TOWN OF HOPKINTON, NH

ZONING ORDINANCE

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SECTION I
AUTHORITY AND PURPOSES

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 an official meeting convened. The existing zoning ordinance entitled **"Hopkinton New Hampshire Zoning Ordinance"** adopted March 1964, and all subsequent amendments thereto are 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Hopkinton Village, Hopkinton, New Hampshire" adopted February 1960, and all subsequent amendments thereto are repealed by the Hopkinton Village Precinct.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

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:

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.

Accessory Dwelling Unit (ADU): See 3.12, Accessory Dwelling Unit (ADJU).

Administrative Officer: The Building Inspector, Town of Hopkinton, New Hampshire.

Affordable Housing: See Section XVI, Affordable Housing Innovative Land Use Control.

Agriculture, Farm, Farming: Defined in RSA 21:34-a, as amended.

RSA 21:34-a Farm, Agriculture, Farming (2019) –

(I) The word "farm" means any land, buildings, or structures on or in which agriculture and farming operations or 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 or activities named in paragraph II(a) or (b) of this section or any combination of such individual operations or activities.

(II) The words "agriculture" and "farming" mean all operations or activities of a farm, including:
- (a) (1) The cultivation, conservation, and tillage of the soil.
  - (2) The storage and use of or 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 husbandry of livestock, which shall include, but not be limited to, all beef or dairy cattle, steer, oxen, swine, sheep, goats, horses, mules or other Equidae, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, poultry, rabbits, yaks, elk (Cervus elphus canadensis), fallow deer (Dama dama), red deer (Cervus elephus), or reindeer (Rangifer tarandus).
  - (5) The husbandry, boarding, training, or riding instruction of equines.
  - (6) The husbandry and harvesting aquaculture products including fresh or saltwater finfish, shellfish, or other aquatic organisms grown for consumption or processing.

(7) The husbandry of poultry or game birds or production of eggs.
(8) The husbandry of bees or production of honey.
(9) The husbandry 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 or activity on the farm incident to, ancillary 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) Marketing or selling at wholesale or retail, regardless of the manner or form of transaction any livestock or products derived principally from the production of the farm, including, but not limited to items listed in subparagraph (a), whether onsite or off-site, provided that marketing such products is not specifically prohibited by local regulations. For the purposes of this section marketing shall include agritourism, which means attracting visitors to a farm to attend events or activities that are accessory uses to the primary farm operation, including, but not limited to, being provided a meal, making overnight stays, enjoyment of the farm environment, education which shall be instruction or learning about the farm's operations, or active involvement in the activities of 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) Management 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.

(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.

Airport: That area of land, whether constructed or not, which has been approved by the New Hampshire Commissioner of Transportation as a site for the landing and taking off of aircraft or utilized or to be utilized by the public as a point of arrival or departure by air, and including all necessary passenger and cargo facilities, fueling, emergency service facilities, and other aviation dependent uses.

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.

Ancillary Use: A use providing necessary support to the primary activity or operation of an organization, institution, or industry; of secondary important; a use that is supplementary or subordinate.

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.

Architectural Design Review: See Section IV-A, Architectural Design Review Ordinance.

Assembly: Activities that combine two or more finished products into a single product.

Assisted Living Facility: A professionally managed, healthcare residential setting that combines housing, personal care services, 24-hour supervision and assistance, activities, and health-related services (such as medication management and assistance); primarily for seniors and/or people with long-term disabilities and may include support of residents with memory disorders including Alzheimer's; designed to minimize the need for residents to relocate as their personal care and health care needs change over time.

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.

Bed and Breakfast Inn: Any Dwelling Unit, together with any accessory buildings thereto, located on one (1) Lot of Record, containing not more than seven (7) 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 3.7.5 of this Ordinance.

Bedroom: A room primarily used for sleeping.

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

Building: A combination of any materials, whether portable or fixed, temporary or permanent, having a roof and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons, animals, or property. The word "building" shall include the word "structure" unless the context unequivocally indicates otherwise. For the purpose of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

Building, Accessory: 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.

Biomass Energy Generation Systems: Use of renewable organic material that comes from plants and animals. Biomass can be burned directly for heat or converted to renewable liquid and gaseous fuels through various processes. Biomass sources for energy include wood and wood processing wastes, agricultural crops and waste materials, biogenic materials in solid waste, and animal manure and human sewage.

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

Building Code: Adopted text of each national, state, or local code relating to or regulating buildings, uses, occupancies, and the like which has been legally adopted by the Town. NH RSA 155-A mandates that all municipalities within the State of New Hampshire shall be subject to the New Hampshire Building Code requirements and in accordance with the statute, shall be included within this definition of the Building Code.

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.

Building, Detached: A building having open space on all sides.

Building 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.

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.

Building Inspector: The Board of Selectmen or their designated representative.

Building, Principal: A building in which is conducted the principal use of the lot on which it is located.

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.

Camp, Overnight or Day: A facility that provides organized recreational or educational activities for children and or adults on a daily, weekly, or monthly basis, and may include accommodations for temporary occupancy by participants and staff, including cabins or tents, and with common sanitary facilities and common dining facilities.

Cellar: See Basement.

Certificate of Occupancy: A statement signed by the Building Inspector or Planning Director 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.

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 prepare high-intensity soil maps.

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.

Child Day Care Center: A non-home-based facility that provides care and or a structured program for any part of the day provided by a childcare agency as defined in NH RSA 170-E:2. For purposes of this Ordinance, the use is also known as a day nursery, nursery school, kindergarten, cooperative, child development center, daycare center, center for the developmentally disabled, progressive school, Montessori School, or any other name.

Child Day Care, Home: Provides home-based care for a maximum of twelve (12) preschool children plus five (5) children enrolled in a full-day school program (or up to 17 children). The use shall be an accessory use to the principal use, residence.

Church: See Religious Institution or Facility.

Clinic: An office building or portion thereof used by members of the medical profession for diagnosis and outpatient treatment of human ailments.

Commercial Lodging (Temporary Residential Use): Any building, or any part thereof, which contains one or more Lodging Units that are designed to be used for temporary occupancy by the general public, with the length of stay not to exceed 90 days, which has a common entrance or separate entrances, and that may provide additional services such as restaurants, meeting rooms, and recreational facilities. For the purposes of this Ordinance, the use is also known as a hotel, motels, and or inn. See definition of "Lodging Unit."

Commercial, Lodging Unit: One or more rooms for the use of one or more individuals designed to be used for temporary occupancy by the general public. A "Lodging Unit" shall include rooms in hotels, motels, and or inns. See Commercial Lodging.

Commercial Use: Any activity involving the sale or trade of goods or services.

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

Conditional Use Permit: A conditional method to permit uses that are consistent with the intent of the underlying zoning district, as indicated by the Table of Uses in Section III or as otherwise indicated in this Ordinance. A Conditional Use Permit shall be administered by the Planning Board, pursuant to RSA 674:21, to ensure that conditional use opportunities do not adversely impact neighboring properties and are consistent with the health, safety, and welfare of the public.

Condominium: The form of ownership of real property, and any interests therein, lawfully submitted to RSA 356-B, in which individual owners own or lease separate units together, or through an owners' association, and own the common areas appurtenant to the units.

Condominium Conversion: An existing use or structure converted from a noncondominium form of ownership to a condominium form of ownership. See definitions of "Condominium" and of "Subdivision."

Congregate Care Housing: Housing that is developed and maintained, in which common dining facilities and certain personal services such as housekeeping, laundry, medical, or nursing services are provided to residents. Congregate Care Housing may be contained in a single building or group of buildings and may include independent living, assisted living, and/or nursing home facilities.

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.

Contiguous: Sharing an edge or boundary of an adjacent lot or lots.

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 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.

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

Crematorium or Crematory: A facility that is used for the cremation of the dead.

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, a portion thereof, or the removal or cutting of any structured beam or bearing support affecting the exterior of the structure.

District: A zoning district as established by the provisions of this Ordinance.

Drive-through Retail Services: A structure or portion thereof which is accessible to motor vehicles and is designed to allow the rendering of services or delivery of products, excluding food and beverage, directly to a customer who is seated in a motor vehicle.

Driveway: An open space, located on a lot for access to a garage or off-street parking or loading space.

Duplex: See Dwelling, Two-Family.

Dwelling or Dwelling Unit: A building or portion of areas for living, cooking, sleeping, bath, and sanitary facilities. These terms shall include manufactured housing, mobile homes, apartment, efficiency apartments, condominium units. They shall exclude hotels, motels, lodges, overnight cabins, camping vehicles, and the like for transient or overnight occupancy. These terms shall also include what is commonly referred to as an Accessory Dwelling Unit (ADU).

Dwelling Unit, Multi-Family: A building containing three (3) or more dwelling units.

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

Dwelling Unit, Two-Family: A residential building that has two (2) dwelling units. The building is also referred to as a Duplex. For regulatory purposes, a Two-Family Dwelling or Duplex does not include an Accessory Dwelling Unit, otherwise defined and regulated herein. The two (2) residential units shall be connected.

Entertainment: Any single event, a series of events, or 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 the 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.

Entertainment, Place of: Any hall, theater, bar, or restaurant which provides on-premises entertainment, which may also include food and/or beverage service, except a Fair Use permitted in the Fair District. See also Entertainment.

Equitable Waiver of Dimensional Requirements: When a lot or structure thereupon is discovered to be in violation of physical layout or dimensional requirement imposed by a zoning ordinance, the Zoning Board of Adjustment may grant a waiver only if the findings outlined in RSA 674:33-a have been met. See Section XV, Board of Adjustment.

Essential Services: Services provided by a 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 provisions in Section III), 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 a public utility or governmental agencies for the public health, safety, or general welfare.

Excavation: Excavation means a land area which s used, or has been used, for the commercial taking of earth, including all slopes, RSA 155-E:I. See Section XI, Local Regulation of Excavation.

Family: One or more persons, including domestic employees, occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

Filling Station: Building and premises where gasoline, propane, diesel fuel, oil, grease, batteries, tires, automobile accessories, and incidentals are sold at retail and/or where minor servicing and repairs take place. For purposes of this Ordinance, electric vehicle charging stations is included within this definition. Major mechanical and bodywork, straightening of body parts, painting, welding, storage of automobiles not in operating conditions, or other work involving noise, glare, fumes, or smoke are not included in this definition.

Floodplain: See lands designated as special flood hazard areas by the Federal Emergency Management Agency in its "Flood Insurance Study of the County of Merrimack, NH," together with the associated Flood Insurance Rate Maps, dated April 19, 2010. See also Section XVII, Floodplain Development Ordinance.

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.

Funeral Home: An establishment with facilities for the preparation of the dead for burial or cremation, for the viewing of the body, and for funerals. The facility is also known as a funeral parlor.

Golf Course: The term shall include standard courses and executive par three courses. A golf course may include a clubhouse that provides services to golfers and/or members, including but not limited to the sale and repair of golf equipment and food and beverage service, and accessory buildings and structures necessary for the operation of the course.

Greenhouse: A building primarily designed for the production and protection of plants.

Hazardous Materials: In accordance with RSA 147-B:2, Definitions, those substances or materials in such quantities and form which may pose an unreasonable risk to health and safety or property or when transported in commerce by all modes, and which may include but are not limited to explosives, radioactive materials, etiologic agents, flammable liquids or solids, poisons, oxidizing or corrosive materials, and compressed gases which are listed by the Materials Transportation Bureau of the United States Department of Transportation in Title 49 of the Code of Federal Regulations, as amended.

Heliport: A facility used for landings and takeoffs by helicopters.

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.

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 3.7.4 of this Ordinance.

Hospital: A building providing 24-hour in-patient services for the diagnosis, treatment, or other care of human ailments.

Hotel: See Commercial Lodging.

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.

Hydroelectric Energy, Hydroelectric Power or Hydroelectricity: A form of energy that harnesses the power of water in motion to generate electricity.

Impact Fee: See definition in Section XIII, Impact Fees.

Impervious Surface: Any modified surface that cannot effectively absorb or infiltrate water. Impervious surfaces include but are not limited to roofs and paved areas such as driveways, parking areas, and walkways, decks, patios, and gravel, and crushed stone surfaces unless such structures or surfaces have been designed to absorb or infiltrate water effectively.

Independent Living Community: A community or living facility designed specifically for the interests of seniors age 55 and older, which may include recreational amenities and support services for maintenance-free living for adults who are healthy, active, and capable of living independently.

Industrial Use: Establishments engaged in the processing and/or manufacturing materials and/or products predominately from raw materials. Examples of such uses include, but are not limited to, processing, assembly, warehousing, and wholesale storage, distribution, shipping, earth excavation, and or other related uses.

Inn: See Commercial Lodging.

Institutional uses/Community Facilities: Including but not limited to buildings used for hospitals, schools, libraries, or auditoriums.

Junk: Any iron, steel, and other old or scrap ferrous or nonferrous materials; glass; rags; paper products; rubber products; plastic products; two or more unregistered motor vehicles for use on the highways which are not stored within a structure nor capable of passing a state motor vehicle safety inspection, or used parts and materials of motor vehicles, the quantity of which shall be equal in bulk to two or more vehicles. Any other secondhand articles the accumulation of which is detrimental or injurious to a neighborhood; or materials or items which are included in the of the contents of a "junk yard" in the definition of RSA 236:112, as amended, or in the definition of "junk" in NH RSA 236:91, as amended.

