

ZONING ORDINANCE OF THE TOWN OF HOOKSETT, NH

Adoptions and Amendments

1957	1958	1960	1961	1962	2006	2013
1963	1966	1967	1968	1969	2007	2014
1970	1973	1975	1977	1979	2008	2015
1983	1984	1985	1986	1988	2009	2016
1990	1991	1993	1994	1995	2010	2017
1996	1997	1998	1999	2000	2011	2018
2001	2002	2003	2004	2005	2012	2020

HOOKSETT CONTACTS:

Administration	603-485-8472
Assessing	603-268-0003
Building	603-485-4117
Central Water Precinct	603-624-0608
Code Enforcement	603-485-4117
Community Development	603-268-0279
Conservation	603-485-8472
Family Services	603-485-8769
Finance	603-485-2017
Fire	603-623-7272
Highway	603-668-8019
Library	603-485-6092
Manchester Water Precinct	603-624-6494
Parks & Recreation	603-668-8019
Planning	603-268-0458
Police	603-624-1560
Recycle & Transfer Station	603-669-5198
Sewer Commission	603-485-7000
Tax Collector	603-485-9534
Town Clerk	603-485-9534
Town Council	603-485-8472
Village Water Precinct	603-485-3392
Zoning	603-485-4117

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ARTICLE 1

PREAMBLE

Pursuant to the authority conferred by RSA Chapters 672-677 and for the purpose of promoting the health, safety, morals, prosperity, convenience of the development of the inhabitants of the incorporated Town of Hooksett, New Hampshire, for security, for safety from fire, for the avoidance of panic and other dangers, for the provision of adequate area between buildings and various rights-of-way, for the preservation of the rural charm now attached to our town, for the promotion of good civic design and arrangements, for the wise and efficient expenditure of public funds, and for the adequate provision of public utilities and other public requirements, and for other means,

Now therefore, the following Ordinance is hereby enacted by the voters of the Town of Hooksett, New Hampshire, in official Town Meeting convened May 12, 2015 (1957 – original authorization).

(End of Article 1)

ARTICLE 2

DISTRICTS

For the purpose of this Ordinance, the Town of Hooksett, New Hampshire, is divided into districts as illustrated, specifically, on the Town of Hooksett Current Zoning Map (by SNHPC) filed with the Town Clerk, as amended, and including the following:

1. Low Density Residential District (LDR)
2. Medium Density Residential District (MDR)
3. Urban Density Residential District (URD)
4. High Density Residential District (HDR)
5. Commercial District (COM)
6. Industrial District (IND)
7. Mixed Use District 1 (MUD1)
8. Mixed Use District 2 (MUD2)
9. Mixed Use District 3 (MUD3)
10. Mixed Use District 4 (MUD4)
11. Mixed Use District 5 (MUD5)
12. US Route 3 Corridor Performance Zone (PZ)

There are, in addition, and on separate maps, two Overlay Districts:

1. Wetlands Conservation District
2. Groundwater Resource Conservation District.

All zoning district maps and copies of these overlays are available at the Municipal Building for public use. All other descriptions, maps, etc., shall be considered general in nature and for information only. *(Amended 05/14/13)*

(End of Article 2)

ARTICLE 3

GENERAL PROVISIONS

(Amended 05/14/13)

- A. No permits in any district for any nonresidential or multi-family uses, or expansion of use, or construction shall be issued prior to site plan approval by the Planning Board per NH RSA 674:43 and as detailed in the Non-Residential Site Plan Review Regulations of the Town of Hooksett as adopted and amended. *(Amended 5/8/12)*
- B. No junk as defined in Article 22 shall be maintained in any district. No junkyard as defined in Article 22 shall be maintained in any district, except as a nonconforming use subject to the provisions of Article 26.
- C. No owner or occupant of land in any district shall permit fire or other ruins, or unsightly conditions to be left, but shall remove or fill the same to ground level within one (1) year. No owner of land in any district shall permit cellar holes, wells, or other dangerous conditions to be left, but shall remove or fill the same to ground level within six (6) months.
- D. The removal of sod, loam, clay, sand, gravel, or other natural or inorganic material from any premises in any district is allowed in instances when such removal is 1) incidental to structure, or the lawful construction of a way (including driveway), on the portion of the premises where removal occurs; or 2) incidental to the agricultural activities, normal landscaping or minor topographical adjustments. Otherwise, the removal of such materials, or any of them, from any premises, in any district, is prohibited unless authorized by special permit issued by the Board of Adjustment in accordance with the provisions of the Town of Hooksett Sand and Gravel Ordinance. No permit shall be required to move soil or any natural inorganic material within the confines of one's property. Excavation regulations may be found in the Town of Hooksett "Sand and Gravel Ordinance."
- E. **Sanitary Protection**
 - 1. No cesspool, septic tank, or sewage disposal area shall be constructed or maintained less than seventy-five (75) feet from the edge of a public water body and/or a well, and must be at least twenty-five (25) feet from the property line.
 - 2. No waste or sewage shall be permitted to run free into a public water body or be discharged in any way that may be offensive or detrimental to the health of others. All such waste shall be conveyed away underground through the use of an accepted sanitary system or in such a way that it will not be offensive or detrimental to health.
 - 3. All dwelling and sanitary systems shall be construed and maintained in accordance with standards set and enforced by the NH State Department of Health and by the Water Supply and Pollution Control Division of the NH Department of Environmental Services.
 - 4. No private sewage treatment facility shall be constructed or maintained for treating wastes from more than twelve (12) dwelling units.

- F.** No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved, or altered except in conformity with these regulations and the Floodplain Development Ordinance.
- G.** Any use that may be obnoxious or injurious by reasons of the production or emission of odor, dust, smoke, refuse matter, fumes, noise, vibrations, or similar conditions, or that are dangerous to the comfort, peace, enjoyment, health or safety of the community or lending to its disturbance or annoyance are prohibited.
- H.** A single family or two-family (duplex) house lot in any Residential or Mixed Use District may contain only one building used for dwelling purposes. More than one building on lots for multi-family (including Cluster Multi-Family) is permitted. (Amended 5/9/00)
- I.** No person shall park or occupy any travel trailer or motor home on the premises of any occupied dwelling or on any lot which is not part of the premises of any occupied dwelling except as provided herein:
- 1.** The parking of one (1) travel trailer or motor home in a private garage building or in a yard is permitted within the Low and Medium Density Residential districts providing said travel trailer or motor home is not occupied and the travel trailer or motor home belongs to the owner or lessee of the land on which it is parked.
 - 2.** Any property owner or lessee may accommodate one (1) travel trailer or motor home of a non-paying guest in his yard within the Low and Medium Density Residential districts for a period not exceeding thirty (30) days in any one year.
 - 3.** The parking of one (1) travel trailer or manufactured home on a property, wherein the existing single family or two family residence has been damaged by fire or other catastrophic event, may be maintained for a period of six (6) months during the repair of the residence. Said temporary housing shall be secured to the ground by means of hurricane tie-downs, or equal, and must be set on the property in accordance with the minimum yard setbacks for the zone. All necessary applicable permits shall be required. A maximum of one (1) extension to the time limit, requested in writing, may be granted by the Code Enforcement Official, not to exceed six (6) months. This provision shall not apply to multi-family or commercial structures.
- J.** All building lots shall have frontage on a publicly approved street of Class 1 through Class 5. Frontage along a limited access highway, and frontage along any other public highway over which the control of access does not rest with the Town of Hooksett, or the State of New Hampshire, and Class 6 highways, shall not be deemed to meet the frontage requirements set forth in this Ordinance. Frontage along private roads, conforming to the definition in Article 22, shall meet the frontage requirements for only those lots owned by the party(ies) controlling access to those private roads.
- K.** Whenever the requirements of this Ordinance conflict with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or higher standard shall apply. Whenever any part of this Ordinance, the provisions with the most restrictive or higher standard shall apply.

- L.** All property on the east side of the Merrimack River and abutting the eastern boundary of the Boston and Maine Railroad that is proposed for nonresidential development must leave the existing natural vegetation buffer zone beginning at the eastern boundary of the Boston and Maine Railroad and being 100 feet in width. In cases where an adequate vegetated buffer does not currently exist, the Planning Board may require the planting of a new buffer zone.

All properties abutting the west side of the Merrimack River that is proposed for nonresidential development must leave the existing natural vegetation in a buffer zone beginning at the easterly boundary of the property proposed for development and being 100 feet in width. In cases where an adequate vegetated buffer does not currently exist, the Planning Board may require the planting of a new buffer zone.

- M.** Fixed winged aircraft and helicopter take off and landings, other than for emergency purposes, within any residential districts of the Town of Hooksett, are strictly prohibited.

N. Minimum separation between principal buildings:

Residential buildings on adjacent lots shall have a minimum separation distance equal to twice the minimum side yard. Residential buildings located on the same lot, shall have a minimum separation distance equal to twice the minimum side yard or forty (40) feet, whichever is less. *(Adopted 5/9/00)*

- O.** There shall be no rezoning of land to industrial or commercial use in areas identified as protection priorities in Hooksett's Open Space Plan, the latest version including aquifer; prime wetlands; wetlands connected to prime wetlands; floodplains and/or steep slopes. *(Adopted 5/10/05 & Amended 5/8/12)*

- P.** Sprinklers shall not be required in any single-family or two-family dwelling or manufactured housing unit. *(Amended 5/14/13)*

(End of Article 3)

ARTICLE 4

LOW DENSITY RESIDENTIAL DISTRICT - LDR

A building may be erected or used, and a lot may be used or occupied for any of the following purposes and in accordance with the following provisions:

A. Permitted Uses

1. Single family dwellings: Clustering of single family dwellings may be allowed in this district under the provisions of Article 8.
2. Religious facilities and grounds for games and sports except those carried on primarily for gain. *(Amended on 5/13/14)*
3. All general farming and forestry activities.
4. Subdivisions exclusively for manufactured housing: Clustering of manufactured housing may be allowed in this district under the provisions of Article 8.
5. The keeping of chickens is permitted in the LDR, MDR, URD, and HDR under the provisions of Article 34. *(Adopted 05/10/16)*

6. Home Occupations

- a) Residences may be used to house uses by the owner or tenant as offices for contractors, doctors, engineers, architects, lawyers, or other recognized profession or home occupation such as hairdresser, barber shops, day care facilities, kindergartens, dress makers, manufacturing of craft products, except that the number of persons employed at any one (1) location shall not be more than four (4) persons including the owner or tenant. *(Amended 05/10/16)* The owner or tenant must occupy the house as their primary residence.
- b) The occupation shall be carried on principally by the owner or tenant.
- c) The use shall be carried on strictly within the primary residential structure and must be subordinate to the primary residential use. In no event shall more than 500 square feet be used for a home occupation.
- d) There shall be no display of goods or wares visible from the street with the exception of farm products and no outdoor storage of materials or equipment. *(Amended 05/10/16)*
- e) The buildings or premises occupied shall not be considered objectionable or detrimental to the residential character of the neighborhood because of the exterior appearance, emission of odors, gas, smoke, dust, noise, electrical disturbance or any other way. It shall include no feature of design not customarily in buildings for residential use.

- f) Not more than one (1) commercial vehicle in connection with such home occupation shall be stored on the premises. All commercial vehicle parking areas shall be effectively screened from abutting and facing residential property by either a four (4) foot solid fence or a dense planting of evergreen material that are at least three (3) feet in height at the time of planting.
- g) Home occupations are prohibited in cluster housing developments.

B. Uses Permitted by Special Exception

- 1. Public utility facilities
- 2. Neighborhood convenience stores, exclusive of motor fuel dispensing, of not more than 3,000 square feet. *(Amended 5/14/02)*

C. Required Lot Area

- 1. The lot area for all lots in this district shall not be less than 87,120 square feet (2 acres) and the frontage of such lots shall not be less than two hundred (200) feet.

D. Percentage of Lot Coverage

- 1. Lot Coverage - See Development Regulations. *(Amended 05/13/08)*
- 2. Building height shall not exceed thirty-five (35) feet in height. *(Amended 05/14/13)*

E. Yards Required

- 1. There shall be a front yard on each lot, which shall be not less than thirty-five (35) feet in depth measured from the edge of the public right-of-way to the foundation of the structure, exclusive of steps.
- 2. On each interior lot, side yards shall be provided in an aggregate minimum width of fifty (50) feet with a minimum of twenty (20) feet for any side yard measured from the adjoining lot line to the foundation of the structure.
- 3. On each corner lot there shall be a front yard, which shall be no less than thirty-five (35) feet in depth measured from the edge of the street right-of-way to the foundation of the structure, exclusive of steps, on each frontage of the lot along any public highway, or on any private street which is shown on an approved Subdivision Plan or which provides access to other properties;
 - a) For a lot fronting two streets, there shall be two (2) such front yards, and two side yards;
 - b) For a lot fronting on three streets, there shall be three (3) such front yards and one side yard;
 - c) For a lot fronting on four streets, there shall be four (4) such front yards; and similar for more complex lots.

4. There shall be a rear yard on each lot the depth of which shall not be less than twenty-five (25) feet, measured from the edge of the adjoining lot line to the foundation of the structure.
 5. On any lot, an accessory building greater than 200 square feet may be erected and maintained only with building setbacks in accordance with Sections 1, 2, 3, and 4 of this item. An accessory use structure, less than 200 square feet and no higher than 17 feet, may not be constructed within 10 feet of the property line nor between a line drawn parallel to the street and passing through the closest front edge of the primary building. *(Amended 05/11/10)*
- F.** Property and goods displayed for sale shall not be positioned within any public right-of-way.
- G.** Article 3, General Provisions, shall apply, when applicable.

(End of Article 4)

ARTICLE 5

MEDIUM DENSITY RESIDENTIAL DISTRICT – MDR

A building may be erected, altered, or used and a lot may be used or occupied for any of the following purposes and in accordance with the following provisions:

A. Permitted Uses

1. Single family dwellings: Clustering of single family dwellings may be allowed under the provisions of Article 8.
2. Two family dwellings provided they are served by municipal sewer: Clustering of two family dwellings may be allowed under the provisions of Article 8.
3. Multi-family dwellings provided they are served by municipal water and municipal sewer: Clustering of multi-family dwellings shall be allowed under the provisions of Article 8.
4. Religious facilities, nursing homes (for long term patient care), and grounds for games and sports except those carried on primarily for gain. *(Amended 5/13/14)*
5. Subdivisions exclusively for manufactured housing: Clustering of manufactured housing may be allowed in this district under the provisions of Article 8.
6. The keeping of chickens is permitted in the LDR, MDR, URD, and HDR under the provisions of Article 34. *(Adopted 05/10/16)*
7. **Home Occupations**
 - a) Residences may be used to house uses by the owner or tenant as offices for contractors, doctors, engineers, architects, lawyers, or other recognized profession or home occupation such as hairdresser, barber shops, day care facilities, kindergartens, dress makers, manufacturing of craft products, except that the number of persons employed at any one (1) location shall not be more than four (4) persons including the owner or tenant. *(Amended 05/10/16)* The owner or tenant must occupy the house as their primary residence.
 - b) The occupation shall be carried on principally by the owner or tenant.
 - c) The use shall be carried on strictly within the primary residential structure and must be subordinate to the primary residential use. In no event shall more than 500 square feet be used for a home occupation.
 - d) There shall be no display of goods or wares visible from the street with the exception of farm products and no outdoor storage of materials or equipment. *(Amended 05/10/16)*

- e) The buildings or premises occupied shall not be considered objectionable or detrimental to the residential character of the neighborhood because of the exterior appearance, emission of odors, gas, smoke, dust, noise, electrical disturbance or any other way. It shall include no feature of design not customarily in buildings for residential use.
- f) Not more than one (1) commercial vehicle in connection with such home occupation shall be stored on the premises. All commercial vehicle parking areas shall be effectively screened from abutting and facing residential property by either a four (4) foot solid fence or a dense planting of evergreen material that are at least three (3) feet in height at the time of planting.
- g) Home occupations are prohibited in multi-family dwellings.

8. Conversion of Existing Buildings

Any dwelling, including attached accessory structures, which exists on March 12, 1985 may be converted to not more than six (6) dwelling units provided it meets the following conditions:

- a) The converted building shall be serviced by both municipal water and sewer systems.
- b) The lot area for the converted dwelling shall not be less than 30,000 square feet and the lot frontage shall not be less than 150 feet.
- c) A minimum of two (2) parking spaces shall be provided for each dwelling unit. No parking shall be allowed in the required front yard. All parking shall be shown on a site plan approved by the Planning Board.
- d) A minimum of 750 square feet of floor area, exclusive of common areas, shall be provided for each unit.
- e) Neither the lot coverage nor the floor area of the existing dwelling shall be increased more than ten (10) percent.

B. Uses Permitted by Special Exception

- 1. Public utility facilities.
- 2. Neighborhood convenience stores, exclusive of motor fuel dispensing, of not more than 3,000 square feet. (*Amended 5/14/02*)
- 3. Housing for elderly and/or handicapped. (*Also see Article 7*)

C. Required Lot Area

1. Single Family Dwelling

- a) When served by municipal water and municipal sewer, the lot area shall not be less than 32,670 square feet and the frontage of such lot shall not be less than 150 feet.
- b) The lot area when served by either municipal water or municipal sewer shall be not less than 43,560 square feet and the frontage of such lots shall not be less than 175 feet.
- c) When served by neither municipal water nor municipal sewer the lot area shall not be less than 65,340 square feet and the frontage shall not be less than 200 feet.

2. Two Family Dwelling (Duplex)

- a) When served by municipal water and municipal sewer, the lot area shall not be less than 65,340 square feet and the frontage of such lot shall not be less than 200 feet.
- b) The lot area when served by municipal sewer only shall not be less than 87,120 square feet and the frontage of such lot shall not be less than 200 feet.

3. Multi-Family Dwellings

- a) Must be served by municipal water and municipal sewer.
- b) The density cannot exceed two (2) units per every two (2) acres.
- c) The frontage of lots used for multi-family dwellings may not be less than 200 feet.

D. Percentage of Lot Coverage

- 1. Lot Coverage - See Development Regulations. *(Amended 5/13/08)*
- 2. Building height shall not exceed thirty-five (35) feet in height, with the exception of multi-family dwellings, which shall not exceed fifty (50) feet in height. *(Amended 05/12/15)*

E. Yards Required

- 1. There shall be a front yard on each lot, which shall be not less than thirty-five (35) feet in depth measured from the edge of the public right-of-way to the foundation of the structure, exclusive of steps.

