 Town Meeting, Article II**

## APPENDIX A ZONING AMENDMENTS BY YEAR

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- Section III Table of Uses 3.6, inserting 3.6.F.20 Self-Service Storage Facility as a use prohibited in the residential and village commercial districts and permitted by Special Exception in the commercial and all industrial districts.
- Section II Definitions, inserting new definitions 2.1.D.4 Drive-in Eating Establishment, 2.1.R.4 Restaurant and 2.1.S.3 Self-Service Storage Facility. Amendment required changing the numerical sequence of remaining definitions.
- Section II Definitions, 2.1.M.1 Manufactured Housing, so that the language is consistent with NH RSA 674:31.
- Section II Definitions, 2.1.S.7 Special Exception inserting cross-reference to Section XV Board of Adjustment.
- Section III Establishment of Districts and Uses, 3.6.1 inserting clarifying language to assist readers in understanding that Table of Uses 3.6 is divided into two parts, one for principal uses and the other for accessory uses. Provide further explanation as to the letters “P”, “S”, “X” or for uses not specified in the Ordinance. Clarified the fact that all uses are subject to the provisions of Section XII Wetlands Conservation District.
- Section III Establishment of Districts and Uses, Table of Uses 3.6 relocating 3.6.A.7 Home Business, 3.6.A.10 Home Occupation, and 3.6.A.11 Telecommuting to Table of Uses 3.6.H. Uses to be designated as accessory uses, rather than principal uses.
- Section III Establishment of Districts and Uses, Table of Uses 3.6 deleting the explanation in 3.6.F.1 Retail Establishment and instead, insert the explanation as new definition 2.1.R.5 Retail Establishment.
- Section VI Parking Requirements by deleting 6.4.6, requiring a Special Exception for use of public parking facilities to supplement or reduce the required minimum parking standards. Similar authority had already been given to the Planning Board in 6.1 Off-Street Parking and 6.2 Location of Parking Spaces.
- Section VII Sign Ordinance, 7.6.2(c) and 7.9.3(a)(3) deleting reference to “ten (10) feet” for the horizontal dimensions of free-standing signs and inserting in its place “five (5) feet” so that the language is consistent with the horizontal dimensions already established in 7.8.2.
- Section VII Sign Ordinance, 7.9.3(a)(4) deleting reference to “five (5) feet” for the distance that free-standing signs must be from any lot line and inserting in its place “ten (10) feet” so that the language is consistent with the distance already established in 7.6.2(c).
- Section XVII Lighting Ordinance, 18.1 Title and Authority, inserting 18.1.4 giving the Planning Board the authority, after testimony from the applicant, to alter specifications if it is determined that it is in the best interest of the Town and all other parties involved, and subject to any condition(s) the Planning Board deems appropriate.