Junk Yard: An establishment or place of business that 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 RSA 261:104 and controlled under RSA 236:127.

Kennel: A commercial establishment that boards and provides food and care for purposes not primarily related to medical care for small household pets and/or engages in the breeding of small household pets

Laundromat: An establishment with washing machines and dryers for public use. A laundromat can be self-service and/or used for drop-off and pickup laundry and dry-cleaning services.

Lighting, Outdoor: See Section XVIII, Outdoor Lighting Ordinance.

Livestock: See Agriculture, Farm, and Farming.

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 the 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.

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.

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

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.

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.

Lot Line, Rear: The lot line opposite the front lot line.

Lot Line, Side: Any lot line, not a front or rear lot line.

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

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.

Lot Width: The mean distance between the lot side lines measured on a line that is halfway between the front and rear lot lines.

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.

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, Manufactured Housing, of this Ordinance for additional requirements.

Manufactured Housing Subdivision: A subdivision of land into lots for manufactured houses. See Section IX, Manufactured Housing, of this Ordinance for additional requirements.

Manufacturing: The act of making goods or activities from raw materials or unfinished products and includes processing and assembling. For the purposes of this Ordinance, the production of commercial renewable energy is not considered within this definition.

Master Plan: The Master Plan of the Town of Hopkinton, prepared pursuant to RSA 674:2, Master Plan Purpose and Description, and adopted by the Planning Board pursuant to RSA 674:4, Master Plan Adoption and Amendment, inclusive of all officially adopted supplements and amendments.

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

Mixed Uses: Any combination of uses allowed by underlying zoning.

Mobile Home: A Manufactured House as defined in RSA 674:31.

Mobile Home Park: A Manufactured Housing Park as defined in this Ordinance.

Mobile Home Subdivision: A Manufactured Housing Subdivision as defined in this Ordinance.

Motel: See Commercial Lodging.

Motor Vehicle Dealership: The use of any building or land area for the display and sale of new or used automobiles, trailers, recreation vehicles, motorcycles, or similar motorized vehicles. This use may include repair facilities for such vehicles.

Museum: A nonprofit institution operated principally to preserve, acquire, and to exhibit objects of historical, cultural, scientific, or artistic interest and which may also engage in the incidental retail sales of items related to its principal purpose.

Non-Conforming Lot: 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, Nonconforming Dimensions or Lots, or 5.3, Changes in Nonconformities, of this Ordinance.

Non-Conforming Structure: – A structure lawfully existing at the effective date of this Ordinance and any subsequent amendments thereto, which does not conform to one or more provisions of this Ordinance. See 5.2, Non-Conforming Dimensions or Lots, or 5.3 Changes in Nonconformities.

Non-Conforming Use: A use of property that was allowed under the zoning Ordinance at the time the use was established but which, because of subsequent amendments, is no longer a permitted use. See 5.2, Non-Conforming Dimensions or Lots, or 5.3 Changes in Nonconformities.

Nursing Home Facility: An institution or facility, or a distinct part of an institution or facility, which is primarily engaged in providing 24-hour care for residents needing: (a) Skilled nursing care, medical monitoring, and related services; (b) Rehabilitation services for the rehabilitation of injured, chronically disabled, or sick; (c) Medication, administration, or instruction and supervision; or (d) On a regular basis, health-related care and services (above the level of room and board), which can be made available to them only through institutional facilities, which is licensed by the State of New Hampshire.

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.

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

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.

Parking, 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.

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.

Person: Any individual, corporation, unincorporated association, or other legal entity.

Personal Wireless Service Facilities (PWSF): See 3.10, Personal Wireless Service Facilities (PWSF).

Pre-site Built Housing: Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed, or assembled in off-site manufacturing

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)

Processing: To prepare a product for sale by special treatment or change it through a series of steps, but not the original manufacture of a component.

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

Quarrying: The business or occupation of extracting stone from an open excavation. Quarrying includes the excavation and removal of sand and gravel in accordance with the provisions of Section XI, Local Regulation of Excavation.

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 pickup campers). See Section X, Recreational Camping Parks/Residential Tenting and Recreational Camping Vehicles, of this Ordinance for additional requirements.

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.

(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.

See Section X, Recreational Camping Parks/Residential Tenting and Recreational Camping Vehicles, of this Ordinance for additional requirements.

Recreational Facilities (Indoor or Outdoor): A parcel of land with or without buildings used for indoor and/or outdoor commercial recreation activities in which patrons are active participants rather than spectators. Such events include a single or a series of events. Facilities may be open to the public or operated as private membership clubs, such as hunting, fishing, tennis, sports, country, golf, or the like. Recreation facilities, including but are not limited to, gymnasium; roller- or ice-skating rink; dance floor; swimming pool; archery range; batting cage; athletic field; golf course; golf driving range; miniature golf; go-cart track; indoor or outdoor movie theater; open-air court; open-air event facilities; playgrounds, or hiking areas. Open-air

event facilities may include weddings, receptions, and other similar events in a building or structure regardless of whether all or part of the activity occurs within that building or structure. If permitted, the use may be considered a principal or accessory use.

Recycling Center: A building or site on which waste materials are separated for reuse and are processed so as to be suitable for reuse or conversion or assembly into products for sale or other manufactured products.

Religious Institution or Facility: A place where persons regularly assembly for religious worship, maintained and controlled by a religious body organized to support public worship. Such a facility includes, but is not limited to, a sanctuary, meeting hall, administrative offices, classrooms, and a rectory or clergy house, all for carrying out the institution's religious purposes.

Renewable Energy Generations Systems, Commercial and Industrial: Energy from renewable resources that are available in unlimited duration or that replenish more quickly than the rate at which they are consumed. Types of renewable energy sources include hydropower, geothermal, wind, and solar. For the purposes of this Ordinance, biomass is not considered within this definition. See Biomass.

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

Research and Development Facilities: A place devoted to activities engaged in refinement, investigation, or experimental study of methods to create or improve processes or products.

Restaurant: The term includes diners, cafes, and cafeterias and does not include drive-~~in~~ through food establishments unless otherwise permitted. It shall be an eating establishment, with or without alcohol, 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.

(a) Bar: A business whose primary purpose is the serving of alcoholic beverages but which may also offer food service and/or entertainment.

(b) Drive-in Food Establishment: Any place or premises that by design provides for the ordering and pickup of food and beverages from a service window, including establishments where customers may also service themselves and may eat or drink the food or beverages on the premises.

(c) Drive-through Food Establishment: An establishment that serves food or beverages to customers who pull up to a service window in their vehicles.

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.

Rights-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 rights-of-way.

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

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.

Sawmill: A portable facility for the sawing, milling, planing, or similar processing of timber or other wood products harvested.

School: An institution for the instruction of children and/or adults in a formal setting with a prescribed curriculum and teachers.

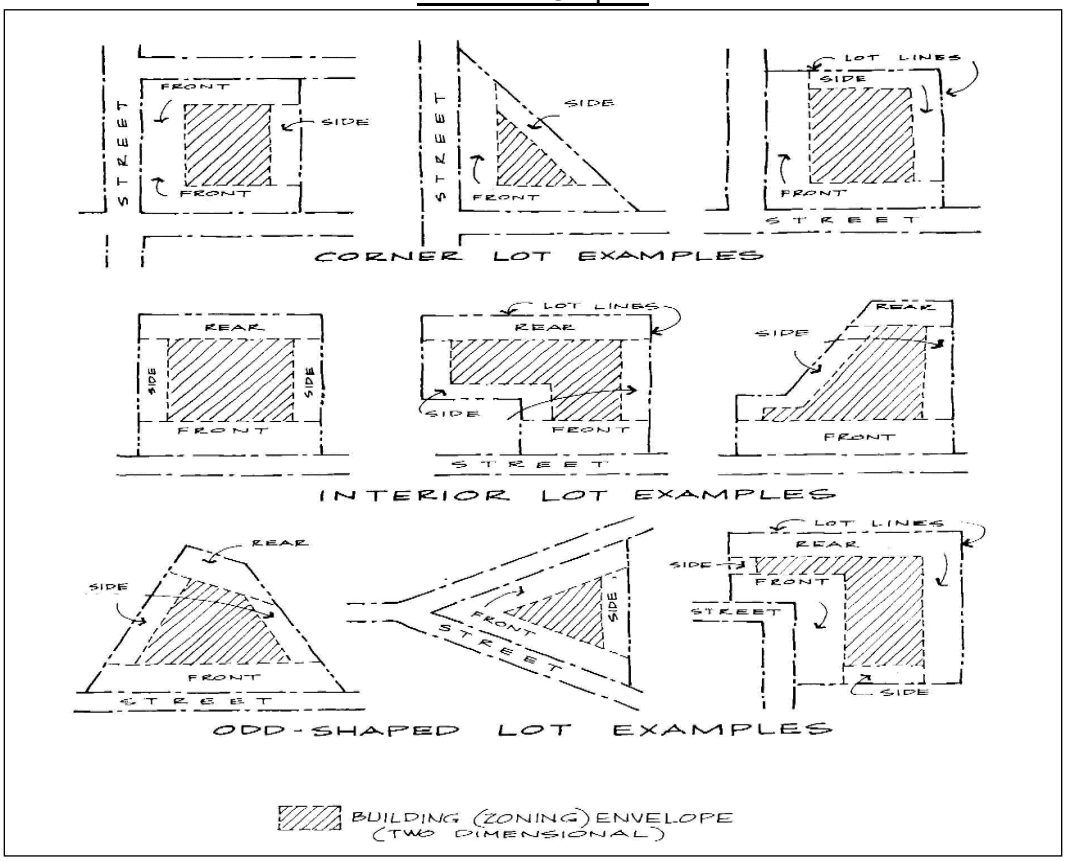
Setback: A distance from a property line or structure within which building is prohibited.

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.

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.

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.

Setbacks Graphic



Sign Definitions: The following definitions relate to Section VII, Sign Regulations, of this Ordinance:

(a) 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.

(b) Flag: Any fabric containing distinctive colors, patterns, or symbols and used as a symbol of a government or political subdivision thereof.

(c) Non-Conforming 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.

(d) 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.

(e) Rights-of-Way (Public): See Rights-of-Way (Public).

(f) Rights-of-Way (Traveled): See Rights-of-Way (Traveled).

(g) 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.

(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 connection 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 windowpanes or glass and that is visible from the exterior of the building or structure.

See Section VII, Signs, of this Ordinance for additional requirements.

Small Wind Energy Systems: See 3.11, Small Wind Energy Systems.

Solar Energy Systems: See 3.13, Solar Energy Systems.

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, Board of Adjustment, have been met.

Storage: A space or place for the depositing, stockpiling, and safekeeping of items, goods, or materials.

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

Story: That part of a building is 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.

Street: A public way which is over twenty (20) feet in right-of-way width which is dedicated or devoted to public use, for vehicular travel, by legal mapping, or by any other lawful procedure.

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

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. See "Building."

Structure, Non-Conforming: 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.

Subdivision: The division of a lot, tract, or building (in the case of a condominium conversion), or parcel of land into two (2) or more lots, plats, sites, condominium units, 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.

Subdivision, Conservation: See Section VIII, Conservation Subdivision, of this Ordinance.

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, modem, 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 3.7.4 of this Ordinance.

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

Use, Accessory: An activity incidental and subordinate to and located on the same premises as a principal use and is conducted by the same individual business or agent. Accessory use by area shall be interpreted not to exceed fifty (50) percent of the area of the total use of the structure and/or lot on which it is located.

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 or nude modeling occurs. As used in this Ordinance, materials shall have the meaning set forth in RSA 650:1, III, or successor statute. An Adult Use shall be subject to the provisions of 3.9 of this Ordinance.

Use, Non-Conforming: See Non-Conforming Use.

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.

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.

Utility: A structure, building, or transmission device used to provide water, sewer, stormwater drainage, electricity, natural gas, oil, telephone, television, radio, and other forms of communication.

Variance: A departure from the terms of this Ordinance as the Board of Adjustment, upon appeal, is empowered to authorize under the terms of RSA 674:33, Powers of Zoning Board of Adjustment.

Warehouse, Wholesale, or Storage: Buildings or premises in which raw materials, merchandise, or equipment are stored for eventual distribution. These terms exclude the storage of fossil fuels.

Wetland: Any area falling within the jurisdictional definitions of Section XII, Wetlands Conservation District Overlay.

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.

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.

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.

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

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 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.

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 All uses illustrated in the Table of Uses shall be subject to the limitations in other Sections of this Ordinance, including but not limited to Section II Definitions. In case of conflict, the more restrictive interpretation shall apply.

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, are permitted by Conditional Use Permit, 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 Permitted by Conditional Use Permit Uses denoted by the letter “C” in the Table of Uses shall obtain a Conditional Use Permit from the Planning Board, subject to applicable sections of this Ordinance and other local, state and federal laws, rules and regulations. A Conditional Use Permit may not establish a use specifically prohibited by this Ordinance.

(d) 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.

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.

(e) 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, Table of Uses, 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.