- 2.** On each interior lot under Sections C, 1, a), 2, and 3, each side yard shall have a minimum width of fifteen (15) feet. In all other cases in this Section, side yards shall be provided in an aggregate minimum width of fifty (50) feet with a minimum of twenty (20) feet for any side yard. All side yards shall be measured from the adjoining lot line to the foundation of the structure.
 - 3.** On each corner lot there shall be a front yard, which shall be no less than thirty-five (35) feet in depth measured from the edge of the street right-of-way to the foundation of the structure, exclusive of steps, on each frontage of the lot along any public highway, or on any private street which is shown on an approved Subdivision Plan or which provides access to other properties;
 - a)** For a lot fronting two streets, there shall be two (2) such front yards, and two side yards;
 - b)** For a lot fronting on three streets, there shall be three (3) such front yards and one side yard;
 - c)** For a lot fronting on four streets, there shall be four (4) such front yards; and similar for more complex lots.
 - 4.** There shall be a rear yard on each lot the depth of which shall not be less than twenty-five (25) feet, measured from the edge of the adjoining lot line to the foundation of the structure.
 - 5.** On any lot, an accessory building greater than 200 square feet may be erected and maintained only with building setbacks in accordance with Sections 1, 2, 3, and 4 of this item. An accessory use structure, less than 200 square feet and no higher than 17 feet, may not be constructed within 10 feet of the property line nor between a line drawn parallel to the street and passing through the closest front edge of the primary building. *(Amended 05/11/10)*
- F.** Property and goods displayed for sale shall not be positioned within any public right-of-way.
- G.** Article 3, General Provisions, shall apply, when applicable.

(End of Article 5)

ARTICLE 5-A

URBAN DENSITY RESIDENTIAL DISTRICT - URD

(Adopted 05/08/07)

A building may be erected, altered, or used and a lot may be used or occupied for any of the following purposes and in accordance with the following provisions:

A. Permitted Uses

1. Single family dwellings served by municipal water and sewer.
2. Religious facilities. *(Amended 5/13/14)*
3. The keeping of chickens is permitted in the LDR, MDR, URD, and HDR under the provisions of Article 33. *(Adopted 05/10/16)*

4. Home Occupations

- a) Residences may be used to house uses by the owner or tenant as offices for contractors, doctors, engineers, architects, lawyers, or other recognized profession or home occupation such as hairdresser, barber shops, day care facilities, kindergartens, dress makers, manufacturing of craft products, except that the number of persons employed at any one (1) location shall not be more than four (4) persons including the owner or tenant. *(Amended 05/10/16)* The owner or tenant must occupy the house as their primary residence.
- b) The occupation shall be carried on principally by the owner or tenant.
- c) The use shall be carried on strictly within the primary residential structure and must be subordinate to the primary residential use. In no event shall more than 500 square feet be used for a home occupation.
- d) There shall be no display of goods or wares visible from the street with the exception of farm products and no outdoor storage of materials or equipment. *(Amended 5/10/16)*
- e) The buildings or premises occupied shall not be considered objectionable or detrimental to the residential character of the neighborhood because of the exterior appearance, emission of odors, gas, smoke, dust, noise, electrical disturbance or any other way. It shall include no feature of design not customarily in buildings for residential use.
- f) Not more than one (1) commercial vehicle in connection with such home occupation shall be stored on the premises. All commercial vehicle parking areas shall be effectively screened from abutting and facing residential property by either a four (4) foot solid fence or a dense planting of evergreen material that are at least three (3) feet in height at the time of planting.

B. Uses Permitted by Special Exception

1. Public utility facilities.
2. Two-Family Dwellings, provided they are served by municipal sewer and municipal water, consist of at least 18,000 square feet of area, provide two (2) onsite parking spaces per unit, and result in no increase in footprint of existing structure. *(Amended 5/13/08)*

C. Required Lot Area

1. Single Family Dwelling

- a) All dwellings to be served by municipal water and municipal sewer, the lot area shall not be less than 9,000 square feet and the frontage of such lot shall not be less than 90 feet.

D. Percentage of Lot Coverage

1. Lot Coverage - See Development Regulations. *(Amended 5/13/08)*
2. Building height shall not exceed thirty-five (35) feet in height. *(Amended 05/14/2013)*

E. Yards Required

1. There shall be a front yard on each lot, which shall be not less than twenty-five (25) feet in depth measured from the edge of the public right-of-way to the foundation of the structure, exclusive of steps.
2. On each interior lot under Sections C, 1, a), 2, and 3, each side yard shall have a minimum width of fifteen (15) feet. All side yards shall be measured from the adjoining lot line to the foundation of the structure.
3. On each corner lot there shall be a front yard, which shall be no less than twenty-five (25) feet in depth measured from the edge of the street right-of-way to the foundation of the structure, exclusive of steps, on each frontage of the lot along any public highway, or on any private street which is shown on an approved Subdivision Plan or which provides access to other properties;
 - a) For a lot fronting two streets, there shall be two (2) such front yards, and two side yards.
 - b) For a lot fronting on three streets, there shall be three (3) such front yards and one side yard.
 - c) For a lot fronting on four streets, there shall be four (4) such front yards; and similar for more complex lots.

4. There shall be a rear yard on each lot the depth of which shall not be less than fifteen (15) feet, measured from the edge of the adjoining lot line to the foundation of the structure.
 5. On any lot, an accessory building greater than 200 square feet may be erected and maintained only with building setbacks in accordance with Sections 1, 2, 3, and 4 of this item. An accessory use structure, less than 200 square feet and no higher than 17 feet, may not be constructed within 10 feet of the property line nor between a line drawn parallel to the street and passing through the closest front edge of the primary building. *(Amended 05/11/10)*
- F.** Property and goods displayed for sale shall not be positioned within any public right-of-way.
- G.** Article 3, General Provisions, shall apply, when applicable.

(End of Article-5-A)

ARTICLE 6

HIGH DENSITY RESIDENTIAL DISTRICT - HDR

A building may be erected, altered, or used and a lot may be used or occupied for any of the following purposes and in accordance with the following provisions:

A. Permitted Uses

1. Multi-Family housing.
2. Religious facilities, hospitals, sanitariums, nursing homes, and grounds for games and sports except those carried on primarily for gain. *(Amended 5/13/14)*
3. Schools and institutions of higher education.
4. The keeping of chickens is permitted in the LDR, MDR, URD, and HDR under the provisions of Article 33. *(Adopted 05/10/16)*
5. Conversion of existing dwellings: Any dwelling, including attached accessory structures, which exists on March 12, 1985, may be converted to not more than six (6) dwelling units provided it meets the following conditions:
 - a) The converted building shall be serviced by both municipal water and sewer systems.
 - b) The lot area for the converted dwelling shall not be less than 30,000 square feet and the lot frontage shall not be less than 150 feet.
 - c) A minimum of two (2) parking spaces shall be provided for each dwelling unit. No parking shall be allowed in the required front yard. All parking shall be shown on a Site Plan approved by the Planning Board.
 - d) A minimum of 750 square feet of floor area, exclusive of common areas, shall be provided for each unit.
 - e) Neither the lot coverage nor the floor area of the existing dwelling shall be increased more than ten (10) percent.

B. Uses by Special Exception

1. Housing for the elderly and/or handicapped.

C. Lot Area and Municipal Services Requirements

1. All lots must be serviced by municipal water and sewer.
2. The density shall not exceed twelve (12) units per acre.
3. The frontage of all lots shall not be less than 200 feet.
4. The minimum lot area shall be 30,000 square feet.

D. Percentage of Lot Coverage

1. Lot coverage – see Development Regulations. (*Amended 05/13/08*)
2. Building height shall not exceed sixty (60) feet in height. (*Amended 5/13/14*)

E. Yards Required

1. There shall be a front yard on each lot, which shall be not less than thirty-five (35) feet in depth measured from the edge of the public right-of-way to the foundation of the structure, exclusive of steps.
2. On each interior lot, side yards shall be provided in an aggregate minimum width of thirty (30) feet with a minimum of fifteen (15) feet for any one side yard measured from the adjoining lot line to the foundation of the structure.
3. On each corner lot there shall be a front yard, which shall be no less than twenty-five (25) feet in depth measured from the edge of the street right-of-way to the foundation of the structure, exclusive of steps, on each frontage of the lot along any public highway, or on any private street which is shown on an approved Subdivision Plan or which provides access to other properties;
 - a) For a lot fronting two streets, there shall be two (2) such front yards, and two side yards.
 - b) For a lot fronting on three streets, there shall be three (3) such front yards and one side yard.
 - c) For a lot fronting on four streets, there shall be four (4) such front yards; and similar for more complex lots.
4. There shall be a rear yard on each lot the depth of which shall not be less than ten (10) feet measured from the edge of the adjoining lot line to the foundation of the structure.
5. On any lot, an accessory building greater than 200 square feet may be erected and maintained only with building setbacks in accordance with Sections 1, 2, 3, and 4 of this item. An accessory use structure, less than 200 square feet and no higher than 17 feet, may not be constructed within 10 feet of the property line nor between a line drawn parallel to the street and passing through the closest front edge of the primary building. (*Amended 05/11/10*)

F. General Provisions (*Article 3*) shall apply when applicable.

(*End of Article 6*)

ARTICLE 7

ELDERLY, OLDER PERSON, AND HANDICAPPED HOUSING

A. Purpose

It is declared to be in the public interest and for the general welfare of the Town of Hooksett to permit the development of housing facilities specifically suited to address the housing needs of elderly, older persons, and handicapped persons. Further, the provisions relating to such housing are established, among other purposes, to promote affordable housing for the senior population, provide for the efficient use of land and utilities consistent with the needs of the senior population fifty-five (55) years of age and over, and to preserve open space.

For the purpose of this section, the terms Elderly Housing, Older Person Housing, and Handicapped Housing are defined as follows:

1. Elderly Housing – housing intended for, and 100% of the units are occupied solely by, persons sixty-two (62) years of age or older;
2. Older Person Housing – housing intended for and occupied by at least one person fifty-five (55) years of age or older, and others to be at least forty (40) years of age or older. *(Amended 05/14/13)*
3. Handicapped Housing – housing for any adult having an impairment which is expected to be of long, continued, and indefinite duration, is a substantial impairment to his or her ability to live independently and is of a nature that such ability could be improved by more suitable housing conditions.
 - a) Regarding Handicapped Housing: Convalescent homes, assisted-living facilities, and nursing homes providing long-term custodial care for the aged and/or infirm are permitted by right in the Commercial zone only.
 - b) Location by Special Exception in Medium Density and High Density Residential Districts: It is, therefore, the purpose of this section to establish provisions under which elderly housing, older person housing, and/or handicapped housing developments may be authorized as a Special Exception use in the Medium and High Density Residential Districts.
 - c) Handicapped Housing Compliance: All handicapped housing, whether stand alone or as part of elderly or older person housing, should comply with the design requirements of the “Architectural Barrier-Free Design Code for the State of New Hampshire,” as amended and licensed by the appropriate state agency.

It is, therefore, the purpose of this section to establish provisions under which elderly and/or handicapped housing developments may be authorized as a Special Exception use in the Medium and High Density Residential Districts.

B. Specifications

In addition to the provisions of Article 24, Section D of this Ordinance, an application for a **Special Exception** must satisfy the following provisions:

1. General

- a) Any site, on which it is proposed to develop elderly, older person, and/or handicapped housing facilities, shall be considered with respect to shopping services, such as food, clothing and medical supplies and to public transportation.
- b) When considering an application for a Special Exception concerning an elderly, older person, and/or handicapped housing development under this section, the Zoning Board of Adjustment shall invite an opinion from the Planning Board relative to the appropriateness of the proposed location for such development.
- c) Any proposed elderly, older person, and/or handicapped housing development for which a Special Exception has been granted under this section by the Zoning Board of Adjustment shall also be subject to Non-Residential Site Plan Review Regulations administered by the Planning Board.
- d) With respect to these requirements, the Zoning Board of Adjustment and the Planning Board may conduct their respective hearings jointly, in an effort to prevent the imposition of conflicting conditions. *(Amended 5/12/09)*
- e) The applicant must present a plan demonstrating how the proposed elderly, older person, and/or handicapped housing project satisfies the needs of those individuals who will come to be located in the housing development.
- f) The applicant must present certification demonstrating compliance with all applicable State and Federal laws.
- g) Where the requirements of this Section are in conflict with other requirements of the Hooksett Zoning Ordinance, the provisions of this section shall take precedence.

2. Area, Frontage, Yard, Height, and Lot Coverage Requirements

The following shall be considered the minimum requirements for elderly, older person, and/or handicapped housing developments proposed under this section.

- a) **Lot area** – The minimum lot shall be four (4) acres. Very poorly drained soils, wetlands, and slopes greater than twenty (20) percent shall not be included in determining the minimum lot size.

- b) **Floodplain** – Elderly, older person, and/or handicapped housing development shall not be located within identified floodplains.
- c) **Frontage** – The minimum lot frontage upon a publicly approved street (Class V or better) shall be two hundred (200) feet.
- d) **Yards**
 - (1) There shall be a front yard on each lot the depth of which shall not be less than fifty (50) feet when measured from the nearest edge of any public right-of-way.
 - (2) Side and rear yards shall be provided as follows:
 - (a) Twenty (20) feet from the lot line or fifty (50) feet from existing structures on adjacent lots, whichever is greater, or
 - (b) Twenty-five (25) feet from the lot line when adjacent lots are vacant at the time that the application for a Special Exception is submitted to the Zoning Board of Adjustment.
 - (c) Building height shall not exceed thirty-five (35) feet in height. *(Amended 05/14/13)*
 - (d) Lot coverage – See Development Regulations. *(Amended 5/13/08)*
 - (3) Landscape Buffer

A landscaped buffer shall be of sufficient width to provide privacy and noise protection, but shall not be less than the setbacks otherwise required in this section. The buffer shall provide and maintain a strip of native plantings along and within the buffer area.

3. **Density Limitations**

The following limits relative to dwelling unit and population densities shall apply:

- a) The Zoning Board of Adjustment may allow a density of three (3) dwelling units per acre for a single development. Soil conditions, slope, the suitability of the land for such construction, or its location may dictate less than the maximum density. *(Amended 05/11/10)*
- b) Any multi-story building containing a complete dwelling unit(s) on each story shall have elevator service or “at grade” access to each dwelling unit. *(Amended 5/13/03)*
- c) Not more than two (2) persons shall use, as a regular place of abode, any dwelling unit having one (1) bedroom.

- d) Not more than four (4) persons shall use, as a regular place of abode, any dwelling unit.
- e) The maximum number of bedrooms shall not exceed two (2) per dwelling unit.
- f) Within any elderly or older person housing developments, a minimum of ten (10) percent of the dwelling units shall be compliant with the design requirements of the Architectural Barrier-Free Design Code of the State of NH. (*Amended 5/11/10*)

4. Parking

Off street parking shall be provided as follows:

- a) There shall be a minimum of six (6) parking spaces for every four (4) dwelling units.
- b) In addition to these off-street parking requirements, other appropriate provisions of Site Plan Review process shall apply.

5. Water and Sewerage Services

All elderly, older person, and/or handicapped housing developments shall be serviced by both public water and public sewerage systems.

6. Building Separation

Where there will be more than one (1) building on a lot, they shall have a minimum horizontal separation of thirty-five (35) feet. Topography and other characteristics of the site or the development which might affect the use of emergency equipment between buildings may dictate a greater separation.

7. Commercial Services

The Zoning Board of Adjustment, as part of their Special Exception deliberations, may allow small retail and service establishments, which are essential to the needs of the residents of any elderly, older person, and/or handicapped housing project, to be constructed as part of the development.

8. Sidewalks, Walking Paths

Sidewalks and/or walking paths shall be provided within the development for access to the public road or connection to other walking paths in the vicinity and to allow for exercise/recreation for the residents.

9. Lighting

Lighting shall be provided along access roads, parking areas, and walking paths that shall be appropriate for the residents of the development.

10. Assurances of Senior Residency

The applicant/developer shall provide deed restrictions, use limitations, covenants, or some other legally enforceable instrument, which shall permanently restrict occupancy of these housing facilities to persons who meet all applicable restrictions regarding age. The language of restrictions and/or limitations must be specific and must correlate with current Federal, State and Local requirements under the Federal Fair Housing Act.

11. General Provisions (*Article 3*) shall apply, when applicable.

(End of Article 7)

ARTICLE 8

CONSERVATION SUBDIVISION

(Amended 05/14/13)

A. Purpose

This Conservation Subdivision Ordinance is intended to facilitate housing that can be developed in such a manner to promote the most appropriate use of the land; encourage environmentally sound planning to conserve open space; retain and protect important natural and cultural features; and provide for efficient use of land and community services to advance the goals stated in the Master Plan and in accordance with RSA 674:21, Innovative Land Use Controls.

B. Objectives

- To maintain rural character, preserving farmland, forests and maintaining rural views.
- To preserve those areas of the site that have the highest ecological value, including, for example, wildlife habitat (e.g., large unfragmented blocks of undeveloped land, areas of highest condition identified based on NH Fish and Game's Wildlife Action Plan), and water resources (e.g., drinking water supply areas and watersheds, wetlands, streams and rivers).
- To locate buildings and structures on those portions of the site that are the most appropriate for development and avoiding developing in areas ill-suited for development, including, for example, areas with poor soil conditions, a high water table, that are subject to frequent flooding or that have excessively steep slopes.
- To preserve historic, archeological, and cultural features located on the site.
- To create a contiguous network of open spaces or "greenways" by linking the common open spaces within the subdivision and to open space on adjoining lands wherever possible.
- To reduce the impacts on water resources by minimizing land disturbance and the creation of impervious surfaces and stormwater runoff.
- To reduce the amount of roads, sidewalks, and stormwater management structures that must be built and maintained.
- To minimize the impact of residential development on the municipality, neighboring properties, and the natural environment.

C. Definitions

Active Recreation – Active recreation refers to a mix of uses that include a more intensive range of activities such as organized sports (i.e. baseball, football, soccer, cycling, etc), and may include the following facilities or facility types: athletic fields, building or structures for recreational activities, concession, courses or courts, children's play area, dog play area, or a bike path.