3.6 TABLE OF USES	R-4	R-3	R-2	R-1	B-1	M-1	VR-1	VB-1	VM-1
A. Residential Uses – Principal Uses									
1. Affordable Housing Option, Section XVI	X	P	P	P	P	X	P	X	X
2. Congregate Care Housing	X	X	S	S	P	X	S	S	X
3. Dwelling, Multi-Family with a maximum of 12 dwelling units per building	X	X	S	S	P	X	S	S	X
4. Dwelling, Multi-Family with a maximum of 24 dwelling units per building	X	X	X	X	P	X	X	X	X
5. Dwelling, Single-Family Detached	P	P	P	P	X	S	P	S	S
6. Dwelling, Two-Family	S	S	P	P	X	S	P	S	S
7. Manufactured Housing on individual lots	X	X	X	X	X	X	X	X	X
8. Manufactured Housing Park, Section IX	X	S	S	S	X	X	S	X	X
9. Manufactured Housing Subdivision, Section IX	P	P	P	P	X	X	S	X	X
B. Temporary Residential Uses – Principal Uses									
1. Bed and Breakfast Inn, Section III	S	S	S	S	P	X	S	P	X
2. Camps, Non-Profit (overnight and/or day)	S	S	S	S	S	S	S	S	S
3. Commercial Lodging	X	X	X	X	P	S	X	P	S
C. Outdoor/Recreational Uses – Principal Uses									
1. Commercial Riding Stables and Riding Trails	S	S	S	X	P	X	X	X	X
2. Public Parks and Playgrounds, 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
3. Recreational Camping/Tenting Parks and Recreational Camping Vehicles, Section X	S	S	S	X	S	X	X	X	X
D. Agricultural Uses – Principal Uses									
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	P	S	S	P	S	S	P
3. Greenhouse or Farm Stand	S	S	S	S	S	P	S	P	P
4. Primary Agriculture Solar Energy System, Section III	C	C	C	C	C	C	C	C	C
E. Institutional Uses/Community Facilities – Principal Uses									
1. Buildings necessary for the furnishing of Non-Essential Services by such public utility for the public health, safety, and general welfare.	X	X	X	S	P	P	S	P	P

3.6 TABLE OF USES	R-4	R-3	R-2	R-1	B-1	M-1	VR-1	VB-1	VM-1
E. Institutional Uses/Community Facilities – Principal Uses									
2. Essential Services, Section II	P	P	P	P	P	P	P	P	P
3. Hospitals, Clinics and Nursing Homes, Convalescent Homes and Rehabilitation Centers	X	X	S	S	P	X	S	P	X
4. Museums, Historical Association or Society	S	S	P	P	P	X	P	P	S
5. Non-Profit Senior Citizen Centers	S	S	S	P	P	X	P	P	X
6. Place of Worship including customary ancillary religious facilities	P	P	P	P	P	X	S	P	X
7. Private Cemetery	S	S	S	S	S	S	S	S	S
8. Private Schools, and Child Daycare Center, Section III	S	S	S	S	P	S	S	P	S
9. Public Utilities	P	P	P	P	P	P	P	P	P
F. Commercial Uses – Principal Uses									
1. Airports, Heliports, Runways, Control Towers, Administration Buildings, Hangers	X	X	X	X	X	S	X	X	X
2. Banks and Lending Institutions	X	X	X	X	P	P	X	P	S
3. Bar	X	X	X	X	S	S	X	S	S
4. Beauty Parlor, Barber Shop	X	X	X	X	P	P	S	P	S
5. Business Offices	X	X	X	X	P	P	S	P	P
6. Commercial Solar Energy System, Section III	C	C	C	C	C	C	C	C	C
7. Convenience Store (without gas pumps)	X	X	X	S	P	S	S	P	S
8. Crematory Facility	X	X	X	X	S	S	X	X	X
9. Drive-in Food Establishments.	X	X	X	X	P	P	X	X	X
10. Drive-thru Food Establishment	X	X	X	X	S	S	X	X	X
11. Drive-thru Retail Establishment	X	X	X	X	P	S	X	P	S
12. Entertainment, Place of, Section III	S	S	S	S	S	S	S	S	S
13. Filling Station, Service Station	X	X	X	X	P	P	X	S	S
14. Funeral Home	X	X	X	X	S	S	S	S	S
15. Kennel	X	X	X	X	S	S	X	X	S
16. Laundromat	X	X	X	X	P	S	X	P	S
17. Motion Picture Establishment, Indoor and/or Outdoor	X	X	X	X	S	S	X	P	X
18. Motor Vehicle Dealership, Repair Garage, Body Shop, Paint Shop	X	X	X	X	S	S	X	P	S
19. Personal Wireless Service Facilities (PWSF), Section III	C	C	C	C	C	C	C	C	C
20. Pet Grooming	X	X	X	X	P	S	X	P	S
21. Professional Offices	X	X	X	S	P	P	S	P	P
22. Recreation Facilities or Clubs, Indoor and/or Outdoor	S	S	S	S	S	S	S	S	S
23. Restaurants	X	X	X	X	P	P	X	P	S
24. Retail Establishments	X	X	X	X	P	S	X	P	S
25. Self-Service Storage Facility	X	X	X	X	P	P	X	X	X
26. Uses, Adult, Section III	X	X	X	X	X	X	X	S	X
27. Veterinary Hospital	S	S	S	X	S	S	X	X	S

3.6 TABLE OF USES	R-4	R-3	R-2	R-1	B-1	M-1	VR-1	VB-1	VM-1
G. Industrial Uses – Principal Uses									
1. Biomass Energy Generation Systems	X	X	X	X	X	X	X	X	X
2. Bulk Storage and Distribution of goods and commodities, except fuels.	X	X	X	X	X	P	X	X	P
3. Bulk Storage of fossil fuels	X	X	X	X	X	S	X	S	S
4. Closed Storage of raw materials, finished goods, or construction equipment	X	X	X	X	S	S	X	X	S
5. Earth Products, Section XI	S	S	X	X	X	S	X	X	X
6. Freight and Trucking Terminals	X	X	X	X	X	S	X	X	X
7. Junk Yard~~s~~, Recycling Centers, or Refuse Facility	X	X	X	X	X	X	X	X	X
8. Laundry, Dry Cleaning Plant	X	X	X	X	X	P	X	S	P
9. Manufacturing, Assembly, Fabricating Operations	X	X	X	X	X	S	X	X	S
10. Renewable Energy Generation Systems, except for Biomass	S	S	S	S	S	S	S	S	S
11. Research and Development Facilities	X	X	X	X	P	P	S	P	P
12. Warehousing and Wholesaling	X	X	X	X	X	P	X	X	S
13. Water Filter and/or Wastewater Systems	S	S	S	S	S	S	S	X	X
14. Sawmill	X	X	X	X	X	S	X	X	S
H. Accessory Uses									
1. Accessory Agriculture Solar Energy System, Section III	P	P	P	P	P	P	P	P	P
2. Accessory Building for inside 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
3. Accessory Buildings normally associated with a residence or residential use, Section IV.	P	P	P	P	P	P	P	P	P
4. Accessory Commercial Solar Energy System, Section III	C	C	C	C	C	C	C	C	C
5. Accessory Dwelling Unit, Section III	P	P	P	P	X	P	P	P	P
6. Accessory Off-street Parking loading spaces, Section VI	P	P	P	P	P	P	P	P	P
7. Accessory Residential Solar Energy System, Section III	P	P	P	P	P	P	P	P	P
8. Accessory Storage of trailer, camping vehicles, 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
9. Agricultural silage storage exceeding the maximum zone height, Section IV.	S	S	S	S	S	S	S	S	S

3.6 TABLE OF USES	R-4	R-3	R-2	R-1	B-1	M-1	VR-1	VB-1	VM-1
H. Accessory Uses									
10. Child Daycare Home, Section III	S	S	S	S	S	S	S	S	S
11. Commercial Entertainment subject to the limitations in other Sections of this Ordinance, including but not limited to definitions, lighting, and noise.	P	P	P	P	P	P	P	P	P
12. Commercial Recreation Facilities subject to the limitations in other Sections of this Ordinance, including but not limited to definitions, lighting, and noise.	S	S	S	S	S	S	S	S	S
13. 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
14. Filling of Water or wet area, Section XII	S	S	S	S	S	S	S	S	S
15. Home Business, Section III.	S	S	S	S	S	S	S	P	P
16. Home Occupation, Section III	P	P	P	P	P	P	P	P	P
17. Newsstand, Barbershop, Dining Room or Cafeteria and similar accessory services primarily for occupants or users within a hotel, office, industrial building, hospital, or transportation terminal facility.	X	X	S	S	P	P	S	P	P
18. Personal Wireless Service Facilities (PWSF), Section III	C	C	C	C	C	C	C	C	C
19. Recreational Tenting and Recreational Camping Vehicles of a visitor in accordance with Section X, provided no residential tenting and recreational camping vehicles are occupied on the property for greater than 60 days per year.	P	P	P	P	P	S	P	P	S
20. Seasonal Greenhouse or Farm Stand selling goods primarily raised on the premises.	S	S	S	S	S	S	S	S	S
21. Shared Solar Energy System, Section III	C	C	C	C	C	C	C	C	C
22. Small Wind Energy Systems, Section III	P	P	P	P	P	P	P	P	P
23. Telecommuting, Section III	P	P	P	P	P	P	P	P	P
24. Temporary Housing as a result of an emergency situation provided a permit is secured from the Board of Selectmen under conditions they may prescribe.	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, Special Exception, 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, definition of Home Business.

(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.

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

3.7.4 Telecommuting and Home Occupation: In order for Telecommuting or a Home Occupation, as defined in Section II 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 telecommunication services 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.

(f) All Home Occupations shall be registered with the Board of Selectmen.

3.7.5 Bed and Breakfast Inn: In addition to meeting the requirements of Section XV, Paragraph 15.8.2, Special Exception, 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, Parking, 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.

3.7.6 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 childcare 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.

(d) 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.

3.7.7 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.

3.7.8 Place of Entertainment: In order to operate a Place of Entertainment, the applicant must (a) meet all requirements of Section XV, 15.8.2, Special Exception, 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 the definition in Section II 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, Noise Control, 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.

(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, motorsports 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 1st, 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 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. *(Section XV)*

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 ensure 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, daycare 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 central public 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.

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 a 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, environmentally 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.

(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.

(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 that may commonly be found in the area surrounding such proposed facilities such as, but not limited to, flagpoles, farm silos, ranger, or forest fire watchtowers, or artificial trees.

(u) Tower shall mean any free-standing 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.

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 non-conforming 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, free-standing facilities must be set back from all lot lines and public rights-of-way a minimum distance equal to 125% of the tower’s height; provided, however, that this requirement shall not apply to PWSFs and appurtenant facilities (1) located on or within existing buildings or structures; or structures less than thirty-five (35) feet in height from surrounding grades, and (2) camouflaged as otherwise required by this Ordinance.

(b) Height Limitations.

(1) General. Subject to any stricter standards as set forth below, a personal wireless service facility shall not exceed ninety (90) feet in height, measured as the vertical distance from the average finished grade surrounding the facility to its highest point, including all attachments.

(2) PWSFs in Wooded Areas. A personal wireless service facility located in a wooded area shall not project higher than twenty (20) feet above the average tree canopy height of the proposed site. Further, a PWSF located in a wooded area must be camouflaged to blend in with the natural character of such area and must employ stealth technology in order to make the site less obtrusive to surrounding properties and the community. Appropriate stealth technologies for wooded areas include ranger or forest fire watchtowers 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 a 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 that 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 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.

(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 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 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 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 a tower location, tree and foliage clearing, and placement of incidental structures.

(5) Plan Requirements. Each applicant requesting a Conditional Use Permit under this Ordinance shall submit a scaled plan in accordance with the Site Plan Review Regulations and further information including:

(a) A scaled elevation view.

(b) Topography.

(c) Propagation Maps.

(d) Radio-frequency coverage.

(e) Setbacks.

(f) Adjacent uses (up to 400 feet away).

(g) The location of all buildings and structures within 500 feet of 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.

(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 the 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 a 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 denial.

(f) The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Board may retain the services of a consultant qualified in personal wireless services to review the application and all associated information submitted by the applicant. The Board may further require, pursuant to RSA 676:4, I (g), that the applicant reimburse the 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, the application shall be deemed approved.

3.10.9 Waivers:

(a) General. The Planning Board may grant waivers to these regulations provided that a majority of the Board finds that the criteria set forth in Section 15.8.3 of the Zoning Ordinance regarding “variances” have been satisfied.

(b) Conditions. In approving waivers, the Board may impose such conditions, as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.

(c) Procedures. A petition for any such waiver shall be submitted in writing by the applicant for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

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

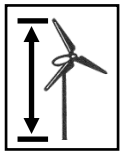
(2) Modification. Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

(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, was created to balance the supply and demand of electricity for consumers in New England.

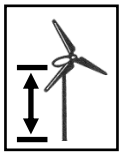
(5) Shadow flicker. The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures, causing a repeating pattern of light and shadow.

(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 are mounted on top of the tower, whose purpose is to convert the 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 three 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.

(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.

(3) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.

(4) 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.

(5) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.

(6) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.

(7) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.

(8) 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: 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 the property line, public roads, or nearest point on the foundation of an occupied building.

Minimum Setback Requirements			
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 windstorms 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 a 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 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: 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.

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 the initiation of abandonment.

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 period. After 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 the Notice receipt date. After a 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.

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.

3.12 ACCESSORY DWELLING UNIT (ADU)

3.12.1 Authority: This Ordinance is adopted by the Town of Hopkinton on June 1, 2017, and amended on March 12, 2019, in accordance with the authority granted in New Hampshire Revised Statutes Annotated 674:21 and 674:71 – 73.

3.12.2 Purpose: These regulations have been enacted in order to establish guidelines for Accessory Dwelling Units, in an effort to maintain neighborhood aesthetics while fulfilling the following goals:

(a) Increase the supply of affordable housing and workforce housing without the need for more infrastructure or further land development.

(b) Provide flexible housing options for residents and their families.

(c) Integrate affordable housing and workforce housing into the community with minimal negative impact.

(d) Provide aging residents with the opportunity to retain their homes and age in place.

3.12.3 Definitions:

(a) Accessory Dwelling Unit (ADU): A residential living unit that is subordinate and within or attached to a single-family dwelling, or is located in a detached structure, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. Every accessory dwelling residence shall be deemed a residence of workforce housing for purposes of satisfying the obligations under NH RSA 674:59.

3.12.4 Standards: Applicant proposing an ADU, as defined in Section III, 3.12.3 (a), must agree to and demonstrate compliance with the following conditions in order to receive a building/use permit:

(a) A maximum of one (1) ADU shall be permitted.

(b) The ADU shall be located within or attached to the principal single-family dwelling with common walls, or may be in a separate detached structure, such as a garage or barn, provided the existing structure conforms with the required setbacks for the zoning district. An ADU may also be in a new structure.

(c) New construction for an attached or detached ADU shall comply with all standards for a single-family detached dwelling including, but not limited to, setbacks, height limits, and lot coverage and shall not increase any non-conforming aspect of any existing structure. The architecture of the ADU shall be the same as the principal dwelling unit so to provide aesthetic continuity. This includes appearance, design, colors, and materials.

(d) The accessory dwelling and principal dwelling units shall comply with all applicable State Building Codes and Fire Codes for construction.

(e) The total area of an ADU shall not exceed the lesser of (i) 1,400 square feet (combined heated/non-heated space); or (ii) 50% of the total floor area of the principal dwelling

(heated/occupied space). Where 50% of the total floor area of the principal dwelling is less than 750 square feet, the maximum size allowed shall be 750 square feet.

(f) The ADU shall contain fully self-sufficient living quarters, consisting of adequate sleeping, bathing, and eating accommodations.

(g) An ADU shall not be considered an additional dwelling unit for purposes of determining the minimum lot size or development density of the property.

(h) An interior door shall be provided between the principal dwelling unit and the attached ADU. There is no requirement that the interior door remains unlocked.

(i) An independent exterior means of ingress and egress shall be provided for an attached ADU. The ingress and egress shall not be on the same side of the building as the principal dwelling unit.

(j) All new construction, intended to be used as a detached accessory dwelling unit, must be located to the side or rear of the existing principal dwelling, except when the Planning Board finds, during Site Plan Review, that the placement of the detached accessory dwelling unit will not adversely affect the character of the neighborhood; traffic on roads; safety of pedestrians, and will not create a hazard or nuisance to abutting property owners.

(k) Either the principal dwelling unit or the ADU must be owner-occupied. A temporary leave of absence by the property owner is allowed, provided the owner-occupied unit is not rented during the temporary leave of absence. The owner must demonstrate that one of the units is their principal place of residence and legal domicile. Both the principal and ADU must remain in common ownership. Transfer of either dwelling unit to condominium ownership is not permitted.

Prior to the issuance of a zoning/building permit, the owner shall record in the Merrimack County Registry of Deeds acknowledgment of the ADU and the owner/occupancy requirement. Acknowledgment is to be in a form that is satisfactory to the Town, in order to put prospective buyers on notice of the prohibition against renting out both units.

(l) There shall be a minimum of two (2) parking spaces for each dwelling unit with no additional curb cut from that which is for the principal dwelling unit.

(m) The applicant for a permit to construct an ADU shall make adequate provisions for water supply and sewage disposal for the ADU in accordance with RSA 485-A:38, but separate systems shall not be required for the principal and accessory dwelling units.

(n) No home business will be permitted in the ADU.

(o) The use of the ADU shall not include such transient occupancies as bed and breakfasts, VRBO (vacation rental by owner), hotels, motels, inns, rooming, or board houses.

(p) As an alternative, if allowed within the zoning district, a property owner can seek permission to convert the attached ADU to either a standard two-family or a multi-family dwelling.

3.13 SOLAR ENERGY SYSTEMS

3.13.1 Authority This Ordinance is adopted by the Town of Hopkinton on March 12, 2019, in accordance with the authority granted in New Hampshire Revised Statutes Annotated 674:16, 674:21, 674:17(I)(j), and 672:1-III-a, as amended.

3.13.2 Purpose The purpose of this Solar Energy Systems Ordinance is to:

(a) Accommodate solar energy systems and distributed generation resources inappropriate locations, while protecting the public's health, safety, and welfare.

(b) Regulate the implementation of solar energy systems in accordance with the recommendations stated in the Energy Chapter of the Hopkinton Master Plan.

(c) Promote environmental sustainability while respecting the characteristics and landscape of Hopkinton; and

(d) Support the State of New Hampshire's goal of developing clean, safe, renewable energy resources as provided for in the statutes referenced above.

3.13.3 Definitions

(a) Agriculture Solar, Primary. A mixed-use of property for a solar energy system and agricultural use. The solar energy system is designed to *primarily* serve off-site uses and consisting of one or more ground-mounted solar arrays or modules, or solar-related equipment, regardless of the rated nameplate capacity and solar land coverage, provided the existing agricultural use is preserved at the time of installation.

(b) Agriculture Solar, Accessory. A solar energy system for on-site agricultural use and consisting of one or more ground-mounted or roof/building-mounted solar arrays or modules, or solar-related equipment, intended to reduce on-site consumption of utility power and without a limit to the rated nameplate capacity or solar land coverage, provided the existing agricultural use is preserved.

(c) Commercial Solar. A use of land that consists of one or more free-standing, ground-mounted, solar energy systems regardless of rated nameplate capacity and solar land coverage that is designed primarily to serve off-site uses. A Commercial solar energy system may be authorized by Conditional Use Permit (CU) as a principal use.

(d) Commercial Solar, Accessory. A solar energy system for on-site commercial use, and consisting of one or more free-standing, ground or roof/building-mounted, solar arrays or modules, or solar-related equipment, intended to reduce on-site consumption of utility power.

(e) Ground Mount, Free-Standing. A solar energy system and associated mounting hardware that is affixed to or placed upon (such as ballasted systems) the ground, including, but not limited to, fixed, passive, or active tracking racking systems.

(f) Rated Nameplate Capacity. Maximum rated wattage output of a solar energy system based on the design output of the solar system.

(g) Residential Solar, Accessory. A solar energy system for on-site residential use, and consisting of one or more free-standing, ground or roof-mounted, solar arrays or modules, or solar-related equipment, intended to reduce on-site consumption of utility power.

(h) Roof/Building Mount. A solar energy system that is structurally mounted to a roof or attached to a building. The system shall be no taller than 5 feet above the ridgeline of the roof and not extend beyond the building footprint more than 5 feet. The system may include limited accessory equipment that is ground-mounted. For purposes of calculating array sizes or solar land coverage under the solar definitions in this section, roof or building-mounted portions shall not be included if the system is made up of both roof or building and ground-mounted systems. The building inspector may require information demonstrating that the roof or building can support the solar energy system, with additional supports if necessary.

(i) Screening. A device or materials used to conceal one (1) or more elements of a site from other elements or from adjacent or contiguous sites. Screening may include one (1) or a combination of the following materials of sufficient mass to be opaque or which shall become opaque after twelve (12) months and which shall be maintained year-round in an opaque condition: walls, fences, berms, or plantings.

(j) Shared Solar. A solar energy system that serves residences and/or commercial/industrial structures situated on two or more contiguous lots. The system is considered accessory to the uses on each of the lots that it serves.

(k) Solar Energy System. Includes all equipment required to harvest solar energy to generate electricity. The solar energy system includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. Solar energy systems include only equipment up to the stage that connection is made to the utility grid or site service point. A solar energy system may be allowed by right or authorized by a Conditional Use Permit.

(l) Solar Land Coverage. Defined exclusively for the purposes of calculating the footprint of the land area occupied by the components of a solar array. The solar land coverage is the land area that encompasses all components of the solar energy system that touches the ground, i.e., footings and ancillary components of the system. It does not include mounting equipment, panels, access roads or fencing and is not to be interpreted as a measurement of the impervious surface as it may be defined in this ordinance.

3.13.4 Applicability

(a) General. Any person seeking to construct or to carry out a commercial, commercial (accessory), agricultural (primary), or shared solar energy system 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 3.13.6 of this Ordinance.

(b) Exempt from this Ordinance

(1) Municipal Systems: All solar energy systems for municipal use are exempt from

land-use regulations pursuant to NH RSA 674:54.

(2) The Town recognizes the benefit of participating in solar development. Therefore, privately owned and operated solar energy systems, under a lease agreement, on town property is exempt from this Ordinance.

(c) Building Permit. No solar energy system shall be erected, constructed, or installed without first receiving a building permit from the building inspector. Furthermore, a building permit shall be required for any physical modifications to an existing solar energy system.

3.13.5 Solar Energy System Requirements:

(a) Setbacks. All solar energy systems, including the panels, shall be considered structures and shall comply with building setback requirements in accordance with the Dimensional and Density Requirements, Section IV, as applicable unless modified elsewhere in this Ordinance. For tracking systems, the setback shall be measured from the point and time where the array is closest to the lot line. No portion of a system may cross into the setback.

(b) Height. For roof or building-mounted systems located in any residential zoning districts, the maximum height for any part of the system is five (5) feet above the ridge of the roof or five (5) feet above the highest part of the roof where there is no ridge. The maximum height for a ground-mounted system shall comply with the height restrictions in accordance with the Dimensional and Density Requirements, Section IV, as applicable, unless modified elsewhere in this Ordinance.

(c) Glare. Solar energy systems shall be sited in a manner that will minimize impact due to glare on neighboring or adjacent uses.

(d) Signs. All signs are prohibited, except for manufacturer identification, contact information for the owner/operator, or proper warning signs.

(e) Code Compliance. The solar energy system shall comply with all applicable sections of the New Hampshire State Building Code.

(f) Visual Impacts. It is inherent that solar energy systems may pose some visual impacts due to the size and/or number of arrays needed to ensure adequate access to direct sunlight for solar energy use. It is the responsibility of the applicant to minimize the visual impacts for surrounding neighbors and the community.

(g) Lot Coverage. Ground-mounted solar energy systems shall not be considered as part of the maximum required lot coverage limitations and shall not be considered impervious surface. Impervious surface limitations as related to stormwater management for solar energy systems shall be addressed in accordance with applicable provisions of the Site Plan Review Regulations.

(h) Landscaping. The following landscaping requirements shall apply to commercial and agricultural (primary) solar energy systems constructed under this ordinance.

(1) Solar energy systems shall, where practical, be landscaped with a buffer of plant materials that effectively screens the view of the solar system compound from adjacent streets and residential property. The standard buffer shall consist of a landscaped strip at least ten (10) feet wide outside the perimeter of the compound. Natural vegetation is preferred.

(2) In locations where the visual impact of the system 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.

(i) Noise. Noise levels at the property line shall be in accordance with the Noise Control requirements, Section 5.5, unless modified elsewhere in this Ordinance.

(j) Stormwater. Ground-mounted systems that are required to secure a New Hampshire Department of Environmental Services Alteration of Terrain (AoT) Permit in accordance with NH RSA 485:17 shall secure such permit accordingly.

A permit issued by NH DES shall be incorporated by reference into the final approval and shall be enforceable by the Town in accordance with the Zoning Ordinance.

No further local review of stormwater and erosion control shall be required where a project is required to secure the NH DES AoT Permit

All ground-mounted systems shall be constructed in accordance with Best Management Practices for erosion and sedimentation control during the pre-construction, construction and post-construction restoration period.

Post-construction: For purposes of enhancing natural stormwater management, site conditions and plantings post-construction shall include restoration of those areas of soil compaction to natural conditions. Plantings shall be native species and are recommended to beneficial habitat to songbirds, pollinators and/or foraging species in order to maintain a healthy surface and subsurface habitat that can attenuate stormwater on the site.

(k) Lighting. On-site lighting shall be minimal and limited to access and safety requirements only. All lighting shall be downcast and shielded from abutting properties in accordance with Hopkinton's Outdoor Lighting Ordinance, Section XVIII.

(l) Screening. All applications shall include a plan demonstrating how the proposed ground-mounted solar installation will be incorporated into the local landscape so that effective screening is provided along public ways and from abutting views. The use of evergreens is recommended. The use of existing or created topography is encouraged to reduce visual impacts.

3.13.6 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 solar energy system on adjoining properties, and to preserve the intent of this Ordinance.

(a) 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.

(b) 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. 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 law.

(c) Application Requirements. All applications shall meet the standards set forth in 3.13.5 of this Ordinance.

(d) 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:

(1) A detailed plan showing the installation area of the site, including property lines with dimensions, topography, setbacks, right-of-way of the public road, and the location of accessways.

(2) A detailed plan showing the location, dimensions, and type of the proposed system to be installed on the site, including foundations, anchors, associated equipment, and utility connection point(s).

(3) A scaled elevation view.

(4) Fencing.

(5) Lighting.

(6) Location, dimensions, and types of existing major structures on the property.

(7) A plan detailing erosion control measures that will be adhered to during construction. Best Management Practices for erosion control shall be followed.