Open Space – Land within or related to a Conservation Subdivision, not individually owned, which is designed and intended for the common use and enjoyment of the residents of the development, or the public, which may not contain any structures or improvements. A condition of Conservation Subdivision approval shall be that open space may not be further subdivided. In addition, not less than 50 percent of the open space shall be developable (unconstrained) land and a minimum of 50 percent of all open space within the development shall be contiguous throughout the development, as possible. Developable (unconstrained land) surrounded by constrained land shall not be included in the open space calculation. *(Amended 05/10/16)* Developable (unconstrained) land excludes jurisdictional wetlands, steep slopes greater than 25 percent or flood hazard areas. *(Amended 5/8/12)*

Passive Recreation - Passive recreation generally encompasses the less intensive range of outdoor activities compatible with preserving natural resource functions such as wildlife habitat and floodplain protection. Said uses generally occur on undeveloped land or minimally improved lands.

Recreational Lot – Land set aside in a Conservation Subdivision by the developer, separate from Open Space, for the purpose of providing an active recreation area for the residents residing in the development. Said recreation land shall be held in joint ownership of the homeowners in the development.

D. General Requirements

1. The provisions of this Article shall apply to the low, medium density residential districts, MUD-2 District, as noted in Article 13, and MUD-5 District, as noted in Article 16. *(Amended 5/13/03)* Conservation Subdivisions shall be reviewed and approved by the Planning Board as a Special Use Permit as provided by Section J of this Article as well as the Town's Subdivision Regulations.
2. Conservation Subdivision Developments shall not be required to conform to the minimum frontage, setback, and lot sizes required in the underlying zone, but shall be so designed and constructed as to achieve the purposes of Conservation Subdivision Developments set forth in Section 1 *Objectives*, above.
3. Permitted Uses – Conservation Subdivision Residential Developments shall be restricted to residential uses which are the same as permitted within the District for which it is proposed.

4. Water and Sewerage Disposal – All dwelling units shall be connected to the municipal water system, (Hooksett Village Water Precinct, Central Hooksett Water Precinct, or Manchester Water Precinct, etc.) within whose franchise area the proposed development is located and to the municipal sewerage system operated by the Town of Hooksett. If municipal water and sewer are not available in the area of Town where the development is proposed, all dwelling units shall be serviced by on-site wells and septic systems. (amended 5/13/03)
5. Permitted Density – The maximum number of units permitted on a tract shall be computed as follows:
 - A. Reduce the tract area by fifteen percent (15%) to allow for roads and utilities.
 - B. Subtract the area of all steep slopes greater than 25%, NHDES jurisdictional wetlands and water bodies. (Amended 05/10/16)
 - C. Divide the remainder by the minimum lot area for a dwelling unit in the District. The result shall be rounded down for fractions less than one half and rounded up otherwise.
6. Utilities – All utilities, including electric and telephone line, shall be installed underground at the discretion of the Planning Board.
7. Building height shall not exceed thirty-five (35) feet in height. (Amended 05/14/13)
8. Compliance with Local Regulations – All Conservation Subdivision proposals shall comply with all applicable provisions of this Ordinance; the Subdivision and Non-Residential Site Plan Review Regulations; and other pertinent Ordinances, Regulations, and other policies of the Town of Hooksett, to the extent those other regulations and policies are not superseded by this Ordinance. (Amended 5/9/00)
9. Refer to figure 8 (1). (Amended 05/10/16)

E. General Design Requirements

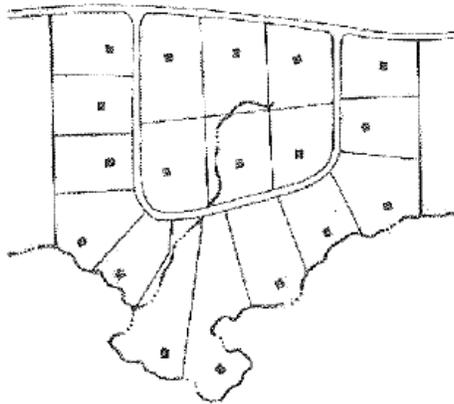
1. All roads shall be designed and constructed in accordance with the Town Road Standards as outlined in the Hooksett Subdivision Regulations.
2. Connectivity – When appropriate and if the natural terrain allows, proposed streets should be laid out so that they can be extended to adjacent developed or undeveloped areas in order to improve connectivity between areas and facilitate vehicle access. (Amended 05/10/16)
3. Public Water and Sewerage and private on-site well and septic systems shall be designed and installed in accordance with local and State standards, and be located within the rights-of-way of the internal street system where practicable or in designated utility easements. The design and layout of such facilities

must have prior written approval of appropriate local and State authorities. Such facilities shall be installed at the expense of the developer. The Planning Board shall demarcate the point at which the Town public utility system ends and the private utility system of the Homeowner's Association and/or Condominium Association begins. *(Amended 5/9/00 and 5/13/03)*

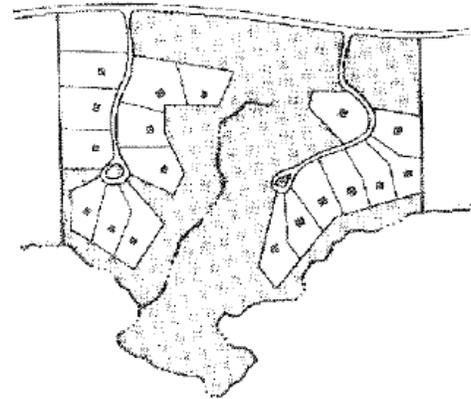
4. Open Space - A minimum of fifty percent (50%) of the tract area shall be set aside as common land covenanted to be maintained as permanent open space in private, cooperative or public ownership and shall be designated by the Conservation Subdivision applicant. Any proposal for public dedication of open space shall be subject to the acceptance by the Town of Hooksett or other public entity proposed to receive the dedication. A minimum of 50% of the gross area of the Conservation Subdivision shall be designated as "open space" as defined herein. The area, configuration, and location of designated open space shall be subject to approval by the Planning Board. The land so set aside shall be provided in such a manner that it is usable for passive recreation, is contiguous, and is reasonably accessible to all residents of the Conservation Subdivision or to the public where land or recreational rights have been deeded to the municipality. All open space shall be part of a unified open space system which will serve to unify the development visually and functionally. The Planning Board may permit minor deviations from these open space standards when it can be determined that the objectives underlying these standards can be met without strict adherence to them.

Parking areas, road rights of ways, driveways and utility easements may be part of the open space, but shall not be counted towards meeting the minimum area open space area requirement. For the purpose of this Ordinance, Open Space land may be managed by a Planning Board approved Conservation Trust or organization for the benefit of the residents of the Town of Hooksett or the homeowner's in the development as a whole. The approved Conservation Trust or organization shall decide upon a fee to be paid by the applicant to the Conservation Trust or organization in order to provide periodic monitoring and conformance with the conservation restrictions on the open space land. When open space is deeded to the Town of Hooksett, the fee shall be determined by the Stewardship Fee Calculation in the Planning Board Administrative Fee Schedule. *(Amended 05/10/16)* All agreements, deed restrictions, organizational provisions, documents and the like created for the purpose of managing said open space shall be distributed throughout the development as part of a unified open space system, which will serve to unify the development visually and functionally. Developed outdoor active recreation such as playing fields, etc. is not a suitable use for open space lands. However, recreational lots may be developed within a Conservation Subdivision separate from the open space land for active outdoor recreation purposes. *(Amended 5/9/00)*

5. Open space areas shall be easily accessible for pedestrians. The Planning Board is empowered to require pedestrian walks, which shall interconnect all dwelling units and open space areas.
6. Recreational Lots, as defined in this Article, are permitted within a Conservation Subdivision. The Planning Board has the authority to require the developer to include any equipment necessary to support said use (i.e. sports fields, playground equipment, etc.) of the recreational lot. However, because of possible noise generation from an active recreation area, these areas shall be sited with sensitivity to surrounding residential development.
7. Natural Features: The applicant is expected to understand and design according to the natural features of the land and to architectural styles which are compatible to the site. Originality in lot layout will be encouraged to achieve the best possible relationship between the development and the land (see diagrams below).



**Conventional
Development**



**Conservation
Development**

- Larger individual lots
- Smaller individual lots
- No common open space or areas
- Compact development set-aside
- More contiguous open space

In addition, natural surface drainage channels shall be either incorporated into the overall site design or shall be preserved as part of the required open space. All disturbed surfaces shall be treated to prevent erosion.

8. Lots, buildings, streets, parking areas, and conservation subdivision units shall be designed and arranged to: minimize alteration of the natural site features to be preserved; relate to surrounding properties; improve the view from and view of buildings; lessen the area devoted to motor vehicle access; and avoid the adverse effects of noise, shadows, lights, and traffic on residents of the development.
9. The sidewalk requirement, per the Hooksett Development Regulations, may be waived in order to allow for a trail system as a means of providing pedestrian access. A trail must be a minimum of 5 (five) feet in width and shall be constructed as a sidewalk when located within the right-of-way. The trail system shall provide sufficient pedestrian access throughout the subdivision and connect with nearby trails or sidewalks. *(Amended 05/10/16)*
10. Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between the development and the land.
11. The minimum acreage allowable for a conservation subdivision development is twenty (20) acres.

F. External and Internal Design Standards

1. Requirements applicable to the external boundaries of the tract.

- a) The minimum frontage on a State or Town maintained road of Class V designation, or better, shall be 100 feet in the aggregate which may consist of no more than two (2) 50-foot rights-of-way serving as access to the development.
- b) The Planning Board shall work with the developer to determine if a buffer zone will be required between any proposed structure within the development and the perimeter of the tract and, if required, shall determine the depth of the buffer zone. The buffer zone shall be

comprised of a vegetated area with composition that will provide an adequate screen subject to the approval of the Planning Board. In no case shall this buffer zone be part of any parcel designed for private, individual ownership; all buffer land must be in control of the homeowners' association. *(Amended 05/08/06)*

- c) No dwellings, accessory structures, service roads, or parking areas shall be permitted within the designated buffer zone. The only exception to this will be access roads described in Section 1. a), above.
- d) A buffer area need not be provided for adjacent land which is in excess of one hundred feet (100') in width or depth and is owned, or otherwise controlled, by the developer of the conservation subdivision if:
 - The land is covenanted so that it will be similarly developed for conservation subdivision, or
 - In the event it is not so used, a suitable strip of land, at least one hundred feet (100') in width will be permanently covenanted for open space purposes. *(Adopted 5/9/00)*

G. Requirements Applicable to Internal Design Features in the Case of Free Standing Lots (fee simple lots)

- 1. The minimum lot area shall be determined by the following table:

Figure 8 (1) Table of Minimum Lot Sizes:

When served by both public water and sewer	When served By either public water or sewer	When served by neither public water nor sewer
0.5 acre (21,780 sf)	1 acre (43,560 sf)	1.5 acres (65,340 sf)

(Amended 05/10/16)

- 2. The road frontage shall be no less than 100 feet with the exception that it can be no less than 50 feet on a cul-de-sac. *(Amended 05/10/16)*
- 3. The following minimum standards shall govern building setbacks:

Front yard	Thirty (30) feet
Side and rear yards	Twenty (20) feet
- 4. Parking will be allowed only on the approved driveway or approved off-street parking spaces; no recreational vehicles or trailers will be allowed to be parked in any front yard.

5. Two (2) off-street parking spaces (not including a garage) shall be provided for each dwelling unit.
6. The minimum distance between structures shall be 40 feet.
7. Any changes to the approved residential site plan must be approved by the Planning Board.

H. Conservation Subdivision Residential Management Requirements

1. Any and all open space lands within the conservation subdivision residential development tract shall be held in common ownership by the dwelling unit owners.
2. The applicant or developer shall provide for and establish a mandatory home association or other legal entity under the laws of the State of New Hampshire. The Homeowner's Association may have the authority, through the unit owners, to manage the common open space areas, but each unit owner in a conservation subdivision development will be required to have an undivided interest in the whole of the common area. Fee title will be in the unit owners and not in the Association. The articles of the association or incorporation of such an entity must be approved, in writing, by the Planning Board prior to the development approval and after legal review by the Board's counsel. The cost of such review shall be borne by the applicant or developer. Any proposed changes in such article of association or incorporation shall require the prior written approval of the Planning Board. This requirement shall be written into the articles of association or incorporation.
3. Membership in such Home Association shall be mandatory for Conservation Subdivision property owners and made a required covenant in all deeds issued or passed. The association shall provide voting and use rights in the open space area(s) when applicable and may charge dues or levy assessments to cover expenses which may include tax liabilities of common areas, and for the maintenance of such common areas, open space areas, improvements, rights-of-way, utilities, etc. Such organizations shall be responsible for the perpetuation, maintenance, and function of all common lands, uses and facilities.
4. All lands and improvements shall be described and identified as to location, size, use and control in a Restrictive Covenant. These Restrictive Covenants shall be written so as to run with the land and become a part of the deed of each lot or dwelling unit within the development.
5. Such Restrictive Covenants and the Association shall continue in effect so as to control the availability of facilities for their intended function and to protect the development from additional unplanned densities and use. Such Association shall not be dissolved, open space or land by sale or otherwise, except to an organization or association conceived and organized to maintain such areas, without prior written consent of the Planning Board.

6. No lands in common open space shall be denuded, defaced, or otherwise disturbed in any amount at anytime without the prior written approval of the Planning Board.
7. Any open space land shall be put under Conservation Easements or Conservation Covenants as prepared by the Hooksett Planning Board (see form HPB Form 1 and subsequent amendments).

I. Current Use Limitations

1. For purposes of this Conservation Subdivision Development option, the common land areas, open space areas and natural areas in an approved development are considered to be a part of the residential use of such development and not be considered to be “open space land,” “Farm land,” “Forest land,” “Wetlands,” “Recreation land,” “Floodplain land,” or “Wild land” within the meaning of RSA 79-A.
2. The Planning Board shall require, as a condition for approval, of a Conservation Subdivision Development, that all deeds transferring any interest in the real property included in said development are acknowledged to be part of the residential use and do not qualify for “Current Use” real estate tax appraisal and assessment under RSA Chapter 79-A.

J. Review Procedure

1. The applicant shall first appear before the Planning Board under agenda item “Discussion” with an existing conditions plan identifying all potential environmental resource areas (written statement and map) to include rivers, nonlinear water bodies, ravines, wetlands, floodplains, topography, steep slopes greater than 25%, and significant natural areas of species defined by New Hampshire Natural Heritage Inventory as rare, endangered, threatened, or of a special concern. The applicant shall present a conceptual drawing in addition to a yield plan showing that the net density will be no greater than permitted within that zoning district for a conventional subdivision or development. The applicant shall not be allowed more lots than are allowed on the yield plan. The Planning Board may require a site walk. *(Amended 05/10/16)*
2. Next, the applicant proceeds to the TRC and standard Planning Board Review procedure as outlined in the Development Regulations. *(Amended 05/10/16)*
3. If a conservation subdivision abuts a neighboring municipality, it is strongly encouraged that the applicant presents their plans before the Planning Board of that municipality. *(Amended 05/10/16)*

K. Authorization to Issue a Special Use Permit

Notwithstanding other provisions of Hooksett'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 permit conservation subdivisions subject to the requirements of this Article as follows:

1. In granting a Special Use Permit, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed use on adjoining properties, and to preserve the purpose, objectives and standards of this Article as well as the Town of Hooksett's Development Regulations, as revised.
 - a. **Procedure:** The Planning Board shall act upon the application for a Special Use Permit in accordance with the submission and the procedural requirements of the Town of Hooksett's Development Regulations, as applicable.
 - b. **Decisions:** All applications for Special Use Permits must comply with the Town of Hooksett Zoning Ordinance including the Town of Hooksett's Development Regulations, as applicable. Possible decisions rendered by the Board include Approval, Approval with Conditions, or Denial. All decisions shall be in writing.
 - c. **Standards Considered in Granting Special Use Permits:** In the review of Special Use Permit applications, the applicant and the Planning Board shall address all applicable standards in this Article, including the Special Use Permit Review Criteria and Special Use Permit Standards as provided in *Section K, below*.
 - d. **Modification of Special Use Permits:** When a Special Use Permit application has received final approval from the Planning Board, no modifications shall take place unless the modification of the plan has been approved by the Board. Requests to modify an approved plan shall be treated as a new application, which will require notification of abutting property owners, a public hearing, and formal Board action.
 - e. **Fees:** The Planning Board has established and from time to time may amend a schedule of fees. The Planning Board shall not accept a site plan or subdivision application for a Special Use Permit, unless it includes the appropriate fees as established by the Board's formal fee schedule.
 - f. **Special Investigative Studies:** In the review of a Special Use Permit application, the Planning Board may also assess the applicant reasonable fees to cover the Board's administrative expenses and costs of special investigative studies and the review of documents and other matters which may be required in the review of particular applications. All fees shall be paid prior to final approval.
 - g. **Performance Security:** Prior to receiving final plan approval and signature of the Planning Board Chair, the applicant shall execute and deliver a performance security to the Planning Board in accordance with the Town's Development Regulations.

L. Special Use Permit Review Criteria

1. A Special Use Permit for Conservation Subdivisions may be issued by the Planning Board provided all of the following review criteria are met:

- a.** The proposed development shall be consistent with the general purpose, goals and objectives of the Town of Hooksett Master Plan as well as this Article.
- b.** The proposed development shall be consistent with all applicable provisions of the Town's Zoning Ordinance and the Town's Development Regulations.
- c.** The proposed conservation subdivision shall be designed to maintain rural character, preserving historic and cultural features, farmland, forests, and maintaining rural views and preserving those areas of the site that have the highest ecological value, including wildlife habitat and water resources.
- d.** The design and site layout of the proposed development shall compliment and harmonize with the rural character of the Town of Hooksett and shall maximize the privacy of dwelling units and preserve the natural character of the land.
- e.** The size and scale of the proposed development shall not have an adverse impact upon adjacent property nor diminish the capacity and safety of adjacent streets in terms of, traffic conditions, utility placement, and other areas related to public health, safety and general welfare.
- f.** The proposed development provides a contiguous network of open spaces or "greenways" by linking active and passive recreation and common areas within the subdivision and to open space on adjoining lands wherever possible.