(8) A detailed landscape plan showing all systems visually screened via preservation of existing vegetation or use of landscaped screening as outlined in the Site Plan Review Regulations. The landscape plan shall indicate the location, height and spacing of existing vegetation to be preserved and areas where new plantings will be required. Following construction, cleared land areas must be restored with native species that are consistent with the use of the site as a solar energy system (such as slow growth or low ground cover).

(9) A plan demonstrating effective stormwater infiltration along with erosion control measures and soil stabilization.

(e) Other Information. In order to assess compliance with this Ordinance, the Planning Board shall require the applicant to submit the following information prior to any decision by the Board.

(1) Solar energy system specifications, including manufacturer, model, height, type, nameplate generation capacity.

(2) Copy of the application for interconnection with the electric utility provider.

(3) An emergency response plan, including details on emergency responder access to the site, detailed response guidance and disconnection locations, including industry guidance documents on safety procedures for specific equipment, and contact information for the owner/operator shall be posted on-site and updated as necessary.

(4) Evidence of site control, which may be in the form of an option to lease or purchase.

(5) A glare analysis, prepared by the manufacturer or qualified engineer, detailing potential glare onto abutting structures and roadways estimating the interaction of sun to panel angle, time of year and visibility locations. Based on the information, the Planning Board may require reasonable mitigation. Mitigation may include the angle of panels, details on the anti-reflective nature of the panel coating or any additional specific screening to minimize resulting impacts.

(6) An estimate of the equipment (e.g., inverters) noise based on equipment specifications shall be provided. Noise levels at the property line shall be in accordance with the Town's Noise Ordinance.

(7) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.

(f) Other Factors. Other factors to be considered by the Board in reviewing applications shall include:

(1) Nature of uses on adjacent and nearby properties.

(2) To the maximum extent possible, all wiring associated with the utility connection shall be underground.

(3) All equipment locations, except for utility connections, shall comply with required setbacks.

(4) Systems within viewsheds may be subject to additional screening.

(5) Security fencing may be required if the location of the systems presents a safety concern.

(6) Systems located on agricultural lands should minimize impacts to farmland activities and prime farmland soils.

(7) Dual use of the site (solar and non-solar) should be explored and encouraged, where appropriate and practical.

(8) Land clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the solar energy system.

(9) All-season access to the critical components of the system shall be provided.

(10) In locations where the visual impact would be minimal, the landscaping requirement may be reduced or waived.

(11) For commercial systems, the applicant may be required to include a natural resource inventory that details site conditions, habitat and mitigation efforts.

(12) For grid-connected systems, a copy of the final approved interconnection shall be filed with the Town.

(13) Mitigation through anti-reflective coating shall have an index of refraction equal to or less than 1.30.

(14) The applicant shall demonstrate through site planning and proposed mitigation that the solar energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but is not limited to, design, appearance, buffering, and screening. Required screening shall be maintained during the operative lifetime of the solar energy system's Conditional Use Permit. All electrical conduits shall be underground, except when the financial costs are prohibitive.

(15) The Planning Board, at the time of review, may require the applicant to file a decommissioning plan and post a decommissioning security. The decommissioning security is to be based on the estimated cost of removal and restoration.

3.13.7 Waivers

(a) General. The Planning Board may grant waivers to these regulations provided that a majority of the Board finds that the criteria set forth in Section 15.8.3 of the Zoning Ordinance regarding "variances" have been satisfied.

(b) Conditions. In approving waivers, the Board may impose such conditions, as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.

(c) Procedures. A petition for any such waiver shall be submitted in writing by the applicant for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

3.13.8 Abandonment. At such time that a commercial or agriculture (primary) solar 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.

Upon abandonment or discontinuation of use, the owner shall physically remove the solar 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 all above-grade components of the solar energy system including, but not limited to, mounting equipment, panels, and ancillary components of the system.

(b) Restoration of the location of the solar energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at the initiation of abandonment.

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 period. After 12 months of inoperability, the building inspector may issue a Notice of Abandonment to the owner of the solar energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from the Notice receipt date. After review of the information provided by the owner, the building inspector shall determine if the solar energy system has been abandoned. If it is determined that the solar energy system has not been abandoned, the building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

If the owner fails to respond to the Notice of Abandonment or if, after review by the building inspector, it is determined that the solar energy system has been abandoned or discontinued, the owner of the solar energy system shall remove the system at the owner’s sole expense within 90 days of receipt of the Notice of Abandonment. If the owner fails to physically remove the solar energy system after the Notice of Abandonment procedure, the building inspector may pursue legal action to have the system removed at the owner’s expense.

3.13.9 Bonding and Security Insurance. In recognition of the hazards presented by abandoned and unmonitored commercial or agriculture (primary) solar energy systems, 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 3.13.8. The Planning Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed solar energy system, prior to the construction of the system.

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.

TABLE OF DIMENSIONAL REQUIREMENTS									
	Minimum Lot Dimensions[a]			Minimum Setback Dimensions[a] (ft)					
Districts	Area (SF)	Continuous Frontage[g]	Depth	Front	Side	Rear	Max. Height of Structure	Max. % Bldg. Cvge/Lot	Min.% Open Space/Lot
R-4[b]	120,000	300	200	60	30	60	35	20	70
R-3[b]	120,000	300	200	60	30	60	35	20	70
R-2[b]	80,000[d]	250	140	40	20	40	35	30	30
R-1[b]	60,000[e]	160	120	30	15	40	35	30	30
R-1 (other than residential)	15,000	100	100	25	15	40	35	30	50
B-1[c k]	15,000[f]	80	80	30	15	40	35	40	30
M-1[c k]	110,000	250	300	50	40[h]	50	45	40	30
VR-1[j]	15,000[i]	80	80	30	15	40	35	40	30
VB-1[l]	7,500[i]	50	100	0	10	10	35	60	20
VM-1[j l]	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, Conservation Subdivisions, 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 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 principal 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, Special Exceptions, of this Ordinance.

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 Additions: Additions that 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 WAIVER OF DIMENSIONAL REQUIREMENTS BY THE PLANNING BOARD The Planning Board, during the 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.

4.6 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 source and, as such, requires special consideration. Non-Conforming solid waste facilities and any proposed or existing solid waste facilities as well as non-conforming facilities and any existing facilities that 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, non-conforming, 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.

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 buildings 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, checklists 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:

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 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 historic 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

(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 is 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 them. 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 act as gateways, providing first impressions and reinforcing Hopkinton's sense of place. Consideration should be given towards complementing these resources through the careful siting 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 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, Variances, 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.

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 II 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.

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 non-conforming. The expansion of a non-conforming 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 nonconforming use status, be subject to site plan review. This section shall not prohibit the expansion of a non-conforming 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 non-conforming 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 non-conforming 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 non-conforming, 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 nonconforming 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:

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 an instance, the two lots must be joined as one.

5.2.2 Reduction/Increase of Non-conforming Dimensions: Any nonconforming 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 nonconformity.

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 6.1, Off-Street Parking, takes precedence.

5.3 CHANGES IN NON-CONFORMITIES

5.3.1 Changes to Another Non-conformity: Any nonconforming 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 nonconforming 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 nonconforming lot which has come into conformity shall not again be changed to a non-conforming lot.

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

5.3.5 Discontinuance: Any nonconforming use discontinued for a period of one (1) 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 (5) year period of non-use.

5.3.6 Moving: Any nonconforming 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 nonconforming structure determined to be unsafe may be restored to a safe condition. Such work on any nonconforming structure shall not place it in greater nonconformity. 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 by 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 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 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 (1) 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 nighttime 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 daytime, 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.
(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, Guidelines for Submittal of Noise Data, 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 woodpiles, 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, Required Spaces, 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.
(d)	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.
(e)	Hospital	Two (2) per bed at design capacity.
(f)	Nursing Home	One (1) per bed at design capacity.
(g)	Business, trade or industrial school or college.	One (1) for each 200 sq. ft. of gross floor area in classrooms.
(h)	Nursery schools or daycare centers.	One (1) for each five (5) children at maximum capacity with a minimum of two (2) spaces required.

	Type of Use	Minimum Number of Required Spaces
(i)	Other school	Two (2) 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.
(j)	Community facility (town-building, recreation, etc.)	One (1) per each 400 sq. ft. of gross floor space.
(k)	Dormitory, fraternity, sorority, YMCA or similar use.	One (1) for each sleeping room.
(l)	Public Utility	One (1) 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.
(m)	Transportation terminal	One (1) for each 600 sq. ft. of gross floor area.
(n)	Mixed-Use	Sum of various uses computed separately.
(o)	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

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, informational signs, and traffic, directional, or regulatory signs.

7.3.3 Public Utility Signs. Official signs of a noncommercial 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.

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 nonresidential 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 XXI, 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) 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, 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 freestanding 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 is exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.
(c) No freestanding 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 freestanding 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 is located in or on the traveled right-of-way.

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, Off-Premises Business Signs.

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 maybe 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.

(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) freestanding 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 freestanding 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 freestanding 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.

(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 freestanding 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 freestanding signs is specified in Subsection 7.9.1, Table of Maximum Sign Dimensions for Non-Residential Districts.

(3) No freestanding sign shall have a horizontal dimension in excess of five (5) feet.

(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 freestanding 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 7.9.3(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 freestanding 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

(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 freestanding sign on any of the lots served by a shared driveway.

(3) A freestanding 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 a driveway which is for both entry and exit purposes or for entry purposes exclusively.

(5) On a freestanding 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.

Standards for Additional Height and Number of Free-Standing Signs in Certain Districts								
			Free-Standing Signs Per Lot					
			1		2		3	
District	Required Lot Size (acres)	Required Lot Frontage*(ft.)	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	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
VM-1	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 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 bear 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 Home Business use allowed pursuant to Section II Definitions 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 XVIII, 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 NON-CONFORMING 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 nonconforming sign. Such nonconforming signs shall be subject to the following:

7.14.1 Alterations. No nonconforming sign shall be altered in any way in structure or 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 nonconforming 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 nonconforming 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 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

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 DEFINITIONS The following definitions apply specifically to the Conservation Subdivision ordinance.

(a) Buffer: A setback within which adequate vegetation is maintained or provided to visually screen one use from another, to minimize potentially negative impacts on surrounding areas of natural resources, e.g., shield or block noise, light, or other nuisances, and protect water quality and reduce water pollution, or to maintain wildlife habitat. Specific buffer types include wetland buffer and perimeter buffer.

(b) Building Envelope: The area of a building lot identified on a subdivision plan indicating the allowed limits of clearing and grading and within which all structures and the well and septic system, including the tank and leach field, shall be located. No portion of the building envelope may be located within a building or yard setback, wetland buffer or perimeter buffer. The applicant shall show a contiguous building envelope on the plan that depicts a plot of buildable land sufficiently large for the proposed building, well, septic, and related improvements.

Future construction on the lot is encouraged but not required to be located within the identified building envelope; however, construction outside of the building envelope shall comply with setback requirements for a conventional subdivision development as specified in Section IV Dimensional and Density Requirements. The building envelope is intended to ensure that the lot provides enough buildable land for a house, septic, garage, and accessory structures without the need to disrupt environmentally sensitive lands and wetland buffers and to meet the requirements of this Ordinance.

(c) Conservation Subdivision: An alternative form of a residential subdivision where, instead of subdividing an entire tract into lots of conventional sizes, the same number of housing units are arranged on lots with reduced dimensions. The remaining area of the parcel is permanently protected as open space by way of a legal agreement between the landowner(s) and a land trust or government agency that permanently limits the use of the remaining area to protect its conservation values.

(d) Yield Plan: A design acceptable to the Planning Board, showing the number of lots that could be approvable and buildable following the requirements of conventional zoning and subdivision standards.

8.5 APPLICABILITY AND PROCEDURES

8.5.1 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 8.5.2 or issued a special use permit under Section 8.5.3.

8.5.2 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;

(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.

8.5.3 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, Dimensional and Density Requirements when it finds that:

(1) The parcel is ill-suited for development using Conservation Subdivision design or a conventional design that provides greater or equal benefits to the community.

(2) The parcel has no area with four (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.

8.5.4 Review Process. A subdivision application under this Section shall comply with the standard application and review process specified in Section II of the Subdivision Regulations.

8.5.5 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. Town Counsel shall advise the Planning Board of the adequacy of such legal provisions.

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 the use of a Yield Plan.

The applicant presents a Yield Plan to the Planning Board to determine the number of allowable buildings and dwelling units reasonably achievable on the property, based on a conventional subdivision design that meets or exceeds the minimum dimensions required for lots in conventional subdivisions specified in Section IV, Dimensional and Density Requirements. The Yield Plan does not have to meet formal requirements for a site design plan and is not intended to involve significant engineering or surveying costs, and the design must be realistic and economically capable of being constructed, given site features and all applicable regulations. Potential building lots and streets must not be shown in areas that would not ordinarily be permitted in a conventional plan. For example, Yield Plans would include, at minimum, basic topography, wetland locations, l00-year floodplains, and slopes exceeding 25 percent in defining areas unsuited for development.

8.6.2 Density Incentives. The Planning Board may award the development a density bonus that increases the maximum number of dwelling units beyond the number of units identified in the Yield Plan. Bonuses may be awarded from any combination of the following, but in no case shall the bonus result in more than a 25% increase in dwelling units unless stated otherwise. All fractional numbers of 0.5 or greater shall be rounded up to the nearest whole number.