M. Legal Review:

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

N. Article 3 –

The provisions of *Article 3, General Provisions*, shall apply, when applicable.

(End of Article 8)

ARTICLE 9

MANUFACTURED HOUSING PARKS

A. General Provisions

1. Manufactured housing occupied as a dwelling in the Town of Hooksett may be located in a licensed Manufactured Housing Park except as provided in A.2 and B.1 below.
2. The provisions of this section shall not apply to the continued use and occupancy of any manufactured housing unit used as a dwelling as of the date of the passage of this section (03/82), nor to a manufactured housing unit hereafter acquired as a replacement by the owner of a manufactured housing unit so used. Provided, however, that if a manufactured housing unit occupied as a dwelling as of said date shall be moved from its present location, the subsequent use of such manufactured housing unit must comply with the provisions of *A.1 or B.1* of this section.

B. Manufactured Housing Parks

1. Manufactured Housing Parks may be located in a Commercial District and in no other districts in Town, provided they meet the requirements of this section. The minimum lot area to qualify for the establishment of a manufactured housing park is fifteen (15) acres.
2. **Water Supply and Fire Protection**
 - a) Each Manufactured Housing Park shall have an adequate supply of pure water furnished through a pipe distribution system connected directly with a Town water main so arranged as to make a water connection available at each space. The service connections from the Town water supply shall be a minimum of six (6) inches and there shall be connected therewith a fire hydrant centrally located and easily accessible within said park. Manufactured Housing Parks are prohibited in all areas not supplied with Town water.
 - b) Each Manufactured Housing Park shall have a sewer disposal system so arranged that there will be a sewer connection available at each manufacturing housing unit space and such sewerage disposal system shall be connected to a Town sewer or to a septic tank or other approved treatment device of adequate size and properly installed.
 - c) In all cases where Town sewer facilities are not available, approval of the septic tank arrangement or other device must be obtained from the Code Enforcement Officer and the Health Officer. All manufactured housing units located in the park must be connected to such systems.

3. Waste and Garbage Disposal

There shall be provided for each unit a substantial fly tight metal garbage depository from which all garbage and rubbish shall be removed or disposed of by the owner of the park not less frequently than twice weekly.

4. Entrance and Street Requirements

- a) Manufactured Housing Parks shall be two hundred (200) feet distant from the nearest dwelling, at least one hundred (100) feet from the edge of the nearest public right-of-way, and have an entrance fifty (50) feet in width.
- b) Each manufactured housing unit space shall contain a minimum of ten thousand (10,000) square feet and shall have a frontage of no less than one hundred (100) feet on a roadway of no less than fifty (50) feet right-of-way. Such spaces shall be clearly defined and manufactured housing units shall be so parked as to comply with the front yard, side and back yard requirements for residents in the Residential District.
- c) In all Manufactured Housing Parks, roadways shall be well drained, graveled, hard surfaced or paved, and maintained in good condition and be lighted at night.
- d) Driveway access shall be provided to each manufactured housing unit space. Each access shall be continuous, shall connect with a street or highway, and shall have a minimum width of twenty (20) feet.
- e) Areas shall be provided for the parking of motor vehicles. Such areas shall provide enough spaces to accommodate two vehicles per unit.

5. Management

Each manufactured housing park shall have an office building in which there shall be a person in attendance who is in charge of the park.

It shall be the duty of such person, in charge of the park, to maintain, at all times, a register of all persons occupying manufactured housing units in said park, showing for each, the name and address, license number of all trailers and automobiles and the date of entrance and departure, to maintain the park in a clean, orderly and sanitary condition at all times, and to prevent the running loose of dogs.

6. Permits Required

The construction of a Manufactured Housing Park shall require a permit under the Non-Residential Site Plan Review Regulations. Application for permits will be accompanied, in addition to the information required by the regulations, by detailing plans of the water service and sewage disposal system contemplated as well as a detailed plan showing the location and size of each manufactured housing unit space and, where Town sewerage is not available, results of percolation tests made by a State Registered Engineer together with evidence of approval of the Town Council as to the design of the contemplated septic tank and treatment device. All such

applications shall be accompanied by a permit bond of \$1,000.00 to guarantee compliance with the terms of the Ordinance.

This Ordinance shall not apply to manufactured housing sales lots in which unoccupied units are parked for purposes of inspection and sales.

7. Nonconforming Use

Any nonconforming use of land for the accommodation of manufactured housing units at the date this Ordinance becomes effective may continue in the present use, except that the addition of additional units or home spaces to, or enlargement of, manufactured housing parks in existence on that date must be in conformance with this Ordinance.

8. Licenses

No manufactured housing park, whether newly constructed or presently existing, shall be operated after the date of passage of this amendment until it shall first have been licensed to operate by the Town Council.

Application for licenses shall be made annually and shall show the name and address of the owner of the park, the number of units presently located there, the number of spaces available and other such information as the Town Council may require. The first such application shall be accompanied by a plan of the Park drawn to scale, showing the location of streets, unit spaces, drainage, sanitary and water facilities, and all renewal applications shall be accompanied by information as to any changes in the original plan, or at the discretion of the Town Council, a new plan submitted when such changes are numerous.

9. Article 3, General Provisions, shall apply, when applicable.

(End of Article 9)

ARTICLE 10

COMMERCIAL DISTRICTS - COM

A building may be erected, altered, or used and a lot may be used or occupied for any of the following purposes and in accordance with the following provisions:

A. Permitted Uses

1. Lodging houses, hotels, inns, motels, tourist courts, cabins, including such retail businesses within these permitted buildings as are conducted for the convenience of the residents or guests, shall be permitted.
2. Shops and other retail establishments.
3. Garages, parking lots, and motor fuel dispensing stations, excluding motor vehicle body shops, with the exception of those motor vehicle body shops, which are an integral part of a motor vehicle dealership. (*Amended 5/14/02*)
4. Business offices.
5. Theaters, halls, clubs, amusement centers, and private recreational facilities.
6. Greenhouses and florist shops.
7. Convalescent homes, assisted living facilities or nursing homes providing long term custodial care for the aged or infirm.
8. Undertaking establishments.
9. Hospitals.
10. Wholesale establishments.
11. Manufactured housing parks in accordance with the provisions of *Article 9 Section B*.
12. Essential public utilities may be allowed as a Special Exception provided the installation of same does not create a nuisance or hazard to adjoining property.
13. Restaurants.
14. Private schools, libraries, day nurseries, kindergartens, day care centers, trade or professional schools.

B. Permitted Uses by Special Exception

1. Sexually Oriented Businesses, in accordance with *Article 21*.
2. Wireless Communication Facilities (*See Article 28*).

C. Yards Required

1. There shall be a front yard on each lot, which shall be not less than fifty (50) feet in depth measured from the edge of the public right-of-way to the foundation of the structure.
2. Each side yard shall be not less than twenty-five (25) feet measured from the adjoining lot line to the foundation of the structure.
3. There shall be a rear yard on each lot the depth of which shall not be less than twenty-five (25) feet measured from the adjoining lot line to the foundation of the structure.
4. On each corner lot there shall be a front yard, which shall be no less than fifty (50) feet in depth measured from the edge of the street right-of-way to the foundation of the structure, exclusive of steps, on each frontage of the lot along any public highway, or on any private street which is shown on an approved Subdivision Plan or which provides access to other properties;
 - a) for a lot fronting two streets, there shall be two (2) such front yards, and two side yards;
 - b) for a lot fronting on three streets, there shall be three (3) such front yards and one side yard;
 - c) for a lot fronting on four streets, there shall be four (4) such front yards, and similar for more complex lots.

D. Percentage of Lot Coverage

1. See *Development Regulations*. (Amended 5/13/08)
2. Building height shall not exceed thirty-five (35) feet when a Hooksett Fire Department ladder truck is unavailable. If a Hooksett Fire Department ladder truck is available, no building shall exceed seventy-five (75) feet in height. (Amended 5/8/01)

E. Lot Area and Municipal Water and Sewer System Requirements

1. When served by a municipal water supply or the municipal sewer system, the lot area shall not be less than 22,500 square feet for each use and the frontage of such lots shall not be less than one hundred fifty (150) feet.
2. When served by neither a municipal water supply nor the municipal sewer system, the lot area shall not be less than 44,000 square feet for each use and the frontage of such lots shall not be less than two hundred (200) feet.

F. Property and goods displayed for sale shall not be positioned within any public right-of-way.

- G.** All proposed buildings within the Commercial District shall be subject to Site Plan Review by the Planning Board prior to the issuance of a building permit. Any changes in use or increase in the intensity of use shall also be subject to Site Plan Review. Such review must take place within thirty (30) days from the submittal of a completed application for a building permit by the property owner.

H. Parking Requirements

1. Parking within the Commercial District shall be in conformance with the requirements of *Article 17*.

I. Buffer Zones

Whenever a commercial or industrial use abuts a residential use, zone or district, a buffer zone shall be provided subject to the approval of the Planning Board. The buffer is an area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences and/or berms, designed to limit continuously the view of and/or sound from the site to adjacent sites or properties. The buffer shall be not less than fifty (50) feet in width and shall be planted with a dense screen of shrubbery and trees not less than eight (8) feet in height at the time of planting. The screen shall be at least twenty-five (25) feet in width and shall be permanently maintained suitably by the owner. The buffer shall provide a year-round dense visual screen in order to minimize adverse impacts. In order to maintain dense screen year-round, at least fifty (50) percent of the plantings shall be evergreens. Existing natural growth may be included as part of the screen. No penetration of this buffer zone shall be allowed. With the approval of the Planning Board, a suitable combination of other elements, such as fencing, berms, boulders, may be incorporated within the buffer zone. (*Adopted 5/8/12*)

J. Development within the Commercial District

All development within the Commercial district must also comply with the Town of Hooksett Non-Residential Site Plan Review Regulations.

- K.** *Article 3, General Provisions*, shall apply, when applicable.

(End of Article 10)

ARTICLE 10-A

(Adopted 05/08/06)

U.S. ROUTE 3 CORRIDOR PERFORMANCE ZONING DISTRICT (PZ)

A STATUTORY AUTHORITY

This Article 10-A is enacted by the Town of Hooksett pursuant to NH RSA 674:21. This innovative land use control ordinance shall provide for all approvals by the Planning Board in the District. Any decision made by the Planning Board under this innovative land use control ordinance may be appealed directly to the Superior Court in the same manner provided by Statute for appeals from the Planning Board, as set forth in RSA 676:5, III and RSA 677:15. Waivers from particular requirements of this Article 10-A may be granted by the Planning Board where the applicant demonstrates substantial compliance with the standards set forth in Article 10-A, Section C: Purpose, Paragraphs 1 through 7, inclusive.

B INTENT

- 1.** Zoning was first implemented as a technique for separating incompatible types of land development, thereby protecting low-intensity uses from harmful or undesirable effects of higher-intensity uses. However, in many cases conventional zoning has produced its own set of undesirable side effects.
- 2.** As design and technology continually change, new types of land uses are often proposed which cannot be easily assigned to existing zoning classifications. Too often, innovative land developments are either denied outright (resulting in a loss of tax revenue to the municipality), appealed to the Zoning Board of Adjustment (where special conditions may be imposed), or subject to lengthy rezoning procedures (requiring a town-wide ballot vote).
- 3.** Performance standards, on the other hand, measure the quantifiable “impacts” of each proposed development proposal on its own merits. This type of zoning offers an alternative method for implementing community goals outlined in the 2004 Hooksett Master Plan and the U.S. Route 3: NH Route 28 Transportation Corridor Study (1995), while protecting the rights of private property owners to pursue the highest and best use of their land.
- 4.** The intent of this Ordinance is to provide landowners and municipal officials with a workable tool for use in facilitating future development and re-development of the U.S. Route 3 corridor in Hooksett. Through this Ordinance a broad series of permitted uses are identified together with land use controls, which are intended to facilitate timely and orderly development and re-development throughout the District. Rather than governing the corridor via rigid “traditional zoning” controls, this Ordinance is intended to provide flexibility and latitude for land owners and municipal officials to pursue land use planning and development in such a way as to promote maximization of the limited land resources available in the District while providing for facilities, infrastructure and amenities of a superior quality.

C PURPOSE

The purpose of the U.S. Route 3 Corridor Performance Zoning District Ordinance is:

1. To promote proper corridor management along U.S. Route 3 and its intersecting streets and drives in order to maintain the long term viability of this roadway system to accommodate the transportation needs of the public;
2. To attract environmentally acceptable commercial, industrial, recreational, and institutional uses to the District; which will not create an undue threat to the underlying aquifer;
3. To encourage diversity in the community tax base through appropriate flexibility in land use control and effects on land use development; and re-development;
4. To optimize financial return on public infrastructure investments and expenditures, including municipal sewer, public water supply, the Manchester Airport, public streets and highways, and other governmental facilities;
5. To minimize adverse traffic impacts on U.S. Route 3, NH Route 28, and surrounding local streets and roadways;
6. To promote improved aesthetics through implementation of design controls for landscaping, maintenance of open space and preservation of natural resources; and
7. To provide land use controls which promote the efficient and orderly development and re-development of the District in order to promote and implement the goals and objectives of the 2004 Hooksett Master Plan.

D BOUNDARIES OF U.S. ROUTE 3 CORRIDOR PERFORMANCE ZONING DISTRICT

The boundaries and extent of the U.S. Route 3 Corridor Performance District are as delineated and depicted on a map entitled Official Zoning Map, Town of Hooksett, New Hampshire 2006, and as afterwards amended.

E PERMITTED USES

All land uses, or combinations thereof, identified hereunder are permitted within the U.S. Route 3 Corridor Performance Zoning District and are subject to review for suitability by the Planning Board. Prior to Planning Board approval of a proposed use, the applicant must demonstrate that use will meet each of the performance standards and/or land use controls established in this Ordinance, the Hooksett Subdivision Regulations, the Hooksett Non-Residential Site Plan Review Regulations, and shall not produce negative impacts on surrounding properties.

1. Research and development facilities
2. Manufacturing (industry, non-nuisance)
3. Warehousing
4. Professional business offices
5. Retail, wholesale and rental trades, commercial and personal service establishments
6. Restaurants, fast food restaurants, hotels, motels, and other hospitality services

7. Medical/dental services and related facilities, including hospitals, convalescent homes and assisted living facilities
8. Governmental and public utility service facilities, including wireless communication installations
9. Places of worship and related religious facilities, membership club facilities
10. Public and private educational institutions, including daycare facilities
11. Commercial and noncommercial recreational facilities and theaters
12. Gasoline stations and car washes ^{1,2}
13. Banks and other financial institutions
14. Funeral homes
15. Adult entertainment businesses subject to the provisions of *Article 21* of this Ordinance
16. Automotive sales, service and repair facilities ³
17. Automobile parking facilities
18. Garden centers, nurseries, greenhouses and floral establishments.

F DIMENSIONAL PERFORMANCE STANDARDS

1. Table of Performance Dimensional Standards

- (a) In order to accomplish the stated intent and purpose of this Ordinance, as well as to insure that the goals and objectives of both the 2004 Hooksett Master Plan and the 1995 U.S. Route 3; NH Route 28 Transportation Corridor Study are fulfilled, Performance Zoning Standards enumerated within Figure 10-A (1): Table of Performance Dimensional Standards have been developed.
- (b) No building or structure shall be erected, enlarged, altered, or relocated, nor shall any existing lot size be changed or new lot created within the U.S. Route 3 Corridor Performance Zoning District, except in accordance with the Table of Performance Dimensional Standards or otherwise specified within this Article.

Figure 10-A (1) Table of Performance Dimensional Standards

For Properties Fronting on... (1) (2)	Min. Lot Area (Ac.)	Min. Lot Frontage (Ft.)	Max. Bldg. Height (Ft.)	Min. Front Structure Setback (Ft.)	Min. Side Structure Setback (Ft.)	Min. Rear Structure Setback (Ft.)	Max. Impervious Cover (%)
U.S. Route 3 or Route 28 By-Pass (with Public water and sewer)	1.0	100'	75' (7)	1:3 (3) (4) (5)	1:1 (3)	1:1 (3)	65% (6) (8) (9)
U.S. Route 3 or Route 28 By-Pass (w/out Public water and/or sewer)	2.0	200'	35' (7)	1:3 (3) (4) (5)	1:1 (3)	1:1 (3)	50% (6) (8) (9)
Other Streets (with Public water and sewer)	1.0	100'	75' (7)	1:3 (3) (4) (5)	1:1 (3)	1:1 (3)	65%
Other Streets (w/out Public water and/or sewer)	2.0	200'	35' (7)	1:3 (3) (4) (5)	1:1 (3)	1:1 (3)	50%

¹ Gasoline/Fuel Pumps and car wash equipment shall be located under a canopy or structure that is situated to comply with the minimum yard requirements of Figure 10-A (1) Table of Performance Dimensional Standards.

² Subject to the provisions of Article 19 of the Hooksett Zoning Ordinance

³ Automotive service bay doors may not be positioned on the façade of any building facing a public street or Residential District boundary located within 200-feet.¹

Footnotes to Figure 10-A (1):

- (1) Lots with frontage on U.S. Route 3 and/or NH Route 28 By-Pass and a local road shall be accessed from the local road.
- (2) Minimum frontage requirements shall be satisfied at the street providing access to the lot.
- (3) Calculated as a ratio of one foot (1') of maximum building height to one foot (1') required building setback.
- (4) May be reduced to 1:1.5 if all parking and loading areas are located to the side or rear of the principal structure.
- (5) Minimum front structure setback dimension is thirty feet (30'); no front structure setback requirement shall be in excess of one hundred feet (100').
- (6) May be increased by an amount equal to the area of right-of-way dedicated to future widening of U.S. Route 3 or NH Route 28 By-Pass.
- (7) Building height for calculation of setbacks shall be determined as the vertical distance from the average existing ground level of building footprint to the soffit (or highest horizontal support) of the building.
- (8) May be increased by a value equal to ten-percent (10%) of the parcel area for each existing curb cut at U.S. Route 3, NH Route 28 By-Pass, or Mammoth Road eliminated through shared access accommodations with adjoining parcels or through consolidation of existing parcels resulting in the elimination of existing curb cuts. Private "Shared Access Drives" shall mean common access points to U.S. Route 3, NH Route 28 By-Pass, or Mammoth Road providing access to two or more properties.
- (9) See *Development Regulations*. (Amended 5/13/08)

2. Incentive Bonus Standards

- (a) In recognition of the need to protect the overall integrity and character of the U.S. Route 3 Corridor, as well as to promote the development of a system of local roads and utilities for properly servicing properties within the U.S. Route 3 Corridor Performance Zoning District: and to promote proper access within the District the Performance Zoning Standards presented in Figure 10-A (1): Table of Performance Dimensional Standards have been formulated to include Incentive Bonus Standards.
- (b) These Incentive Bonus Standards have been created as a means for rewarding those who choose to voluntarily develop or re-develop their properties in a way that is most compatible with the stated goals and objectives of the 2004 Hooksett Master Plan and the 1995 U.S. Route 3; NH Route 28 Transportation Corridor Study.