(a) Senior and/or Affordable Housing according to Section XVI, Affordable Housing Innovative Land Use Control: Where the development parcel incorporates not less than 20% of senior or affordable housing established and maintained in compliance with HUD/NHHFA guidelines, a 25% increase in the number of allowable dwelling units is available. Where the development includes a combination of senior and affordable housing units, a 30% increase in the number of allowing dwelling units is available.

(b) Designated Open Space: Conservation of greater than the minimum required area of the parcel as Designated Open Space shall receive a 10% bonus where the proposed development shows 60% or more of the tract as open space, protected as such in perpetuity OR 20% where the

proposed development shows 70% or more of the tract as open space, protected as such in perpetuity.

(c) Public Access: 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.

(d) Conservation Easement: 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.

(e) Trails: If there is a linking of existing/proposed trails or open space networks with trail corridors through the site, and the public is granted access to these trails in perpetuity, then a 10% increase in the number of allowable dwelling units is available.

(f) Agricultural Land: If the development protects agricultural land and provides permission or their use as such in perpetuity, a 10% increase in the number of allowable units is available. If the portion preserved for agricultural use is equal to 25% or more of the tract, the full bonus may be awarded. In approving the density bonus, the Planning Board may restrict the farming type and intensity to prevent nuisances. This provision only requires that permission is available. The fact that agricultural uses are not pursued at any particular time does not affect the validity of the bonus; however, at a minimum, fields should not be allowed to become overgrown; instead, they must be kept open by mowing.

(g) Viewshed: If the development protects in perpetuity viewsheds and associated viewpoints, which are lands or corridors of land that contribute to the visual landscape of the Town, including items such as open fields containing stonewalls and forested hillsides, then a 5% increase in the number of allowable dwelling units is available.

(h) Forest Management: If the open space to be preserved is mostly mature forest (70% or greater), where 30% or less of the basal area will be cut, and where cutting is well distributed and will be based on a management plan developed by an NH Licensed Forester and approved by the Planning Board, a 10% increase in the number of allowable dwelling units is available.

(i) Historical Features: If the development protects in perpetuity historically significant buildings and landscapes, identified as such in the Master Plan, including buildings and associated uses that are maintained and visually separated from the developed portion of the development, a 5% increase in the number of allowable dwelling units is available. Structures and landscapes not identified as such through the Master Plan may be determined by sufficient evidence presented to the Planning Board during a review of the development. Such evidence may include comments from the Heritage Commission or Historical Society, listing or eligibility for listing on the National Register of Historic Landmarks, or other qualified statements of historical value.

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 is to be located on a lot, the ownership and management arrangements for that lot, and the units, 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, Alternative Lot Sizing, and 8.7.4, Design Specifications for Lots:

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 8.5.3, 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

(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, Dimensional and Density Requirements, of this ordinance shall continue to apply.

District	Frontage	Minimum Front/Rear Setback	Minimum 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. The Planning Board may require lots to be larger than the minimums above to meet the stated objectives or to satisfy other requirements, particularly the dimensional and design standards of this section, the goals in the Master Plan, or to comply with other elements of Hopkinton's Zoning Ordinance which includes protecting the health, welfare and safety of the residents of the Town of Hopkinton.

(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 100-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 restrictions.

(e) The Planning Board may require the designation of an undisturbed, naturally vegetated buffer strips of at least 25-feet in width around water resource features, (e.g., lakes, ponds, streams, wetlands) or other natural features that may be adversely affected by erosion or stormwater runoff. Such areas may be required to be revegetated if they were cleared prior to subdivision approval or cleared during construction.

(f) 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, Dimensional and Density Requirements.

(g) Building envelopes for each new lot shall ensure an adequate separation between new primary structures. 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 50-feet.

District	Minimum Average Separation Distance Between Building Envelopes for New Lots
R-4, R-3	120’
R-2	80’
R-1	*50’
VR-1	*25’
M-1	*40’
VM-1	*30’
*The minimum separation distance may be reduced by the average separation between structures on adjacent or neighboring properties.	

(h) Building height shall not exceed the height for the district as specified in Section IV, Dimensional and Density Requirements, except for multi-family attached dwelling units, which shall not exceed 50 feet.

(i) 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.

(j) 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).

(k) The Planning Board may authorize variations from the above standards by up to fifty percent (50%) by Special Use Permit issued pursuant to Section 8.5.3, Special Use Permit, 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. New streets shall only be permitted for a subdivision creating a minimum of four (4) lots. The total number of lots may include any lot containing an existing residence that is to utilize the new street.

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 PERMITTED USES

8.8.1 Uses. All uses permitted in the district within which the Conservation Subdivision lies, as specified in Section 3.6, Use Regulations (Table of Uses), shall be allowed.

8.8.2 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) attached dwelling units per building.
R-2, VR-1	Multi-family buildings with up to four (4) attached dwelling units per building.

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

8.9 DESIGNATED OPEN SPACE

8.9.1 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 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 8.5.3, Special Use Permit, 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.

8.9.2 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.

8.9.3 Priorities for Inclusion in Designated Open Space. Areas containing the following shall be considered a 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.

8.9.4 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.

8.9.5 Allowable Uses in Designated Open Space.

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

(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. It is recommended that these activities be conducted in accordance with Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire, as published by the NH Division of Natural and Cultural Resources.

(2) Agricultural Cultivation. It is recommended that these activities be conducted in accordance with the manual of Best Management Practices for Agriculture in New Hampshire, published by the NH Department of Agriculture.

(3) Passive 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 8.5.3 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, stormwater 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 stormwater 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 non-residential 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 or uses as approved by Special Use Permit 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.

8.9.6 Protection and Management of Open Space

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

(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 a 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 landowner 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. 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, 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.

(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.

8.10 PHASED DEVELOPMENT The review and approval procedure for phased developments shall be as follows:

(a) For purposes of these Regulations, “phased development” shall mean a project which the applicant intends to construct in phases over a period of time. Phased development may also include a project for which the Planning Board has imposed a phasing requirement pursuant to Section XIII of the Zoning Ordinance, or otherwise, in order to mitigate the impact of a development on community facilities, services, or utilities.

(b) Where development of the site will be phased, the following information, in addition to the requirements of Section XIII, shall be provided:

(1) The methods to be used during construction to control erosion and sedimentation through the use of sediment basins, mulching, matting, temporary vegetation, or covering of soil stockpiles.

(2) The approximate size and location of the portion(s) of the parcel to be cleared at any given time and length of time of exposure.

(3) The required public improvements, if any, and how such improvements to be integrated into the phased construction; and

(4) The proposed total period of time over which full build-out of the development shall occur.

(c) The Planning Board may waive and/or modify the phasing schedule after considering the totality of the circumstances, including but not limited to the following factors.

(1) The extent to which review of the development in its totality is logical and reasonable due to the degree to which the proposed phases are well integrated, both as to their use and development scheme, and as to common infrastructure and other improvements.

(2) The extent to which phasing will benefit the Town by mitigating and making more predictable the impacts of the complete development upon community facilities, services, utilities, and other Town goals as set forth in the Master Plan.

(3) The degree to which the integration of the phases, as described above, would make private investment in such improvements unlikely.

(4) The extent to which the proposed phasing schedule represents a realistic timeline for active and substantial development progressing at a steady pace, in light of the type and complexity of the project as a whole; and

(5) The total length of time proposed, and the degree of unpredictability or Board uncertainty involved, with respect to whether a later phase or phases will continue to meet current regulations, at the time of construction, and in light of potential changed conditions which might occur in the meantime within the neighborhood or the Town as a whole.

(d) If the development is proceeding in accordance with the approved phasing schedule, the later phase(s) shall normally be presumed to be "vested" against changes in the Town's land use ordinances and regulations, except as otherwise specified by the Board as part of its approval. However, the Planning Director may determine that, due to specific circumstances, including but not limited to non-compliance with applicable regulations or conditions of approval, a later phase or phases should not be considered "vested" under RSA 674:39 or the New Hampshire common law of vested rights. In such a case, the Planning Director may forward to the Planning Board a recommendation to initiate proceedings, using the procedures of RSA 676:4-a as applicable, to revoke approval of an unbuilt phase or phases.

(e) If the applicant anticipates being unable to meet any time deadline(s) set forth in the approved phasing schedule with respect to any phase, he or she may apply to the Planning Board for an extension of up to two years for the particular phase. The request for an extension shall be submitted prior to the expiration of the deadline(s) involved.

(f) If the applicant fails to meet any such deadline or extension thereof, then the approval of that phase and all subsequent phases shall be considered void, and such phase(s) shall no longer be presumed "vested." However, the applicant may resubmit the application for such phase(s) to the Planning Board for further review and re-approval in light of changes in ordinances, regulations, or other material circumstances which have occurred in the Town since the original approval.

8.11 DETERMINATION OF POTENTIAL REGIONAL IMPACT Upon receipt of an application for development, the Planning Board shall review the application and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact, pursuant to RSA 36:54, et seq. The Planning Board may, in its discretion, determine that any project has the potential for regional impact, whether or not the project meets or exceeds the criteria in RSA 36:54, et seq.

8.12 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.

SECTION IX
MANUFACTURED HOUSING

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 Section VIII, 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.

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.

9.4.14 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

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.

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

11.1 AUTHORITY This Ordinance is enacted pursuant to the authority granted by 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(c).

(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.

(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 groundwater 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

(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 in 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.

(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.

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 that result in 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:

(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 in 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 Alternation, 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 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)

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 groundwater 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 groundwater 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:

	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	Pickerel 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)		

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.

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
IMPACT FEES

13.1 PURPOSE This Ordinance is enacted pursuant to RSA 674:21, and in order to:

(1) Promote public health, safety and welfare, and prosperity.

(2) Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Hopkinton.

(3) 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,

(4) Provide for the harmonious development of the municipality and its environs.

(5) Ensure the proper arrangement and coordination of streets; and,

(6) Ensure streets of sufficient width to accommodate existing and prospective traffic.

13.2 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; stormwater, 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.

13.3 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.

13.4 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.

13.5 ADMINISTRATION OF IMPACT FEES Each in fact impact fee shall be accounted for separately, shall be segregated from the Town's general fund, maybe 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 guarantee 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 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.

13.6 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).

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 all possible Zoning Ordinance violations promptly 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 an 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

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 a change in the use of the land or 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 an 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.

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

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, holders of conservation, preservation, or agricultural preservation restrictions shall be notified of the public hearing by verified mail, as defined in RSA 21:53, 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).

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 pollutants, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.

(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 stormwater runoff onto adjacent property or streets.

(7) An appropriate location for the proposed use.

(8) Not adversely affect 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.

(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

(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

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 a 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 a 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 an 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.

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 a 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.

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.	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. 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.

The units may be rental units or of a 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.

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

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 exceeded 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").

17.1.F.8 Flood Proofing means any combination of structural and non-structural additions, changes, or adjustments to structures that 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 that 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.2 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.

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 are 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 a 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.

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 parts 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 floodwaters into the systems and discharges from the systems into floodwaters, 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.

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 an 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 community 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 (for 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;

(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 floodwaters 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.

(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

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 on 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 the 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 that 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 the 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.

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 luminaries 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 fascia 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 that 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.

18.3.6 Non-Conforming Outdoor Lighting:

(a) Non-conforming 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 non-conforming 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 Spotlight: 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.

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 floodlights 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:

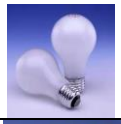
(a) Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;

(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 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
COMMERCE AND COMMUNITY OVERLAY DISTRICT

19.1 DISTRICT CREATED AND AUTHORITY There is hereby created an overlay zoning district, which shall be known as the "Commerce and Community Overlay District" (CCOD). The CCOD was created by the Town of Hopkinton on March 10, 2020, under the authority of the provisions of NH RSAs 674:16 and 674:21, Innovative Land Use Controls.

19.2 PURPOSE AND INTENT The purpose of the Commerce and Community Overlay District is to provide an opportunity for a range of residential housing choices and small-scale neighborhood retail and services in a planned development that incorporates open space.

19.3 OBJECTIVES The objectives of the Commerce and Community Overlay District are:

(a) To promote the goals and objectives of the Hopkinton Master Plan.

(b) To encourage a variety of housing choices that allows for age-friendly and multi-generational homeownership and rental opportunities that meet the affordability needs of all households that desire to live in Hopkinton while providing neighborhood conveniences, such as retail and services.

(c) To introduce uses that will have positive long-term social and economic impacts.

(d) To augment conventional underlying zoning and land use regulations where the modifications of use, dimensional, density and other requirements are appropriate.

(e) To enable development that will be compatible with the surrounding site environment and neighborhood; and

(f) To ensure that private development will be compatible and coordinated with public investment and improvements.

19.4 DISTRICT BOUNDARY The property contained in the CCOD is located along Route 127 and Routes 202/9. The location and boundaries are hereby established and shown on a map titled "Zoning Map of Town of Hopkinton, New Hampshire."

19.5 PERMITTED USES All uses permitted in the CCOD shall be those uses permitted in the underlying district as specified in Section 3.6, Use Regulations (Table of Uses).

In addition to the underlying permitted uses, the following uses may also be permitted.

(a) Multi-family dwellings with a maximum of twenty-four (24) dwelling units per building.

(b) Two-family dwelling units with no more than two (2) bedrooms per dwelling unit as part of a planned unit development.