(c) Incentive Bonus Standards, which are implicit in these performance zoning standards, include:

(1) Impervious Lot Coverage Incentive

As an incentive bonus to encourage shared access, maximum coverage limitations shall be relaxed as a reward for proper access management within the corridor. Specifically, an impervious coverage bonus equal to ten percent (10%) of the area of each parcel shall be granted for the elimination of each existing curb cut at U.S. Route 3 and at NH Route 28 By-Pass resulting from the development of shared access for multiple parcels. This incentive bonus shall be awarded to those parcels when existing curb cuts are eliminated through development of shared access drives and/or through consolidation of multiple parcels.

(2) Municipal Sewer and Water Connection Incentive (*See Figure 10-A (2)*)

In recognition of the benefits of having reliable, environmentally sound water and sewer utilities within the District, minimum lot area and frontage requirements shall be relaxed for those properties with connections to both public water and sewer. Also, in recognition that the availability of a public water supply offers properties a greater measure of fire protection, maximum building height limitations shall be increased for properties served by public water. Specifically, the minimum lot area and frontage requirements of 2.0 acres and 200-feet respectively, applicable to parcels without public utilities, shall be decreased to 1.0 acre and 100-feet when both public water and sewer are available. Further, the maximum permitted building height shall be increased from 35-feet to 75-feet when public water is available.

(3) Right-of-Way Dedication Incentive (*See Figure 10-A (3)*)

The U.S. Route 3: NH Route 28 Transportation Corridor Study concludes a recommended minimum right-of-way width of 96-feet is necessary for the construction of future roadway improvements to the U.S. Route 3 Corridor. Therefore, as an incentive for landowners to voluntarily dedicate the right-of-way over those portions of their land situated within forty-eight feet (48') of the present centerline of U.S. Route 3, an area of excess impervious coverage shall be permitted on the remaining lot area equal to the actual computed area of the right-of-way dedicated.

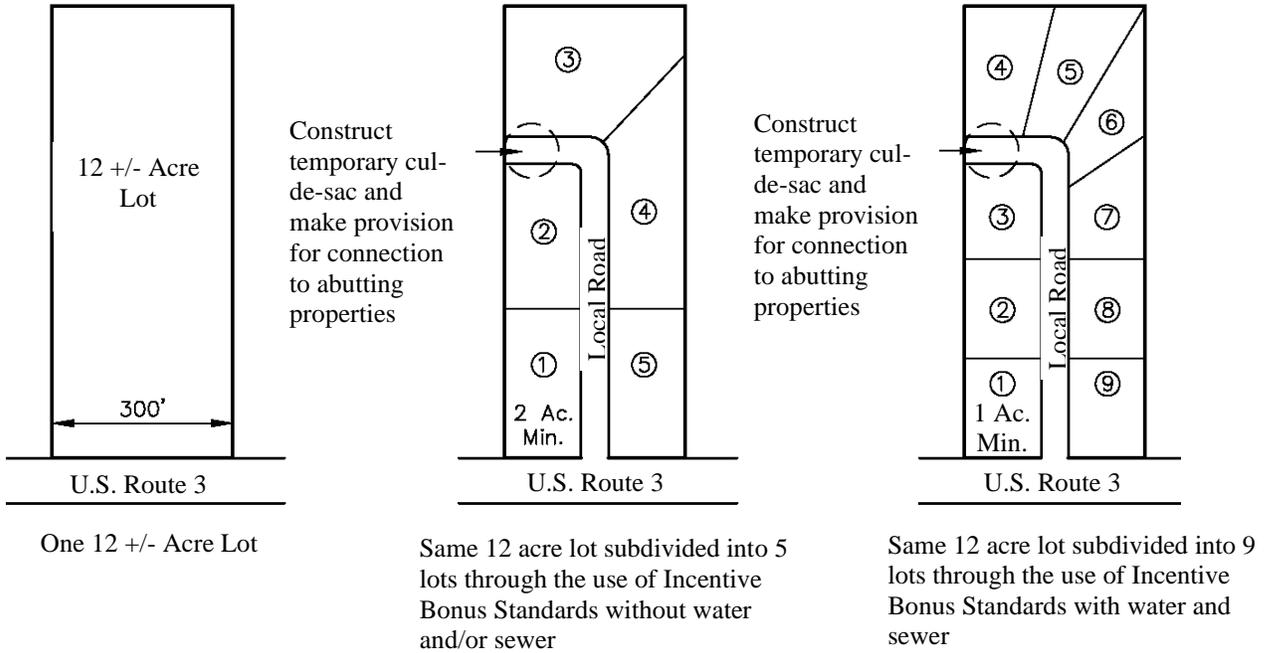
(4) Front Structure Setback

In recognition of the need to enhance the aesthetic qualities of the US Route 3 Corridor, an Incentive Bonus Standard has been developed

Figure 10-A (2) Incentive Bonus Standards

Water and/or Sewer

Not to Scale



Shared Access

Not to Scale

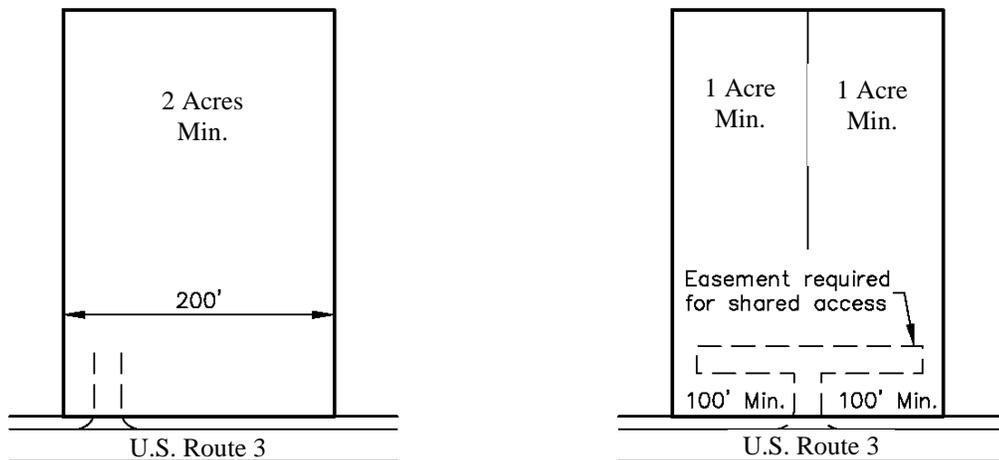
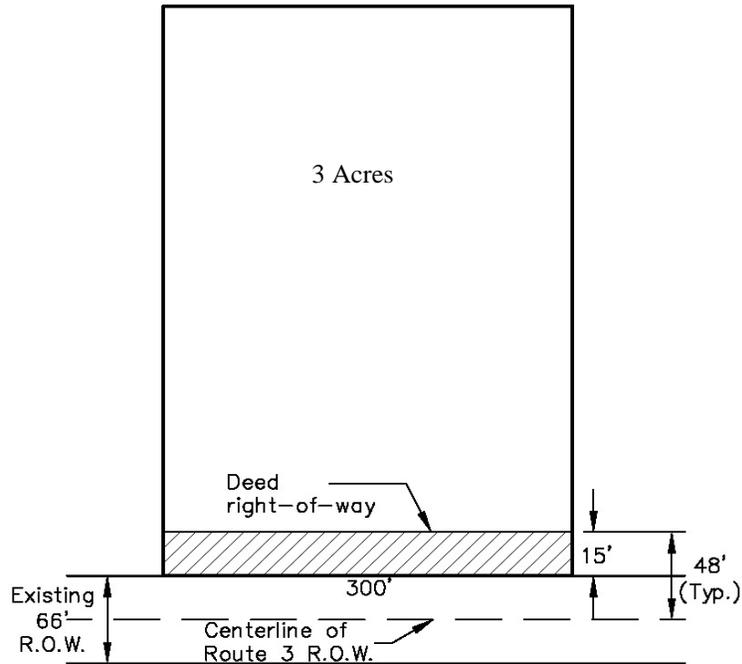


Figure 10-A (3) Incentive Bonus Formula for Route 3

Right-of-Way Dedication



- Allowable Impervious Coverage prior to deeding an easement:
 $0.65 \times 3 \text{ acres} = 1.95 \text{ acres}$

- Deeded Easement Area:
 $15' \times 300' = 4,500 \text{ s.f. or } 0.10 \text{ acres}$

- By deeding the easement, the Impervious Coverage increases to:

$$\begin{array}{r} 1.95 \text{ acres} \\ + 0.10 \text{ acres} \\ \hline 2.05 \text{ acres} \end{array}$$

- Available land after deeding the easement:
 $3 \text{ acres} - 0.10 \text{ acres} = 2.90 \text{ acres}$

therefore,

2.05 acres of 2.90 acres may be impervious or 70% allowable impervious coverage wherein front structure setback requirements shall be relaxed for those who choose to develop the sites in such a way as to place parking pavements to the side and rear of proposed buildings. Those who choose to take advantage of this incentive bonus standard may reduce their required front structure setback by fifty percent (50%) of that otherwise required within the District subject to the minimum front structure setback dimension

G ACCESS MANAGEMENT, CIRCULATION AND PARKING PERFORMANCE STANDARDS

1. Performance standards for access and circulation accommodations
 - (a) Each parcel, subject to Planning Board Approval, shall be afforded safe and efficient vehicular and pedestrian access to and from public streets via driveways, and where appropriate, sidewalks. The design and construction of all driveways and walks shall be adequate, in the opinion of the Planning Board, to safely accommodate anticipated traffic volumes generated by the proposed or existing use(s) of each parcel.
 - (b) Applicants seeking Planning Board approval of non-residential site plans and/or subdivision plans within the U.S. Route 3 Corridor Performance Zoning District shall obtain a valid NHDOT driveway permit and/or a local driveway permit issued by the Hooksett Highway Department prior to, or as a condition of, final Planning Board approval.
 - (c) Lots with frontage on U.S. Route 3 and/or NH Route 28 By-Pass and a local road shall be accessed from the local road.
 - (d) Parcels with frontage on U.S. Route 3, NH Route 28 By-Pass or other streets within the jurisdiction of the NHDOT shall be limited to a single driveway on that street regardless of how many driveway access points that parcel may have rights to under RSA 236:13.
 - (e) Unless deemed undesirable or impractical by the Planning Board, all parcels developed or redeveloped with U.S. Route 3 Corridor Performance Zoning District shall be designed and developed in such a manner as to permit direct vehicular and pedestrian access to adjoining parcels fronting on U.S. Route 3, NH Route 28 By-Pass, or Mammoth Road. Appropriate easements shall be developed, executed and recorded for the purposes of assuring this requirement is fulfilled prior to, or as a condition of, Planning Board approval for any subdivision plat or non-residential site-plan.
 - (f) Sidewalks shall be constructed or maintained along the frontage of those parcels subject to Planning Board review and approval where either the Town of Hooksett or the NHDOT presently maintain sidewalks, where construction of sidewalks is planned in the future, and at other locations where required by the Planning Board. Design and construction requirements for all sidewalks shall conform to applicable standards of the NHDOT or Town of Hooksett as appropriate. All sidewalk construction shall conform to the Americans with Disabilities Act (ADA).
 - (g) All non-residential sites shall be afforded access via driveways having a minimum width of 24-feet unless otherwise approved by the Planning Board.
 - (h) All retail establishments, restaurants, banks and service businesses which offer drive-through facilities shall be equipped with a designated drive through lane for each individual window or piece of equipment intended to serve drive through patrons. Each drive through lane shall be a minimum of eleven (11) feet wide and shall be capable of accommodating a queue of a minimum of six (6) passenger sized vehicles

without blockage of site circulation drives and parking spaces situated outside of the drive through area.

- (i) All sites shall be designed and constructed with fire lanes and emergency vehicle access accommodations sufficient to fulfill the requirements of applicable local ordinances.

2. Performance Standards for off-street parking accommodations

- (a) No land shall be used and no building or structure shall be erected, enlarged, or use of building changed, unless the off-street parking requirements are provided as specified in this Section.
- (b) Where the computation of required parking spaces results in a fractional number, only the fraction of one-half (1/2) or more shall be counted as one (1) space.
- (c) All parking facilities, including number of spaces, design of spaces, and access ramps for new or changed-use buildings, except single-family homes, shall be designed and constructed in compliance with all applicable provisions of the Americans with Disabilities Act (ADA), as amended.
- (d) Required off street parking facilities shall be provided on the same lot as the principal use, or uses, they are intended to serve, unless otherwise approved by the Planning Board.
- (e) The Planning Board may approve reductions in off-street parking density requirements for multi-tenant sites intended to be occupied by tenants, which traditionally have non-concurrent peak parking demands (i.e. a bank and a night club or a religious facility and a religious facility operated day school facility). In such cases, the Planning Board may permit the construction of the number of off-street parking spaces that are anticipated to be necessary for accommodation of the peak off-street parking demand based on the combination of tenants. *(Amended 5/13/14)*
- (f) Likewise, the Planning Board may approve identical reductions in off-site parking density requirements for abutting or adjoining sites with shared access and inter connected parking lots, that are occupied by tenants which traditionally have non-concurrent peak parking demands, provided the owners of two or more such sites have executed cross-easements permitting each other's tenants and patrons to share each other's on-site parking accommodations.
- (g) Off-street parking density requirements for the U.S. Route 3 Corridor Performance Zoning District.
 - (1) Hospitals - Three (3) spaces per bed
 - (2) Convalescent or Nursing Home or Assisted Living - One (1) space per two (2) beds
 - (3) Hotel, Motel, or Inn - One and a quarter (1 ¼) spaces per room, plus one (1) space per twenty (20) square feet of floor area available for meetings or banquets.

- (4) Retail Store, Shopping Center, or Bank - One (1) space for each two hundred fifty (250) square feet of gross floor area
- (5) Supermarket, Grocery Store, or Convenience Store - One (1) space for each two hundred (200) square feet of gross floor area
- (6) Service Establishments - One (1) space for each three hundred (300) square feet of gross floor area
- (7) Religious facilities, Theaters, and Other Places of Assembly - One (1) space for each three (3) seats (*Amended 5/13/14*)
- (8) Restaurants, Eat-in - One (1) space for each four (4) seats plus one (1) space for each employee of the largest shift
- (9) Cocktail Lounges in Restaurants, Bars and Nightclubs - One (1) space for each two (2) seats plus one (1) space for each employee of the largest shift
- (10) Restaurant, Fast Food - One (1) space for each sixty (60) square feet of gross floor area with drive thru window & one (1) space for each thirty (30) square feet of gross floor area without a drive through
- (11) Bowling Alley - Four (4) spaces for each lane
- (12) Day Care Facilities - Two (2) spaces for each employee plus appropriate off-street area for drop-off and pickup of children
- (13) Funeral Home - Eight (8) spaces for each chapel with a minimum of ten (10) spaces
- (14) Gasoline Stations - One (1) space per fueling position plus one (1) space per employee of the largest shift
- (15) Community Center - One (1) space per one hundred and fifty (150) square feet of gross floor area
- (16) Membership Clubs - One (1) space per one hundred and fifty (150) square feet of gross floor area
- (17) General Offices - One (1) space for each three hundred twenty-five (325) square feet of gross floor area
- (18) Professional Offices and Medical Clinics - One (1) space per two hundred fifty (250) square feet of gross floor area
- (19) Warehouses - One (1) space per twelve hundred (1,200) square feet of gross floor area.
- (20) Wholesaling - One (1) space per eight hundred (800) square feet of gross floor area

(21) Manufacturing - One (1) space per five hundred (500) square feet of gross floor area

(22) Uses not listed - Subject to determination by Planning Board

Note: The above parking density requirements supersede those contained in Article 17 of the Hooksett Zoning Ordinance for those areas situated in the U.S. Route 3 Corridor Performance Zoning District.

- (h) In cases where the Planning Board believes that construction of a the required number of spaces necessary to fulfill the requirements of paragraph (g) above, may result in an excessive number of off street parking spaces on a given site, the Board may permit physical construction of that number of spaces deemed appropriate. The remaining number of spaces necessary to fulfill said requirements of paragraph (g), would be designed and permitted by the Board with the understanding that their construction would occur at some future time as either the Planning Board or land owner believes necessary.
- (i) As an incentive bonus for those abutting land owners who choose to develop or redevelop their respective properties with interconnecting driveways and/or parking lots; or those who choose to execute easements for shared off-street parking accommodations, both sites shall be relieved of the perimeter landscape area planting requirements contained in Section H.3.d of this Ordinance along their common boundary.
- (j) The display or storage of automobiles, objects or goods for sale, lease or rent shall not be permitted within off-street parking spaces, aisles, drives or other site areas unless specifically approved by the Planning Board.
- (k) Paved areas for the display of automobiles or other vehicles for sale, lease or rent shall be designed and constructed so as to conform with all requirements of this Ordinance applicable to off-street parking accommodations including Landscape Performance Standards.

H LANDSCAPE PERFORMANCE STANDARDS

1. Purpose and intent

In acknowledgement of the broad range of uses permitted in the District, as well as the intensity of development permitted under this Ordinance, these landscape performance standards have been adopted for the following purposes:

- (a) To create a unifying image of quality in terms of land use and land allocation within the District;
- (b) To create development and redevelopment of a superior aesthetic quality compared to that of the pre-existing condition;
- (c) To achieve an appropriate balance of scale between the built environment and natural surroundings;
- (d) To introduce landscapes and hardscapes constructed with materials of superior quality, scale and durability which promote the concept of permanence and leave lasting favorable images; and
- (e) To provide for adequate buffering between potentially incompatible land uses.