(c) Buildings containing between eight (8) and twenty-four (24) attached dwelling units shall not be required to provide direct access to the ground or have some living area at ground level.

(d) Uses that are permitted by right or by special exception in the Table of Uses under Commercial Uses for the underlying zoning district.

19.6 DIMENSIONAL AND DENSITY The underlying dimensional and density requirements outlined in Table 4.2 shall not apply to the development parcels located within the boundaries of the CCOD. Dimensional and density requirements shall instead be regulated by the following:

(a) Development Parcel Definition. A parcel within the Commerce and Community District upon which a development proposal may be proposed and developed in accordance with this Section.

(b) Minimum Development Parcel Size. The minimum development parcel gross area shall be 3 acres (130,680 square feet) for residential use; 1 acre (43,560 square feet) for non-residential uses.

(c) Overall Size. The development parcel shall be of a minimum size to accommodate a minimum of nine (9) dwellings units subject to (d) and (e) below. The purpose of this restriction is to provide enough dwellings in a development to lend support to accompanying small-scale retail and to allow the town to better plan for and provide the increase in local services that accompanies population growth within a town, and to make a development financially feasible to undertake and construct by private developers.

(d) Base Figure. The base figure to determine the number of dwelling units permitted on a development parcel shall be based on a density of three (3) dwelling units per developable acre.

(e) Development Parcel Lot Coverage. The entire density permitted for a single development parcel within the CCOD must be located in seventy (70%) percent or less of the entire parcel available for development. The density may vary depending on soil conditions, suitability of on-site locations for septic systems and community water systems, wetlands, topography, and other features of the land. In no case shall the average density be lower than that of a conventional subdivision.

Buildings may be located on individual 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 application, and those arrangements shall be submitted for approval by the Planning Board.

(1) Lots and/or building envelopes shall be shown on the subdivision plan and shall be submitted for Planning Board approval.

(2) Building height shall not exceed 50 feet.

(3) Applicants are encouraged to vary lot sizes, lot dimensions, and the location of building envelopes and structures from the access road and from lot to lot within the development to retain natural vegetation; provide increased privacy for residents, and to increase the visual variety provided by the arrangement of buildings within the development.

(4) 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).

(f) Incentives for Density Bonuses. Applicants under this Section who provide the Town with certain amenities, such as but not limited to, trails and trail connections, ballfields, playgrounds, fitness centers, meeting rooms and social spaces, and active or passive recreation areas, in the proposed development, may receive a density bonus beyond what is permitted by the base figure calculation. The Planning Board will consider permitting a density bonus based on suitable site conditions. A density bonus may be permitted as indicated below:

(1) Where the development parcel incorporates, senior housing established and maintained in compliance with HUD/NHHFA guidelines up to a 25% increase in unit count.

(2) Where the development parcel incorporates affordable housing in compliance with HUD/NHHFA up to a 25% increase in unit count.

(3) Where 40% or more of the development parcel is set aside for Designated Open Space up to a 15% increase in unit count.

(4) Where the proposed development includes a combination of senior or affordable dwelling units and a minimum of 40% Designated Open Space (area of parcel permanently protected from future development), up to a 30% increase in unit count.

19.7 SUBMISSION AND APPROVAL PROCEDURES An application under this Section shall comply with the application and review process specified in Sections II and III of the Subdivision Regulations and Section IV of the Site Plan Review Regulations.

19.8 CONDITIONAL USE PERMIT Development within the CCOD shall obtain a Conditional Use Permit. The purpose and intent of a Conditional Use Permit is to provide a mechanism to allow for modifications to standards, with the intent of providing relief where the application of a standard creates practical difficulties in allowing development to proceed.

(a) A Conditional Use Permit shall be granted only if the Planning Board determines that the proposal conforms to all of the following Conditional Use Permit criteria (except for specific criteria that are deemed by the Planning Board to be not pertinent to the application):

(1) Site suitability. The site is suitable for the proposed use. This includes:

(a) Adequate vehicular and pedestrian access for the intended use.

(b) The availability of adequate public services to serve the intended use, including emergency services, pedestrian facilities, schools, and other municipal services.

(c) The absence of environmental constraints (floodplain, steep slope, etc.) or development of a plan to substantially mitigate the impacts of those constraints.

(d) The availability of appropriate utilities to serve the intended use, including water, sewage disposal, stormwater management, electricity, and similar utilities.

(2) Preservation of natural, cultural, historic, and scenic resources. The proposed use of the site, including all related development activities, shall preserve identified natural, cultural, historic, and scenic resources on the site and shall not degrade such identified resources on abutting properties. This shall include, but not be limited to, identified wetlands, floodplains, significant wildlife habitat, stonewalls, mature tree lines, cemeteries, graveyards, designated historic buildings or sites, scenic views, and viewsheds.

(3) Availability of Public Services & Facilities. Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage, and other necessary public or private services, are approved or assured to the end and that the use will be capable of proper operation. In addition, it must be determined that these services will not cause excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police protection, fire protection, and schools.

(4) Net Fiscal impacts. The proposed use will not have a negative net fiscal impact on the Town unless the Planning Board determines that there are other positive community impacts that off-set the negative net fiscal aspects of the proposed use. The Planning Board's decision shall be based upon an analysis of the net fiscal impact of the project on the town. The Planning Board may commission, at the applicant's expense, an independent analysis of the net fiscal impact of the project on the town.

(b) Conditional Use Permit approvals shall be subject to appropriate conditions where such conditions are shown to be necessary to further the objectives of this ordinance and the Master Plan, or which would otherwise allow the general conditions of this article to be satisfied. The conditions shall, if applicable, include, but are not limited to, the following:

(1) Front, side, and rear setbacks in excess of the minimum requirements of this Ordinance.

(2) Screening of the premises from the street or adjacent property in excess of any minimum requirements of this Ordinance.

(3) Landscaping in excess of any minimum requirements of this Ordinance.

(4) Modification of the exterior features of buildings or other structures.

(5) Limitations on the size of buildings and other structures more stringent than the minimum or maximum requirements of this Ordinance.

(6) Footprint or lot coverage less than the allowed maximum of this Ordinance.

(7) Limitations on the number of occupants and methods and times of operation.

(8) Grading of the premises for proper drainage.

(9) Regulation of design of access drives, sidewalks, crosswalks, and other traffic features.

(10) Off-street parking and loading spaces in excess of, or less than, the minimum requirements of this Ordinance; and

(11) Other performance standards as appropriate.

19.9 DESIGNATED OPEN SPACE

(a) Area of Designated Open Space. No more than fifty percent (50%) of the designated open space may consist of wetlands or water bodies. The Planning Board may authorize a reduction in the area of the designated open space by Conditional Use Permit issued pursuant to Section 19.8.

(b) 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.

(c) Areas Included in Designated Open Space. When evaluating a proposal for a density bonus, the Planning Board shall consider areas or features including but not limited to the following:

(1) Riparian areas, wetlands, streams, and other water resources and buffers for those resources.

(2) 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.

(3) Significant stands of trees or significant individual trees.

(4) High-quality soil resources (forest or agricultural soils).

(5) Cultural and historic resources (e.g., stone walls, historic structures).

(6) Existing trails.

(7) Areas that connect to undeveloped open space on adjacent properties.

(8) Ridgelines, particularly those that continue through the parcel.

(9) Viewshed areas; and

(10) Water supply protection areas.

(d) 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.

(e) Allowable Uses in Designated Open Space. Any use of the designated open space is subject to approval of the Planning Board and shall demonstrate that such uses shall not negatively impact the natural and/or cultural amenities.

(1) The following uses generally are permitted in the designated open space unless specifically prohibited or restricted as a condition of approval for the purposes of protecting important natural features or characteristics of the parcel:

(a) Forest management.

(b) Agricultural cultivation; and

(c) Passive (non-motorized) trails and recreational uses.

(2) Up to fifteen percent (15%) of the designated open space may be used by Conditional Use Permit for the following:

(a) Agriculture involving animal husbandry.

(b) Active outdoor recreation uses, including formal playgrounds and fields.

(c) Parking areas for access to the designated open space.

(d) Support facilities necessary for the development including community wells, stormwater management facilities, underground utility lines, and related facilities such as sewer pump stations; and

(e) Individual or group wells and/or transmission pipes for stormwater or wastewater disposal systems provided that this use was approved as part of the development plan and that appropriate arrangements are established and approved by the Planning Board for the maintenance and operation of these facilities.

(f) Protection and Management of Open Space

(1) Area Boundaries of the designated open space shall be clearly identified:

(a) Boundaries shall be clearly delineated on plans including plats.

(b) 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); and

(c) 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.

(2) Prior to the sale of any lots or dwelling units, the designated open space shall be protected and controlled by one or more of the following methods, subject to Planning Board approval:

(a) Transfer, with permanent deed restrictions or conservation easement, to a land trust or other recognized conservation organization (subject to acceptance by the organization).

(b) 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.

(c) 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 landowner within the association, any owner of a separate land parcel adjacent to the open space, or the municipality; or

(d) Transfer to the municipality as open space, with permanent deed restrictions or conservation easement (subject to acceptance by the municipality).

(3) Said deed restrictions and/or conservation easement documents shall be placed on file with the Town Clerk upon receipt of Planning Board approval and duly recorded at the County Registry of Deeds. Such documents shall clearly indicate whether the property is open to all residents of the municipality or open only to residents of the development.

(4) A management plan for the designated open space and facilities shall be prepared and approved by the Planning Board, which includes the following:

(a) 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 approval and conservation easement or deed restrictions.

(b) Includes detailed standards and schedules for maintenance of the designated open space, including maintenance of vegetation.

(c) 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 development; and

(d) Provides that any amendments to the plan shall be reviewed and approved by the Planning Board.

(5) 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.

19.10 PHASED DEVELOPMENT The review and approval procedure for phased developments shall be as follows:

(a) For purposes of these Regulations, "phased development" shall mean a project which the applicant intends to construct in phases over a period of time. Phased development may also include a project for which the Planning Board has imposed a phasing requirement pursuant to Section XIII of the Zoning Ordinance, or otherwise, in order to mitigate the impact of a development on community facilities, services, or utilities.

(b) Where development of the site will be phased, the following information, in addition to the requirements of Section XIII, shall be provided:

(1) The methods to be used during construction to control erosion and sedimentation through use of sediment basins, mulching, matting, temporary vegetation, or covering of soil stockpiles.

(2) The approximate size and location of portion(s) of the parcel to be cleared at any given time and length of time of exposure.

(3) The required public improvements, if any, and how such improvements to be integrated into the phased construction; and

(4) The proposed total period of time over which full build-out of the development shall occur.

(c) The Planning Board may waive and/or modify the phasing schedule after considering the totality of the circumstances, including but not limited to the following factors.

(1) The extent to which review of the development in its totality is logical and reasonable due to the degree to which the proposed phases are well integrated, both as to their use and development scheme and as to common infrastructure and other improvements.

(2) The extent to which phasing will benefit the Town by mitigating and making more predictable the impacts of the complete development upon community facilities, services, utilities, and other Town goals as set forth in the Master Plan.

(3) The degree to which the integration of the phases, as described above, would make private investment in such improvements unlikely.

(4) The extent to which the proposed phasing schedule represents a realistic timeline for active and substantial development progressing at a steady pace, in light of the type and complexity of the project as a whole; and

(5) The total length of time proposed, and the degree of unpredictability or Board uncertainty involved, with respect to whether a later phase or phases will continue to meet current regulations, at the time of construction, and in light of potential changed

conditions which might occur in the meantime within the neighborhood or the Town as a whole.

(d) If the development is proceeding in accordance with the approved phasing schedule, the later phase(s) shall normally be presumed to be "vested" against changes in the Town's land use ordinances and regulations, except as otherwise specified by the Board as part of its approval. However, the Planning Director may determine that, due to specific circumstances, including but not limited to non-compliance with applicable regulations or conditions of approval, a later phase or phases should not be considered "vested" under RSA 674:39 or the New Hampshire common law of vested rights. In such a case, the Planning Director may forward to the Planning Board a recommendation to initiate proceedings, using the procedures of RSA 676:4-a as applicable, to revoke approval of an unbuilt phase or phases.

(e) If the applicant anticipates being unable to meet any time deadline(s) set forth in the approved phasing schedule with respect to any phase, he or she may apply to the Planning Board for an extension of up to two years for the particular phase. The request for an extension shall be submitted prior to the expiration of the deadline(s) involved.

(f) If the applicant fails to meet any such deadline or extension thereof, then the approval of that phase and all subsequent phases shall be considered void, and such phase(s) shall no longer be presumed "vested." However, the applicant may resubmit the application for such phase(s) to the Planning Board for further review and re-approval in light of changes in ordinances, regulations, or other material circumstances which have occurred in the Town since the original approval.

19.11 DETERMINATION OF POTENTIAL REGIONAL IMPACT Upon receipt of an application for development, the Planning Board shall review the application and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact, pursuant to RSA 36:54, et seq. The Planning Board may, in its discretion, determine that any project has the potential for regional impact, whether or not the project meets or exceeds the criteria in RSA 36:54, et seq.

19.12 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.

19.13. 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 for use in evaluating the proposed subdivision.

19.14 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, deed restrictions, 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. The applicant shall pay all associated costs of the legal review.

SECTION XX
AMENDMENTS

20.1 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 XXI
VIOLATIONS AND PENALTIES

21.1 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.

21.2 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.