2. General Provisions

(a) Applicability

In acknowledgement of the purpose and intent of these Landscape Performance Standards described above, this Section has been adopted in order to provide design standards specifically tailored for the U.S. Route 3 Corridor Performance Zoning District. As such, these standards shall supersede those “landscape design criteria” contained in Section 3.D of the Non-Residential Site Plan Review Regulations of the Town of Hooksett in their entirety. Each land use proposal advanced within the District subsequent to the date of adoption of this Ordinance shall conform to each applicable requirement of these Landscape Performance Standards.

(b) Landscape Materials

All plantings installed shall conform to accepted horticultural standards and shall be regularly maintained or they shall be replaced in kind, as necessary, in order to achieve compliance with the requirements of this Section. Dimensions and terms relating to landscape plantings specified under this Section are referenced to American Standards for Nursery Stock, as published by the American Association of Nurserymen.

(c) Incentive Bonus Standard Requirements

Several incentive bonus standards described in this Section allow for the substitution of retained vegetation in lieu of otherwise required plantings. In cases where these incentive bonus standards are utilized, the Hooksett Community Development Department or their assigns shall enjoy the ability to verify the effectiveness, health, size and density of retained vegetation in terms of the ability of the same to serve the intended purpose. Any deficiencies found in regard to such retained vegetation shall be corrected and may require the installation of supplemental plantings prior to issuance of a certificate of occupancy for the property.

(d) Substitution of Plantings

In the event substitutions of specified plantings are proposed during construction, the Hooksett Community Development Department staff or their assigns may permit such substitution provided the number, size and placement of alternate plant materials respects the requirements of this Ordinance and the intent of the approved landscape plan.

(e) Installation of Lawns and Restoration of Disturbed Areas

All areas disturbed by construction or intended to be lawn shall be covered with a minimum thickness of four inches of friable loam and shall be seeded and covered with sod/mulch, resulting in attractive, natural surface conditions.

(f) General Provisions

Unless otherwise permitted within this Ordinance, buildings, pavement, (other than approved driveways and walks), above grade utility structures, signage and other hardscape site improvements shall not be permitted within the street tree strip, front landscape area, nor perimeter landscape area required under this Ordinance.

3. Minimum Planting Requirements

(a) Landscape area definitions (See Figure 10-A (4))

For the purpose of this Section, minimum landscape requirements have been developed for the following areas:

(1) Street Tree Strip:

A band of land most immediately adjacent to the public right-of-way having a width of no less than 15-feet.

(2) Front Landscape Area:

Those areas of a site situated between the street tree strip and the façade of any building or impervious surface facing a public right-of-way having a minimum width of 15-feet.

(3) Perimeter Landscape Areas:

Those areas of a site commencing at the interior limit of the front landscape area, running generally parallel with the side and rear site boundaries situated between any building or impervious surface and the boundaries of the site. The minimum width of the perimeter landscape area shall be one-half the building height of that portion of a structure facing any side or rear property boundary, but shall not be less than 10-feet.

(4) Interior Landscape Areas

Those areas of a site bordered on a minimum of three sides by buildings and/or impervious surfaces situated within the interior portion of any site. See Figure 10-A (4)

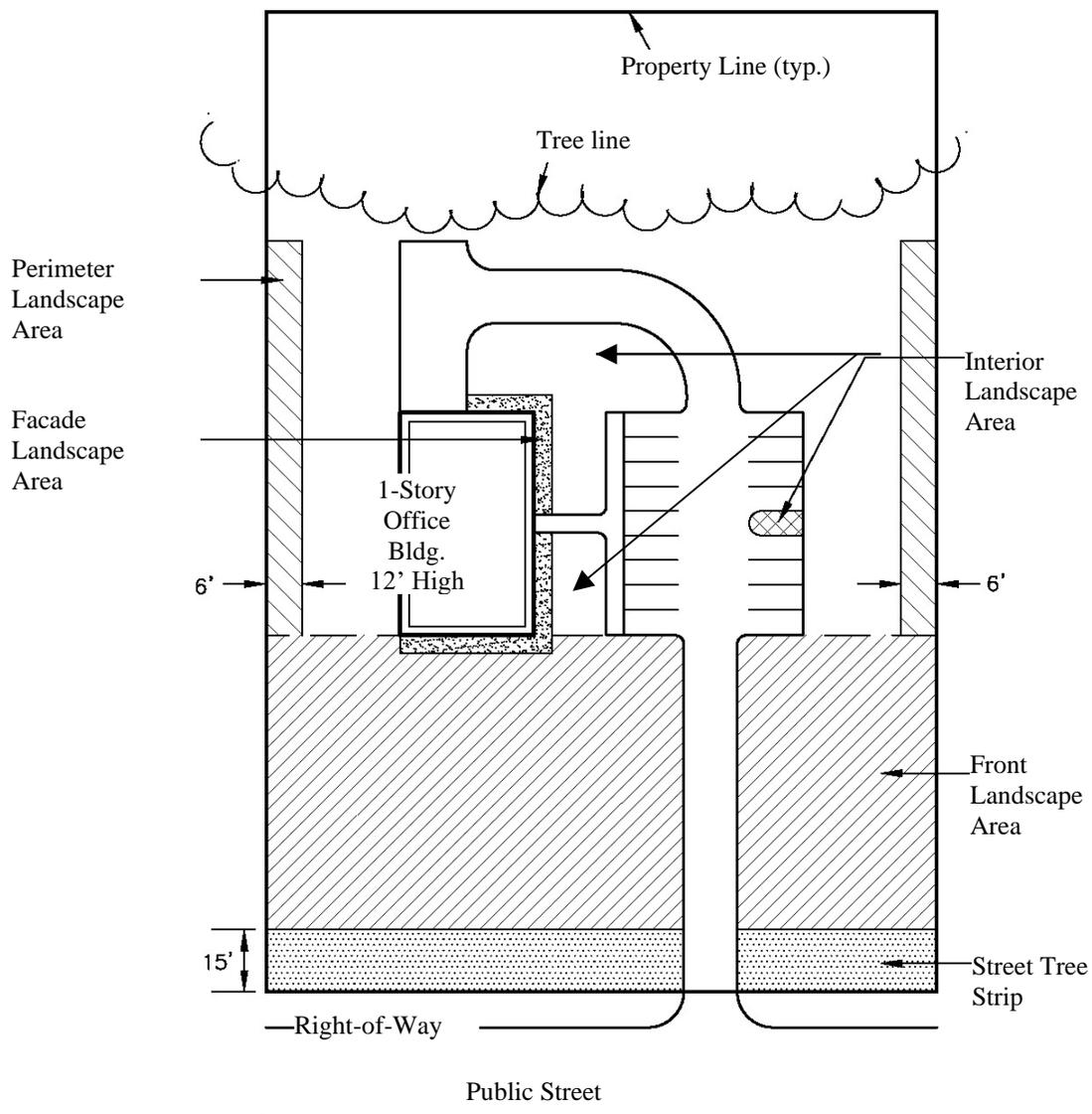
(5) Building Façade Landscape Areas

Those areas of a site situated between a building and other impervious site areas such as driveways, aisles and parking areas.

(b) Street Tree Strip Planting Requirements

The street tree strip shall be planted with a minimum of one (1) indigenous shade tree for each 50-linear feet of street frontage, or portion thereof. Indigenous shade trees planted within the street tree strip shall have a minimum caliper dimension of 2 ½-inches at the time of planting. Street trees shall be planted no closer than 25-feet on center.

Figure 10-A (4) Landscape Area Definitions



(c) Front Landscape Area Planting Requirements

The front landscape area shall be planted with a minimum of one (1) tree for each 500 square feet of front landscape area. A minimum of 50-percent of trees planted in the front landscape area shall be indigenous shade trees having a minimum height, at the time of planting, equal to no less than one-half (1/2) the height of the adjacent building façade or 20-feet, whatever is less. The balance of required tree plantings may include a variety of deciduous, evergreen or ornamental species having a height at the time of planting of not less than 5-feet.

(d) Perimeter Landscape Area Planting Requirements

The perimeter landscape area shall be planted with a minimum of one (1) tree for each 500 square feet of perimeter landscape area. A minimum of 50-percent of trees planted in the perimeter landscape area shall be either evergreen or ornamental species having a minimum height of 5-feet at the time of planting.

(e) Interior Landscape Area Planting Requirements

- (1) Within those parking lots containing 20 or more parking spaces, a minimum of ten (10)-percent of the interior paved area shall be interrupted by curbed, landscaped islands and/or medians as specified herein.
- (2) Unless in conflict with the requirements of the Americans With Disabilities Act, each continuous row of parking spaces shall end in a suitably landscaped area not less than 9-feet in width, nor less than 300 square feet in total area.
- (3) Parking lots shall not have more than three (3) consecutive parking aisles without being interrupted by a curbed, landscaped median having a minimum width of ten (10) feet. (See Figure 10-A (5))
- (4) Landscaped islands and medians required under this Section shall be planted with a minimum of one (1) indigenous shade tree having a 2.5-inch minimum caliper per 300 square feet of island/median area. Similarly, each landscaped island or median required under this Section shall be planted with a minimum of one (1) evergreen or deciduous shrub having a planting height of 18-inches per 100 square feet of island/median area.
- (5) Required islands and medians shall be surfaced with grass, sod, ground covers and/or mulch.
- (6) Each healthy, native tree with a caliper diameter of four (4) inches or more, which is preserved within the required landscaped area, may be substituted for a number of required plantings equal to the caliper diameter, measured in inches, of the tree, or trees, preserved.

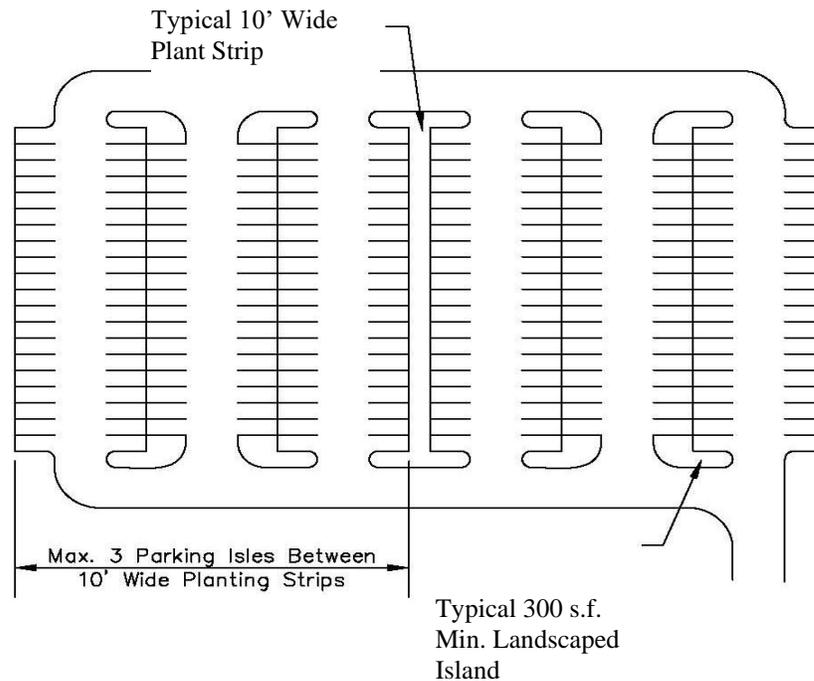
(f) Building Façade Landscape Area Planting Requirements

Land situated between building façades facing either paved parking lots, principal access aisles or streets shall contain landscaped areas having a minimum area of three (3) square feet per linear foot of façade length. Said building façade landscaped areas may be distributed linearly along the building façade or exist in the form of landscaped “pockets”. Required building façade landscape areas shall be planted with one (1) deciduous or evergreen shrub, with a minimum planting height of 18-inches, for each twenty-five (25) square feet of area. In addition, such area shall be surfaced with grass, sod, ground covers and/or mulch.

Figure 10-A (5) Parking Lot With Multiple Parking Aisles

Required Interior Landscape Area

Not to Scale



4. Screening and Buffering Requirements for Adjoining Residential Properties

- (a) At locations where non-residential uses are proposed on properties situated in the U.S. Route 3 Corridor Performance Zoning District where any commercial or industrial use abuts a residential use, zone or district, screening and buffering shall be required. Required buffers shall be located along that parcel boundary, which also forms the Zoning District boundary. *(Amended 5/12/09)*
- (b) Structures, pavement, above grade utility structures, signage and other landscape improvements shall not encroach on required residential use, zone or district buffer areas. *(Amended 5/12/09)*
- (c) The minimum required width of any residential use, zone or district buffer shall be equal to the required side or rear yard setback for the parcel in question as established under section F.1(a) of this Article, but in no case shall be less than twenty (20) feet. (See Figure 10-A (1): Table of Performance Dimensional Standards) *(Amended 5/12/09)*
- (d) An existing, dense and mature tree stand may be used to satisfy the planting requirements for the required residential use, zone or district buffer if, in the opinion of the Planning Board, the quantity and quality of the existing vegetation is sufficient to provide adequate visual screening from the proposed use. Supplemental plantings and/or fencing may be used to increase the effectiveness of the buffer, if necessary. *(Amended 5/12/09)*

- (e) In the absence of existing vegetation, as noted above, the following requirements shall be required along the residential use, zone or district buffer:
 - (1) A minimum of two (2) rows of evergreen plantings, with a minimum height of six (6) feet shall be planted no further than fifteen (15) feet on center; and
 - (2) A six (6) foot tall opaque fence or wall shall be installed along and parallel with the residential use, zone or district boundary subject to these requirements.
(Amended 5/12/09)
- (f) In those cases where, along the length of the residential use, zone or district buffer, loading or deliveries will take place, the Planning Board may require that a portion of the buffer contain an earthen berm and/or a solid (non-stockade) fence of sufficient height to lessen noise impacts to abutting residential use, zone or district properties. The Board may retain an acoustical engineer, at the expense of the applicant, to determine the appropriate height, location and material required to obtain reasonable sound attenuation for the adjoining residential use, zone or district properties.
(Amended 5/12/09)
- (g) In order to provide maximum opportunity for those seeking to promote non-residential development within the Town of Hooksett, while maintaining appropriate buffers for the benefit and protection of existing residents, applicants shall be permitted to fulfill the minimum residential use, zone or district buffering requirements of this Section through placement of required buffers on the residential use, zone or district side of Zoning District boundaries or common lot lines provided that appropriate landscape easements or ownerships are secured and maintained for this purpose. (Amended 5/12/09)

5. Landscape Requirements for Sign Installations

- (a) In order to effectively integrate signage installation into the landscape area treatments required under this Ordinance, the following supplemental landscape requirements shall be implemented around the perimeter of all signage installations in the U.S. Route 3 Corridor Performance Zoning District.
- (b) A continuous band of landscape plantings, including evergreen and deciduous shrubs, ground covers, annuals and perennials shall “wrap” the perimeter of all sign base installations. This band shall have a minimum width of four (4) feet.

6. Screening of Unsightly Features

- (a) This Section is intended to preserve the visual aesthetics of the U.S. Route 3 Corridor Performance Zoning District by blocking or minimizing the view of refuse, materials storage, loading/receiving docks, and utility installations.
- (b) Refuse storage areas, stockpiled materials for packaging and commercial/industrial by-products, and other material stockpile areas shall be located so as to be out of view from any abutting property and/or public right of way. In cases where this is not possible, these items shall be properly located within a secured area that has been effectively screened. As a minimum, all such areas shall be contained within a stockade, chain link, or similar enclosure that is at least as tall as the object(s) to be screened. Further, the perimeter of any such enclosure shall be subject to the screening requirements outlined herein.

- (c) Loading docks and receiving areas, as well as large above ground utility fixtures (large above ground utility fixtures are defined as any public or private utility component which has a total footprint area of greater than fifty (50) square feet, or has an average height of more than four (4) feet), shall be located so they are out of view from abutting properties and/or public rights-of-way. In cases where this is not possible, these facilities shall be effectively screened in accordance with the minimum screening requirements outlined herein.
- (d) Minimum screening requirements for use in satisfying each of the above criteria shall include the planting of one (1) evergreen tree or shrub per ten (10) linear feet of required screen length or perimeter. The height of required trees or shrubs shall be equal to one half (1/2) of the maximum height of the item requiring the screen at the time of planting. Required plantings shall be regularly spaced so as to maximize the overall density of the landscape screen.
- (e) Enclosures, either attached or detached from a principal structure, constructed of rigid architectural materials, which are visually compatible with those of the principal structure, may be used to satisfy the requirements of this Section and may be substituted for the requirements outlined above.

7. Hardscape Performance Standard

- (a) To help achieve the stated purposes and intent of this Ordinance, this Section has been adopted for the purpose of integrating hardscape elements, which suggest superior quality, scale and durability; and which furthers the concept of permanence and lasting aesthetic quality.
- (b) All pedestrian walkways situated between building facades and paved parking lots, principal access drives and aisles, or streets shall be constructed with non-bituminous surfaces including, but not limited to: Portland cement concrete; brick pavers; concrete pavers, paving stones or similar non-bituminous materials.
- (c) As an incentive bonus for those who choose to utilize granite curbing throughout their sites, the requirement for a minimum of ten (10) percent interior landscape area contained in Section H.3.e.(1) of this Ordinance may be reduced to five (5) percent.

I ENVIRONMENTAL PERFORMANCE STANDARDS

1. General Provisions

- (a) Environmental Performance Standards specific to the U.S. Route 3 Corridor Performance Zoning District, enumerated herein, have been developed in order to protect the long term environmental quality and overall vitality of this District.
- (b) The variety of permitted uses, taken together with often intensive land use patterns and an inventory of environmental resources specific to this District, necessitates this series of environmental performance standards.
- (c) In addition to the provisions of this Article, development within this District shall also be subject to applicable local, state, and federal land use controls and regulations. The content of this Ordinance shall not be construed to imply relief from the requirements of state and federal statutes.