21.3 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 XXII
VALIDITY AND EFFECT

22.1 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

ZONING ORDINANCE
Town of Hopkinton, New Hampshire
Adopted: November 8, 1988

Note: Zoning Ordinance (original) adopted March 1964.

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

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 the numerical sequence of definitions.
- Section II, 2.1.T.1 Telecommuting, adding new definition and changing the 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

- Section III, 3.10 Wireless Telecommunication Facilities
- Section XVII, Item I Flood Plain Development Ordinance, add a 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 the 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 the 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 guests.
- Section III, 3.7.4.f Bed & Breakfast Home, concerning the length of stay of guests.
- 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, a new definition.
- Section II, 2.1.C.2.d Child Care, Family Group Home, a new definition.
- Section II, 2.1.C.2.e Child Care, Family Home, a new definition.
- Section II, 2.1.C.2.f Child Care, Group Day Care Center, a new definition.

- Section II, 2.1.C.2.g Child Care Preschool Program, a new definition.
- Section II, 2.1.C.2.h Child Care, School Age Program, a new definition.
- Section II, 2.1.E.1 Essential Services amends the 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, a 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 it with a new section.
- Section IV, 4.6 Waiver of Dimensional Requirements by the Planning Board, new section allowing Planning Board, during the 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 by right. In 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.
  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 the 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 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 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.
- 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 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

- Section VIII, Table of Contents 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 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 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 the 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 a 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.
- 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 sections 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 a 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. The 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 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 definitions 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.

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.
- Section III, 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."
- Section X, 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.
- Section III 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.
- Section III 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.
- Section III 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.
- Section III, 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

- 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 the 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.

Amended: March 18, 2017, Town Meeting, Article II

- Re-adopt Section XIII Growth Management and Innovative Land Use Control Ordinance for an additional five (5) years. The re-adoption included updates to statistical data as reported in subsection 13.3, utilizing the 2010 decennial Census and other local, regional, and state resources. Amendment allows the Planning Board to continue to monitor, evaluate and establish a temporary mechanism, when municipal services are strained, to reduce the rate of residential growth.
- Section III Establishment of Districts and Uses by inserting 3.6.H.19 Accessory Dwelling Unit and 3.12 Accessory Dwelling Unit. It is permitting one attached accessory dwelling unit in all zoning districts that allow single-family detached units, subject to compliance with standards outlined in new 3.12, which also outlines the authority, purpose, and definition. The amendment is to bring the Town's ordinance into compliance with the recently adopted statute RSA 674: 71-73.
- Section III, 3.6.D.2 Farming, including dairying, livestock, animal and poultry raising, and crop production, including customary accessory structures and uses by permitting the use in the R-2 (Medium Density Residential) district, rather than requiring a Special Exception. The amendment is to provide continuity in the Ordinance when establishing agricultural and farming uses. Both uses are permitted in the R-2 district.
- Amend the Zoning Map of the Town of Hopkinton, New Hampshire by rezoning from R-2 (Medium Density Residential) to M-1 (Industrial) three (3) parcels of land comprising of approximately 28.21 acres, located as follows: 554 Maple Street, shown on Tax Map 227 as Lot 4, 633 Maple Street, shown on Tax Map 227 as Lot 44, and 25 Dolly Road, shown on Tax Map 227 as Lot 45. The three (3) parcels, with buildings that are being used for

commercial or industrial purposes, are presently partially zoned R-2 (Medium Density Residential). The amendment is to correctly zone the parcels according to their uses, M-1 (Industrial).

- Amend the Zoning Map of the Town of Hopkinton, New Hampshire by rezoning from R-2 (Medium Density Residential) to M-1 (Industrial) five (5) adjoining parcels of land comprising of approximately 16 acres, located on the West side of Maple Street, shown on Tax Map 227 as Lots 6, 40, 41, 42 and 43. The five (5) parcels, with buildings, abut or are across the street from property used for commercial or industrial purposes that are presently zoned M-1 (Industrial). Amendment will expand the uses allowed on these parcels to include industrial and limited commercial. Allowing commercial or industrial use of these parcels will contribute to Hopkinton's commercial/industrial tax base.
- Amend the Zoning Map of the Town of Hopkinton, New Hampshire by rezoning from R-3 (Low-Density Residential) to M-1 (Industrial) two (2) parcels of land comprising of approximately 67.9 acres, and rezoning from R-4 (Residential/Agricultural) to M-1 (Industrial) three (3) parcels of land compromising of approximately 18.6 acres. All parcels are located near the Henniker/Hopkinton Town Line, along Maple Street (Route 127) or Route 202/9, shown on Tax Map 210 as Lot 3 and Tax Map 211 as Lot 7, 8, 9, and 9.01. Amendment will expand the uses allowed on these parcels to include industrial and limited commercial. Allowing commercial or industrial use of these parcels will contribute to Hopkinton's commercial/industrial tax base.

Amended: March 12, 2019, Town Meeting, Article II

- Section III, 3.12 Accessory Dwelling Unit (ADU), to allow a detached ADU provided the property owner agrees to and demonstrates compliance with conditions, and to clarify provisions allowing an attached ADU.
- Section III, Establishment of Districts and Uses, inserting 3.13 Solar Energy Systems Ordinance that will accommodate solar energy systems while considering the impacts and benefits of siting solar in Hopkinton.
- Section III, Establishment of Districts and Uses, Table of Uses 3.6, inserting 3.6.F.21 Commercial Solar as a use requiring a Conditional Use Permit in all zoning districts.
- Section III, Establishment of Districts and Uses, Table of Uses 3.6, inserting 3.6.H.20 Accessory Residential Solar Energy System as a use permitted in all zoning districts.
- Section III, Establishment of Districts and Uses, Table of Uses 3.6, inserting 3.6.H.21 Accessory Agricultural Solar Energy System as a use permitted in all zoning districts.
- Section III, Establishment of Districts and Uses, Table of Uses 3.6, inserting 3.6.H.22 Accessory Commercial Solar Energy System as a use requiring a Conditional Use Permit in all zoning districts.
- Section III, Establishment of Districts and Uses, Table of Uses 3.6, inserting 3.6.H.23 Shared Solar Energy System as a use requiring a Conditional Use Permit in all zoning districts.
- Section III, Establishment of Districts and Uses, 3.6 Use Regulations, inserting 3.6.1(e) Uses authorized by Conditional Use Permit. Uses denoted by the letter "C" in the Table of Uses shall obtain a Conditional Use Permit from the Planning Board.
- Section II, Definitions, inserting 2.1.C.4.a Conditional Use Permit.

Amended: March 10, 2020, Town Meeting, Article II

- Section III, Table of Uses 3.6.A.2 changing Two-Family Dwelling from a use permitted by special exception to a non-permitted use in the B-1 (commercial) district.
- Section III, Table of Uses 3.6.A.3 changing Multi-Family Dwelling from a use permitted by special exception to a permitted use in the B-1 (commercial) district.
- Section III, Table of Uses 3.6.A.7 changing Congregate Care Housing from a use permitted by special exception to a permitted use in the B-1 (commercial) district.

- Section III, Table of Uses 3.6.A.8 changing Affordable Housing from a non-permitted use to a permitted use in the B-1 (commercial) district.
- Section III, Table of Uses 3.6.C.3 changing Commercial Riding Stables and Riding Trails from a non-permitted use to a permitted use in the B-1 (Commercial) district.
- Section III, Table of Uses 3.6.C.5 changing Recreational Camping/Tenting Parks and Recreational Camping Vehicles from a non-permitted use to a use permitted by special exception in the B-1 (Commercial) district.
- Section III, Table of Uses 3.6.D.3 changing Year-Round Greenhouse or Farm Stand from a use permitted by special exception to a permitted use in the B-1 (Commercial) district.
- Section III, Table of Uses 3.6.E.3 changing Childcare Daycare Nursery, Childcare Group Daycare Center, Childcare Preschool Program, and Childcare School-age Program from a use permitted by special exception to a permitted use in the B-1 (Commercial) district.
- Section III, Table of Uses 3.6.E.5 changing Non-profit Lodges, Fraternal and Membership Organizations from a use permitted by special exception to a permitted use in the B-1 (Commercial) district.
- Section III, Table of Uses 3.6.E.10 changing Non-profit Country, Hunting, Fishing, Tennis, or Golf Club without Liquor License from a use permitted by special exception to a permitted use in the B-1 (Commercial) district.
- Section III, Table of Uses 3.6.F.16 changing Indoor and Outdoor for Profit Recreation Establishment or Clubs from a use permitted by special exception to a permitted use in the B-1 (Commercial) district.
- Section III, Table of Uses 3.6.F.20 changing Adult Uses from a use permitted by special exception to a non-permitted use in the B-1 (Commercial) district.
- Section III, Table of Uses 3.6.F.21 changing Self-Service Storage Facility from a use permitted by special exception to a permitted use in the B-1 (Commercial) district.
- Section III, Table of Uses 3.6.G.10 by replacing the words Laundry, Dry Cleaning Plant with Laundry Dry Cleaning Plant and changing the use from a use permitted by special exception to a non-permitted use in the B-1 (Commercial) district.
- Zoning Map of the Town of Hopkinton, New Hampshire by rezoning from M-1 (industrial) to B-1 (commercial) two (2) specific areas located near the Henniker/Hopkinton Town Line, along Maple Street (Route 127) and Routes 202/9, shown on Tax Map 210 as Lots 3,18, 18.01,19, 19.1, 20, 21, 24, 25.1, 25.2 and 26, and Tax Map 211 as Lots 7, 8, 9 and 9.01.
- Section XIX (New) entitled Commerce and Community Overlay District (CCOD). The overlay district is to include properties located near the Henniker/Hopkinton Town Line, along Maple Street (Route 127) and Routes 202/9, in one of the new B-1 (commercial) districts, shown on Tax Map 210 as Lot 3 and on Tax Map 211 as Lots 7, 8, 9 and 9.01. Amendment will require changing the numerical sequence of the remaining sections of the Zoning Ordinance.

Amended: March 9, 2021, Town Meeting, Article II

- Section II, Definitions to define terms in the Ordinance that were previously undefined, omit and combine definitions where possible, and modernize definitions to be consistent with current usage and with state law and centralize definitions.
- Section III, 3.6 Table of Uses by increasing the maximum number of residential units per building, adding and reclassifying uses, updating where certain uses are and are not allowed and which approvals are required for them, and omitting uses regulated elsewhere or believed to be no longer applicable.
- Section III, 3.6 Use Regulations by relocating and rewording paragraph 3.6.2 to the beginning of the Use Regulations, making it clear to the reader that the uses listed in the Table of Uses are subject to other provisions of the Ordinance.

- Section III, 3.7.3 (a) omitting the words “paragraph 2.1.H.1” and adding the words “in the definition” so that it reads, “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, the definition of Home Business.”
- Section III, 3.7.5 omitting the words “paragraph 2.1.T.1” and “as defined in Section II, paragraph 2.1.H.2” so that it reads “in order for Telecommuting or a Home Occupation as defined in Section II to be conducted as a permitted use, the following conditions must be met.”
- Section III, 3.7.5 (c) omitting the words “residential telephone lines” and adding the words “telecommunication services” so that it reads, “No outside structures not typically associated with telecommunication services shall be allowed unless such structures are otherwise permitted under this Ordinance.”
- Section III, 3.7.5 (e) omitting the words “paragraph 2.1.H.1” so that it reads, “The use shall not constitute a Home Business, as defined in Section II.”
- Section IV-A, 4-A.9.5 omitting reference to 2.1.D.10 so that it reads “Shall have the same meaning as in Section II of the Hopkinton Zoning Ordinance.”
- Section XV, Board of Adjustment by rewording paragraph 15.6.1 so that the method of mailing public hearing notices is consistent with RSA 676:7 and RSA 21:53.

Amended: March 8, 2022, Town Meeting, Article II

- Section II, Definitions, correct the defined term "Bed and Breakfast Inn" by adding the word "not," which was inadvertently omitted from the previous year's amendment. Definition to read, "Bed and Breakfast Inn: Any Dwelling Unit, together with any accessory buildings thereto, located on one (1) Lot of Record, containing not more than seven (7) 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 3.7.5 of this Ordinance."
- Section IV, striking "4.4.7 Maximum Number of Dwelling Units: The maximum number of dwelling units permitted in any multi-family dwelling shall be eight (8)." The paragraph conflicted with previous amendments that changed the maximum number of dwelling units allowed in any multi-family dwelling from eight (8) to twelve (12) or twenty-four (24), depending upon the zoning district. The remaining subsections were renumbered.
- Section VIII, Conservation Subdivisions, adding definitions for a buffer, building envelope, conservation subdivision, and yield plan; adding a procedure to review phased developments and regional impacts; eliminating the formula approach method of determining the base number of buildings and dwellings and eliminating the exceptions associated with that approach; and eliminating the requirement that multi-family buildings have ground-level living space. Increase the available density bonuses, incentives, and the maximum height allowed for multi-family buildings; clarify the review process and plan requirements; and alter buffer and building separation requirements; permit new streets only for conservation subdivisions creating at least 4 lots; and clarify and streamline the review process, plan requirements, and related provisions found elsewhere, such as in the Subdivision Regulations.
- Section XIII, Growth Management and Innovative Land Use Control, expired at the Annual Town Meeting in 2022. As a result, Section XIII-A, Impact Fees, was renumbered as Section XIII.