2. Performance Standards Related to Noise

- (a) These Performance Standards governing noise are intended to insure that the rights of property owners, as well as the overall health and general welfare of the District, are not diminished by unreasonable noise levels generated within the District.
- (b) The maximum permissible sound level produced by any continuous, regular, or frequent source of sound or noise, produced by any permitted use or activity within this District, shall not exceed a measurable level of seventy-five (75) decibels beyond the property boundaries of the site upon which the sound or noise is generated or originates.
- (c) In order to comply with these maximum sound level requirements, sound or noise level abatement techniques may be used to mitigate levels of site generated sound or noise. To this end, modern acoustical technology may be applied to achieve compliance with this Ordinance.
- (d) In cases where sound measurements are required in order to insure compliance with these regulations, measurements shall be taken:
 - (1) With a device meeting the standards of the American Standards Institute, American Standard Specifications for General Purpose Sound Level Meters;
 - (2) At a height of four (4) feet above prevailing grade at the property boundary in question;
 - (3) With the instrument set to the A-weighted response scale; and
 - (4) Recorded by an individual familiar with sound measurement and the particular device being used.
- (e) Exemptions
 - (1) Activities related to public and private construction or maintenance work, agriculture, timber harvesting, emergency warning devices, and other similar short term or temporary uses may be administratively exempted from the requirements of this Section if, in the opinion of the Code Enforcement Official or his/her agent, sufficient reason exists to do so.
 - (2) In these special circumstances, the Code Enforcement Official may place reasonable conditions (such as limitations and hours of operation) on such an exemption.

3. Performance Standards Related to the Protection of Wetlands

(a) General Provisions

The adopted Zoning Ordinance of the Town of Hooksett; Article 18 – Sections A, B, C, D, F, G, H, I & J shall apply to the U.S. Route 3 Corridor Performance Zoning District. However, references to “The Zoning Board of Adjustment” contained in those Sections shall be changed to “The Planning Board” for applicability to all parcels of land situated in the U.S. Route 3 Corridor Performance Zoning District.

- (b) Article 18 – Section E contained elsewhere in this Zoning Ordinance shall be replaced with the following text when applied to parcels situated in the U.S. Route 3 Corridor Performance Zoning District.

Conditional Use Permits for exceptions to the restrictions on permitted uses within the Wetland Conservation Overlay District may be granted by the Planning Board after public notice and hearing in accordance with New Hampshire RSA 676:7 for such purposes and uses hereinafter defined and described:

- (1) For the construction of roads and other access ways, for pipelines, power lines and other transmission lines, water impoundment and construction of well water supplies, drainage ways, where final grade is to be altered; and provided that all of the following conditions are found to exist:
 - (a) The proposed construction is essential to the productive uses of land not within the Wetlands Conservation District;
 - (b) Design and construction methods will be such as to minimize detrimental impact upon the wetland. The site will be restored as nearly as possible to its original condition;
 - (c) No reasonable alternative, which does not cross a wetland or has less detrimental impact on the wetland, is feasible;
 - (d) Economic advantage, alone, is not the reason for the proposed construction;
 - (e) The Planning Board has received Conservation Commission comments in writing;
 - (f) The Conservation Commission must submit their written reply to the Planning Board within thirty (30) days of receiving the proposed plan.
 - (g) No Conditional Use Permit shall be granted in a Prime Wetland or a Prime Wetland Buffer; and
 - (h) No dredging or filling shall be permitted in a Prime Wetland.
- (2) The Planning Board, after consulting with the Conservation Commission, may require the applicant to submit an environmental impact assessment, when necessary, to evaluate an application made under this Section. The cost of the assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the cost of other special investigative studies made under this Section and for the review of documents required by particular applications.

4. Performance Standards Related to the Development of Steep Slope Areas

- (a) For the purposes of this Section, steep slope areas shall be defined as naturally existing, continuous areas of land with a contiguous area of one half (1/2) acre or more, and which have an average cross slope gradient steeper than twenty-five (25) percent.
- (b) In order to guard against hazards implicit in the development of steep slope areas, construction within these areas shall be limited to those activities which are incidental to the use and/or development of land outside of a steep slope area and shall be subject to the following restrictions:
 - (1) No portion of a steep slope shall be used for the construction of leaching beds or trenches which are part of a subsurface sewage disposal system;
 - (2) No permanent structures shall be erected on a steep slope area;
 - (3) No more than fifty (50) percent of a steep slope area shall be cleared of healthy existing vegetation;
 - (4) Portions of a steep slope area affected by construction activities shall be given special attention with regard to erosion control; and
 - (5) No portion of a steep slope area shall be subject to discharge from a storm water management system.

5. Performance Standards Related to Nuisance Odors

Uses and activities which produce continuous, regular, or frequent odors and/or emissions, detectable beyond the boundary of the property from which the odor originates may be prohibited, in whole or in part, if the odor or emission in question is a known health risk or danger, or if the Code Enforcement Official judges such odor emission to be harmful to the rights of others to enjoy the use of their property(s).

6. Groundwater Resource Conservation District

The provisions noted in Article 19 of the Zoning Ordinance, Groundwater Resource Conservation District, except for the exemption noted above in Section F (9), shall apply to uses proposed in the U.S. Route 3 Corridor Performance District.

J Article 3, General Provisions, shall apply, when applicable.

(End of Article 10-A)

ARTICLE 11

INDUSTRIAL DISTRICTS - IND

A. Industrial Parks

All industrial establishments located in the Hooksett Industrial Park shall abide by the protective covenants standards of the New Hampshire Industrial Developments Authority.

B. Other Industrial Areas

All other industrial establishments located in the Industrial Districts shall comply with the following requirements:

1. Permitted Uses

- a) Industry, non-nuisance as defined in Article 22
- b) Truck and/or freight terminals
- c) Warehouses
- d) Auto body shops

2. Special Exceptions

- a) Commercial uses
- b) Wireless Communication Facilities (See Article 28)
- c) Alternative Treatment Center (ATC) (*Adopted 05/12/15*)

3. Lot Area Frontage

The lot area shall be no less than 87,120 square feet for each lot use and frontage of such lots not be less than two hundred (200) feet.

4. Setbacks

Any building in this district shall be located at least fifty (50) feet from the edge of any public right-of-way and no less than twenty-five (25) feet from each side and rear boundary line abutting Non-Residential Districts and one hundred (100) feet abutting Residential Districts.

On each corner lot there shall be a side yard, abutting the street, having a width of no less than fifty (50) feet measured from the edge of the public right-of-way to the foundation of the structure.

5. Percentage of Lot Coverage

See *Development Regulations*. (*Amended 5/13/08*)

6. Parking

As appropriate, the provisions of *Article 16* shall govern parking facilities.

7. Building Height

Building height shall not exceed thirty-five (35) feet when a Hooksett Fire Department ladder truck is unavailable. If a Hooksett Fire Department ladder truck is available, no building shall exceed seventy-five (75) feet in height. (*Amended 5/8/01*)

C. Property and goods displayed for sale shall not be positioned within any public right-of-way.

D. Buffer Zones

Whenever a commercial or industrial use abuts a residential use, zone or district, a buffer zone shall be provided subject to the approval of the Planning Board. The buffer is an area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences and/or berms, designed to limit continuously the view of and/or sound from the site to adjacent sites or properties. The buffer shall be not less than fifty (50) feet in width and shall be planted with a dense screen of shrubbery and trees not less than eight (8) feet in height at the time of planting. The screen shall be at least twenty-five (25) feet in width and shall be permanently maintained suitably by the owner. The buffer shall provide a year-round dense visual screen in order to minimize adverse impacts. In order to maintain dense screen year-round, at least fifty (50) percent of the plantings shall be evergreens. Existing natural growth may be included as part of the screen. No penetration of this buffer zone shall be allowed. With the approval of the Planning Board, a suitable combination of other elements, such as fencing, berms, boulders, may be incorporated within the buffer zone. (*Adopted 5/8/12*)

E. All development with the Industrial District must also comply with the Non-Residential Site Plan Review Regulations.

F. *Article 3, General Provisions*, shall apply, when applicable.

(End of Article 11)

ARTICLE 12

MIXED USE DISTRICT 1 – MUD1

A building may be erected, altered, or used and a lot may be used or occupied for any of the following purposes and in accordance with the following provisions:

A. Permitted Uses

1. Retail stores
2. Personal services businesses
3. Business and professional offices
4. Research and/or testing laboratories
5. Hotels and motels
6. Restaurants, exclusive of drive-up
7. Indoor movie theaters
8. Banks
9. Parks and recreational facilities
10. Accessory use

B. Permitted Uses by Special Exception

1. Public Utility Facilities
2. Wireless Communication Facilities (See Article 28)

C. Lot Area Required

The lot area shall not be less than forty-four thousand (44,000) square feet for each use and the frontage of such lots shall not be less than two hundred (200) feet.

D. Yards Required

1. There shall be a front yard on each lot, which shall be not less than thirty-five (35) feet in depth measured from the edge of the public right-of-way to the foundation of the structure.
2. Each side yard shall be not less than twenty-five (25) feet measured from the adjoining lot line to the foundation of the structure.
3. There shall be a rear yard on each lot the depth of which shall not be less than twenty (20) feet measured from the adjoining lot line to the foundation of the structure.
4. On each corner lot there shall be a front yard, which shall be no less than thirty-five (35) feet in depth measured from the edge of the street right-of-way to the foundation of the structure, exclusive of steps, on each frontage of the lot along any public highway, or on any private street which is shown on an approved Subdivision Plan or which provides access to other properties;

- a) for a lot fronting two streets, there shall be two (2) such front yards, and two side yards;
- b) for a lot fronting on three streets, there shall be three (3) such front yards and one side yard;
- c) for a lot fronting on four streets, there shall be four (4) such front yards; and
- d) similar for more complex lots.

E. Percentage of Lot Coverage

See Development Regulations. *(Amended 5/13/08)*

F. Parking

When applicable, the provisions of Article 17 shall apply.

G. Buffer Zone

Whenever a commercial or industrial use abuts a residential use, zone or district, a buffer zone shall be provided subject to the approval of the Planning Board. Please see Article 22, Definitions, for details. *(Amended 5/8/12)*

A. Height

Building height shall not exceed thirty-five (35) feet when a Hooksett Fire Department ladder truck is unavailable. If a Hooksett Fire Department ladder truck is available, no building shall exceed seventy-five (75) feet in height. *(Amended 5/8/01)*

I. Article 3, General Provisions, shall apply, when applicable.

(End of Article 12)

ARTICLE 13

MIXED USE DISTRICT 2 – MUD 2

(Adopted 5/9/00)

A. STATEMENT OF INTENT

The purpose of the Mixed Use District 2 (MUD 2) is to promote efficient use of land, provide for flexible design and development, allow various densities and land uses, and integrate the surrounding community, while respecting the natural features and scenic beauty of the land. This shall be accomplished by permitting a wide range of densities and uses to be developed in accordance with a "MUD 2 Master Plan," which shall include the proposed location and phasing of the various uses and densities.

For purposes of the Mixed Use District 2 (MUD 2) the following definitions shall apply:

1. Applicant - one who submits a MUD 2 Master Plan for land held in common ownership at the time of the initial MUD 2 Master Plan.
2. Developer - one who proposes to subdivide land and/or to develop an approved subdivision in accordance with an approved MUD 2 Master Plan.
3. Net Usable Acreage - shall be defined as the gross area (total number of acres), commonly owned, within the District, minus very poorly drained soils, marshes, open water, roadways and associated rights-of-way, and easements which prohibit development.
4. Common Open Area - shall refer to any tract of land intended to be used in common primarily by residents within an individual subdivision and shall include the area designated as "open" in any clustered subdivision.
5. Designated Conservation Areas - shall refer to areas designated by the applicant or developer that shall permanently remain in their natural state and may include one or a combination of the following: open water, wetlands, marsh, unique or endangered wildlife habitats, wildlife corridors, archeological sites, and cemeteries. Any alteration of land or drainage shall be solely for the benefit of wildlife habitats and natural resource protection.

B. Three General Use Categories of Development

All development within this District shall be classified as one of the following general use types: (a) industrial/commercial, (b) residential, or (c) public use. The uses and densities allowed within each of these three categories are more fully defined in Sections G and H below.

1. Industrial/Commercial: Not more than fifty (50) percent nor less than twenty-five (25) percent of the net usable acreage shall be developed for industrial or commercial use.

2. Residential: Not more than seventy-five (75) percent nor less than fifty (50) percent of the net usable acreage shall be developed for residential use.
3. Public Use: The applicant shall, from time to time dedicate such amounts of net usable acreage for public use as is determined pursuant to Section D, but in no event shall such dedication(s) exceed ten (10) percent of the total net usable acreage.

C. Open Space

1. A minimum of thirty (30) percent of the gross area (total number of acres) within the District shall be retained as "Open Space." Open Space may include common open areas, perimeter Open Space, buffers between various uses or densities, open public use land, private or public recreation areas, easements which prohibit development, very poorly drained soils, marsh, open water, historic sites or other features which will enhance the value of the site, reduce adverse impacts and otherwise be an asset to the community.
2. For purposes of this Article, the term "Open Space" shall exclude open area in the private yards of residential units.
3. Designated open space, common open space and designated conservation areas shall be protected by assurances, acceptable to the Planning Board that preserve and maintain the open character of such land in perpetuity.

D. Public Use

1. The applicant and/or individual developers shall from time to time furnish to the Town a deed or deeds, in consideration, of the benefits conferred by the approval of the Master Plan by the Planning Board and the burdens imposed by the development of the Master Plan, conveying certain amounts of land for public use, in accordance with the MUD 2 Master Plan and/or as reasonably required by the Planning Board as sites for additional public services occasioned by the development of the various subdivisions within the district. The land shall be selected by the applicant and/or developer, but must be suitable from the standpoint of size, location, topography, and to the public purpose for which it is to be used.
2. The amount of land required to satisfy the requirements of this Section shall be one and one-half (1.5) net usable acres per one hundred (100) approved dwelling units or one (1) net usable acre per thirty (30) net usable acres of approved industrial or commercial uses.
3. The total amount of net usable acreage dedicated for public use shall not exceed ten (10) percent of the total net usable acreage in the District irrespective of whether it is dedicated by the applicant or developers.
4. The Public Use obligation imposed upon the applicant or developer and the timing as to the transfer of title of required parcels shall be satisfied in whole or in part by written agreement between the applicant or developer and the Planning Board.

5. Failure of the applicant or developer to comply with the requirements of the Section shall be grounds for withholding approval of any pending or future subdivision plan. Any Public Use land contribution made by the applicant or developer after the effective date of the ordinance shall be credited toward the requirements of this Section.
6. For the purpose of this section, land dedicated for public streets, including local and collector roadways, as defined in the Hooksett Subdivision Regulations, shall not be classified as Public Use land or counted as such. However, one-half of the net usable acreage required for any multi-lane arterial roadway shall be classified as Public Use land for the purpose of this section and counted as such.
7. In the event that the State of New Hampshire, Merrimack County, or the Town of Hooksett shall directly or indirectly establish any type of impact fee Law, Ordinance, rule, regulation, By-Law, or any other measure requiring either the applicant or developer to make any contribution to the State, County or Town in relation to existing or proposed development or subdivision, the fair market value of certain Public Use land dedicated pursuant to this section shall be offset against any such contributions. For the purpose of this paragraph, only the following types of dedicated Public Use lands shall offset impact fee contributions: municipal parks and playgrounds, and land for schools or other municipal buildings and facilities, specifically excluding any public use lands dedicated for streets, roadways, sidewalks, and their associated rights-of-way.

E. Mixed Use District 2 (MUD 2) Master Plan

Before any subdivision is allowed within this District the applicant shall submit three (3) copies of the MUD 2 Master Plan.

1. Purpose - The purpose and design of the MUD 2 Master Plan shall establish a sense of community by integrating the proposed mixed uses and infrastructure of the District with existing municipal development, utilities and services.
2. Procedure - MUD 2 Master Plan shall be construed as a planning instrument to be utilized by the applicant and the Planning Board.

The Planning Board must approve the MUD 2 Master Plan, before the applicant or any developer may subdivide any parcel within the District. Said approval shall not be unreasonably withheld provided the applicant has followed the parameters outlined by the provisions of this Ordinance applicable to the MUD 2 Master Plan.

The MUD 2 Master Plan shall be kept on file with the Planning Board and all subdivisions shall generally follow the uses, densities, locations, and phasing contained therein. The Planning Board may allow deviation from the MUD 2 Master Plan during the subdivision and/or non-residential site plan approval process when it deems it to be in the best interest of the community and consistent with the overall purpose of this District.

3. Format - The MUD 2 Master Plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect, or planner. A scale of one (1) inch equals three

hundred (300) feet may be used so that the entire parcel can be shown on one piece of paper. The MUD 2 Master Plan shall include:

- a) An insert map at a scale of not less than one (1) inch to one (1) mile, showing property in relation to surrounding roads, subdivisions, or major landmarks.
- b) A North arrow.
- c) The location of existing property lines, very poorly drained soils, marsh, open water, existing roads and utilities which are within or adjoin the property, easements which prohibit development, and abutting uses.
- d) The appropriate boundaries of each section by category of general use and density; the approximate location of proposed major streets and rights-of-way and other infrastructure requirements including water, sewer, and other utilities; the approximate location of recreation areas and open space; and areas proposed for dedication to Public Use.

Open space shall be located so as to enhance the living environment of the proposed development. Generally, this shall mean that open space shall be distributed throughout the site and not aggregated in large areas that provide little or no benefit to the individual uses or the development at large. Each section of the MUD 2 Master Plan shall be designated as follows:

- (1) Industrial use.
 - (2) Commercial use.
 - (3) Density A. Residential.
 - (4) Density B. Residential.
 - (5) Density C. Residential.
 - (6) Density D. Residential.
 - (7) Public Use.
 - (8) Open Space Use, including proposed Designated Conservation Areas.
- e) The MUD 2 Master Plan, along with the accompanying text and tables, shall contain the following information:
 - (1) The gross or total number of acres within the district.
 - (2) The use of each section or area.
 - (3) Approximate phasing.
 - (4) The approximate square feet of floor space for commercial and/or industrial areas and the approximate number of dwelling units and densities for residential areas.
 - (5) The approximate total acreage and the approximate net usable acreage of each use.
 - f) Proposed language acceptable to the Planning Board on the guarantees and assurances to be provided for the maintenance of open space, common areas, recreation areas, sidewalks, parking, private streets, and other privately owned, but common facilities.

4. Substantial Revisions - for purposes of this subsection, "substantial revisions" shall be determined by the Planning Board. Substantial revision of an approved MUD 2 Master Plan may occur in two ways:
 - a) The applicant may from time to time come before the Planning Board with a proposed substantial revision of the MUD 2 Master Plan. In the event that the applicant shall convey in excess of fifty (50) percent of its title and interest in the total number of acres owned by it at the time of the original submission of a MUD 2 Master Plan, to any one person or entity, such person or entity, shall be deemed to be the applicant for purposes of this Subsection 4.
 - b) If the applicant or a developer proposes a subdivision, which substantially and materially differs from the existing MUD 2 Master Plan, the Planning Board may require the applicant to revise the MUD 2 Master Plan before approving such a subdivision.

F. Community Impact Statement

The subdivision of any parcel of land within the MUD 2 Master Plan shall require that the developer submit a Community Impact Statement, which shall describe the probable effects of the proposed subdivision upon the community. The Community Impact Statement for each subdivision shall additionally address the cumulative community impact of the subdivision combined with all other approved subdivisions within the MUD 2 Zoning District. Further, the developer of any subdivision which is still under construction or incomplete five (5) years from the date of its original municipal subdivision approval shall resubmit a Community Impact Statement to the Planning Board. At a minimum, each Community Impact Statement shall address the following topics:

1. Adequacy of existing public infrastructure and services required by the subdivision. Analysis shall be made of sewer, water, schools, fire stations, and other major locally-financed facilities.
2. Additional on-site and off-site public facilities or services, which would be required as a result of the subdivision.
3. Traffic to be generated by the project; the existing and projected capacity of surrounding roads and specific road improvements necessary.
4. Fiscal impact of the proposed project on the municipal capital and operating budgets, such as estimated tax revenues to be generated, versus the cost of public improvements to be financed by the local or state government.
5. Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics and storm water drainage.
6. Employment opportunities to be generated by the subdivision.

G. Uses

All uses in the MUD 2 Master Plan shall be classified in one of the four general use categories listed in Section B, including but not limited to, the following allowed uses:

1. Industrial/Commercial Uses

- a)** Industry and Manufacturing non-nuisance as defined in Article 21.
- b)** Office/Technology park.
- c)** Truck and/or freight terminals.
- d)** Warehouse in excess of 100,000 square feet.
- e)** Auto body shops.
- f)** Neighborhood convenience stores as defined in Article 21.
- g)** Lodging houses, hotels, inns, motels, tourist courts, cabins, including such retail businesses within these permitted buildings as are conducted for the convenience of the residents or guests.
- h)** Shops and other retail establishments.
- i)** Garages, parking lots, and motor fuel dispensing stations, excluding motor vehicle body shops, with the exception of those motor vehicle body shops, which are an integral part of a motor vehicle dealership. *(Amended 5/14/02)*
- j)** Business and professional offices, banks.
- k)** Theaters, halls, clubs, amusement centers, and private recreational facilities.
- l)** Greenhouses and florist shops.
- m)** Undertaking establishments.
- n)** Wholesale establishments and warehouses.
- o)** Restaurants.
- p)** Drive-ups.
- q)** Privately operated child day care, adult day care, day nurseries and kindergartens.
- r)** Nursing homes (for long-term patient care, residential treatment, and rehabilitation facilities).
- s)** Hospitals, sanitariums, convents, and non-residential health centers.

- t) Institutions of higher education.
- u) Non-municipal elementary and secondary schools.
- v) Any other uses similar to the industrial/commercial uses permitted in this section, which fit the spirit and character of the area for which they are proposed.

2. Residential Uses

- a) Single family dwellings. Clustering of single family dwellings may be allowed under the provisions of Article 8.
- b) Two family dwellings provided they are served by municipal sewer. Clustering of two family dwellings may be allowed under the provisions of Article 8.
- c) Multi-family dwellings provided they are served by municipal water and municipal sewer. Clustering of multi-family dwellings shall be allowed under the provisions of Article 8.
- d) Housing for the elderly and/or handicapped, including but limited to the following:
 - (1) Shared Housing Residence as defined by the State of New Hampshire.
 - (2) Community Residences as defined by the State of New Hampshire.
 - (3) Sheltered Care Residence as defined by the State of New Hampshire.
 - (4) Congregate Housing.
 - (5) Manufactured Housing Parks in accordance with the provisions of Article 9 and subdivisions for Manufactured Housing, provided that the total amount of land for said uses shall not, in the aggregate, exceed ten (10) percent of the total net usable acres.
 - (6) Any other uses similar to the residential uses permitted in this section which fit the spirit and character of the area for which they are proposed.

3. Public Use

- a) Municipally operated recreational and community center buildings.
- b) Municipal buildings and Municipal schools.
- c) Municipal parks, playgrounds and other Municipal uses.

- d) Religious facilities. *(Amended 5/13/14)*
- e) Any other uses similar to the public uses permitted in this section which fit the spirit and character of the area for which they are built.

4. Other Uses

a) Essential Public Utilities

Essential public utilities may be allowed by special exception provided that the installation of same does not create a nuisance or hazard to adjoining property uses and further provided that such facilities are designed such that they are architecturally compatible with the neighborhood or are adequately screened by existing or proposed vegetation. Any such utility shall be classified as either an industrial or commercial use as determined in the discretion of the Planning Board.

b) Home Occupation

Home occupations shall be allowed in any Density A. and Density B. residential density areas within MUD 2 in accordance with the provisions of Article 4.

c) Wireless Communication Facilities. *(See Article 28)*

H. Densities and General Design Requirements

1. Industrial/Commercial

Industrial/commercial uses shall be included in the MUD 2 District as required in Section B. They shall be located in well-planned industrial/commercial areas and so designated on the MUD 2 District Master Plan. All industrial/commercial uses shall be serviced by municipal water and municipal sewer systems.

Industrial development shall conform to the minimum requirements for industrial development as outlined in Article 11, Section B, Subsections 4-7, C, D, and E of the Zoning Ordinance. Industrial activities shall be of such a nature and conducted so that the effect of noise, dust, light, or odor shall not extend beyond the limits of the industrial area. Building height shall not exceed thirty-five (35) feet when a Hooksett Fire Department ladder truck is unavailable. If a Hooksett Fire Department ladder truck is available, no building shall exceed seventy-five (75) feet in height. *(Amended 5/8/01)*

Commercial development shall conform to the minimum requirements for commercial development as outlined in Article 10, Sections B through D, and F through H of the Zoning Ordinance. Clustering of commercial buildings may be allowed where such groupings are consistent with the safety of the users of the development and are further consistent with the overall intent of this Article.

The size and scale of commercial uses shall be compatible with the surrounding uses. Building height shall not exceed thirty-five (35) feet when a Hooksett Fire

Department ladder truck is unavailable. If a Hooksett Fire Department ladder truck is available, no building shall exceed seventy-five (75) feet in height. (*Amended 5/8/01*)

2. Residential

a) Four Residential Densities

The number of dwelling units, which may be constructed, shall be determined by the number of net usable acres available for residential use, as outlined in Section B, and the types of residential development included. Residential Development areas in the MUD 2 may include four (4) density types:

- (1)** Density A. - Not more than sixty (60) percent of the net usable acreage dedicated to residential use, shall be Density A., so as not to exceed one unit per 87,120 square feet. Density A. Residential Areas are restricted to single family detached dwellings and their accessory uses.
- (2)** Density B. - Not more than sixty (60) percent of the net usable acreage dedicated to residential use shall be Density B., so as not to exceed one (1) unit per 12,000 square feet in areas where the unit is served by municipal water and municipal sewer; not to exceed one (1) unit per 22,500 square feet in areas where the units are served by municipal water or municipal sewer; and not to exceed one unit per 44,000 square feet in areas where no municipal water or municipal sewer are available. All dwelling units, except single-family detached dwelling, must be serviced by both municipal water and municipal sewer.
- (3)** Density C. - Not more than sixty (60) percent of the net usable acreage dedicated to residential use shall be Density C., so as not to exceed eight (8) units per acre. All dwelling units within the Density C. area shall be serviced by municipal water and municipal sewer.
- (4)** Density D. - Not more than sixty (60) percent of the net usable acreage dedicated to residential use shall be Density D., so as not to exceed eighteen (18) units per acre. All dwelling units within the Density D. area shall be serviced by municipal water and municipal sewer.

The actual density and number of units will be determined in accordance with the MUD 2 Master Plan, but subject to the limitations contained herein.

b) Maximum Number of Units

Maximum number of residential units, a total for all densities, shall not exceed four hundred (400).

c) Height, Lot Coverage, and Yard Requirements

All dwelling units constructed in the MUD 2 District shall conform to the building height limitations and maximum lot coverage and yard requirements, as herein below specified for corresponding uses and zones.

Density A. - Sections D, E, and F of Article 4; Low Density Residential District;

Density B. - Sections D, E, and F of Article 5; Medium Density Residential District;

Density C. - Sections D, E, and F of Article 5; Medium Density Residential District;

Density D. - Sections D, E, and F of Article 6; High Density Residential District; and

Elderly/Handicapped Housing - Sections A, B.1, B.2c, d and e, and B. 3-7 of Article 7: Elderly and/or Handicapped Housing.

Building height shall not exceed thirty-five (35) feet when a Hooksett Fire Department ladder truck is unavailable. If a Hooksett Fire Department ladder truck is available, no building shall exceed seventy-five (75) feet in height. *(Amended 5/8/01)*

d) Buffer Zone

Whenever a commercial or industrial use abuts a residential use, zone or district, a buffer zone shall be provided subject to the approval of the Planning Board. Please see Article 22, Definitions, for details.

(Amended 5/8/12)

4. Public Use

The densities and general design requirements for Public Use Land shall be the same as those required for Commercial under Section H, 2 herein.

5. Frontage Requirements for MUD 2

Every fee simple lot shall have frontage on a State or Town maintained road of Class V designation or better. Frontage shall be a minimum of 100 feet. Frontage requirements may be satisfied by providing two (2) fifty (50) foot rights-of-way serving to access the lot. Zero lot line subdivisions or subdivisions in which the land under a structure is owned in fee by the owner of the structure while the land surrounding the structure and the underlying land is owned in common by an association of the landowners will be allowed. The minimum frontage required for the zero lot line subdivision, as a whole, will be the same as any other fee simple lot. No frontage will be required for the land under structures within the zero lot line subdivision even though those parcels will be held in different ownership.

I. Types of Ownership

1. The following types of ownership shall be allowed in MUD 2

- a) All fee simple type ownerships.
- b) Condominium.
- c) Land lease.
- d) Use easements.
- e) Zero lot line subdivision with fee simple.
- f) Multiple buildings on one (1) lot when not restricted by any other subsection of this Article.
- g) Cooperative ownership.

J. Parking Requirements

Where applicable, the requirements of *Article 17* shall apply.

K. *Article 3, General Provisions*, shall apply, when applicable.

(End of Article 13)

ARTICLE 14

MIXED USE DISTRICT 3 – MUD3

A building may be erected, altered, or used and a lot may be used or occupied for any of the following purposes and in accordance with the following provisions:

A. Permitted Uses

1. Retail stores
2. Personal services businesses
3. Business and professional offices
4. Research and/or testing laboratories
5. Hotels and motels
6. Restaurants, exclusive of drive-up
7. Indoor movie theaters
8. Banks
9. Parks and recreational facilities
10. Accessory use

B. Permitted Uses by Special Exception

1. Motor fuel dispensing stations
2. Public utility facilities
3. Outdoor sales and services excluding motor vehicle, camper, boat, etc.
4. Warehousing
5. Industry, non-nuisance (*as defined in Article 21*)
6. Wireless Communication Facilities (*See Article 28*)

C. Lot Area Required

The lot area shall not be less than 87,120 square feet for each use and the frontage of such lots shall not be less than two hundred (200) feet.

D. Yards Required

1. There shall be a front yard on each lot, which shall be not less than thirty-five (35) feet in depth measured from the edge of the public right-of-way to the foundation of the structure.
2. Each side yard shall be not less than twenty-five (25) feet measured from the adjoining lot line to the foundation of the structure.
3. There shall be a rear yard on each lot the depth of which shall not be less than forty (40) feet measured from the adjoining lot line to the foundation of the structure.
4. On each corner lot there shall be a front yard, which shall be no less than thirty-five (35) feet in depth measured from the edge of the street right-of-way to the foundation of the structure, exclusive of steps, on each frontage of the lot along any public

highway, or on any private street which is shown on an approved Subdivision Plan or which provides access to other properties;

- a) for a lot fronting two streets, there shall be two (2) such front yards, and two side yards;
- b) for a lot fronting on three streets, there shall be three (3) such front yards and one side yard;
- c) for a lot fronting on four streets, there shall be four (4) such front yards; and similar for more complex lots.

E. Percentage of Lot Coverage

See Development Regulations. (Amended 5/13/08)

F. Parking

When applicable, the provisions of *Article 17* shall apply.

G. Buffer Zone

Whenever a commercial or industrial use abuts a residential use, zone or district, a buffer zone shall be provided subject to the approval of the Planning Board. Please see Article 22, Definitions, for details. *(Amended 5/8/12)*

H. Height

Building height shall not exceed thirty-five (35) feet when a Hooksett Fire Department ladder truck is unavailable. If a Hooksett Fire Department ladder truck is available, no building shall exceed seventy-five (75) feet in height. *(Amended 5/8/01)*

I. Article 3, General Provisions, shall apply, when applicable.

(End of Article 14)

ARTICLE 15

MIXED USE DISTRICT 4 – MUD4

A building may be erected, altered, or used and a lot may be used or occupied for any of the following purposes and in accordance with the following provisions:

A. Permitted Uses

1. Retail stores
2. Personal services businesses
3. Business and professional offices
4. Research and/or testing laboratories
5. Hotels and motels
6. Restaurants, exclusive of drive-up
7. Indoor movie theaters
8. Banks
9. Educational facilities
10. Hospitals

B. Permitted Uses by Special Exception

1. Public utility facilities
2. Industry, non-nuisance (as defined in Article 21)
3. Wireless Communication Facilities (See Article 28)

C. Lot Area Required

The lot area shall not be less than 87,120 square feet for each use and the frontage of such lots shall not be less than two hundred (200) feet.

D. Yards Required

1. There shall be a front yard on each lot, which shall be not less than thirty-five (35) feet in depth measured from the edge of the public right-of-way to the foundation of the structure.
2. Each side yard shall be not less than twenty-five (25) feet measured from the adjoining lot line to the foundation of the structure.
3. There shall be a rear yard on each lot the depth of which shall not be less than twenty (20) feet measured from the adjoining lot line to the foundation of the structure.
4. On each corner lot there shall be a front yard, which shall be no less than thirty-five (35) feet in depth measured from the edge of the street right-of-way to the foundation of the structure, exclusive of steps, on each frontage of the lot along any public highway, or on any private street which is shown on an approved Subdivision Plan or which provides access to other properties;

- a) for a lot fronting two streets, there shall be two (2) such front yards, and two side yards;
- b) for a lot fronting on three streets, there shall be three (3) such front yards and one side yard;
- c) for a lot fronting on four streets, there shall be four (4) such front yards; and
- d) similar for more complex lots.

E. Percentage of Lot Coverage

See *Development Regulations*. (Amended 5/13/08)

F. Parking

When applicable, the provisions of *Article 17* shall apply.

G. Buffer Zone

Whenever a commercial or industrial use abuts a residential use, zone or district, a buffer zone shall be provided subject to the approval of the Planning Board. Please see *Article 22, Definitions*, for details. (Amended 5/8/12)

H. Height

Building height shall not exceed thirty-five (35) feet when a Hooksett Fire Department ladder truck is unavailable. If a Hooksett Fire Department ladder truck is available, no building shall exceed seventy-five (75) feet in height. (Amended 5/8/01)

I. Article 3, General Provisions, shall apply, when applicable.

(End of Article 15)

ARTICLE 16

MIXED USE DISTRICT 5 – MUD 5

A. Statement of Intent

The purpose of the Mixed Use District 5 (MUD 5) is to promote efficient use of land, provide for flexible design and development, allow various densities and land uses, and integrate the surrounding community, while respecting the natural features and scenic beauty of the land. This shall be accomplished by permitting a wide range of densities and uses to be developed in accordance with a “MUD 5 Master Plan”, which shall include the proposed location and phasing of the various uses and densities.

For purposes of the Mixed Use District 5 (MUD 5) the following definitions shall apply:

1. Applicant – one who submits a MUD 5 Master Plan for land held in common ownership at the time of the initial MUD 5 Master Plan.
2. Developer – one who proposes to subdivide land and/or to develop an approved subdivision in accordance with an approved MUD 5 Master Plan.
3. Village Center – any area of development which is primarily designed, situated, or constructed in such manner as to integrate any number and type of commercial, residential and public uses, thereby creating a focal point for the community in order to serve certain personal, business, financial, public, health, and religious needs of the residents in a single cohesive location, emphasizing traditional New England architectural design, and which is commonly referred to as “Main Street” or “Downtown” so called.
4. Net Usable Acreage – shall be defined as the gross area (total number of acres), commonly owned, within the District, minus very poorly drained soils, marshes, open water, roadways and associated rights-of-way, and easements which prohibit development.
5. Common Open Area – shall refer to any tract of land intended to be used in common primarily by residents within an individual subdivision and shall include the area designated as “open” in any clustered subdivision.
6. Designated Conservation Areas – shall refer to areas designated by the applicant or developer that shall permanently remain in their natural state and may include one or a combination of the following: open water, wetlands, marsh, unique or endangered wildlife habitats, wildlife corridors, archeological sites, and cemeteries. Any alteration of land or drainage shall be solely for the benefit of wildlife habitats and natural resource protection.

B. Four General Use Categories of Development

All development within this District shall be classified as one of the following general use types: (a) industrial, (b) commercial, (c) residential, or (d) public use. The uses and densities allowed within each of these four categories are more fully defined in Sections G and H.

1. Industrial: Not more than fifty (50) percent or less than ten (10) percent of the net usable acreage shall be developed for industrial use.
2. Commercial: Not more than twenty-five (25) percent or less than five (5) percent of the net usable acreage shall be developed for commercial use.
3. Residential: Not more than seventy-five (75) percent or less than fifty (50) percent of the net usable acreage shall be developed for residential use.
4. Public Use: The applicant shall, from time-to-time dedicate such amounts of net usable acreage of public use as is determined pursuant to Section D, but in no event shall such dedication(s) exceed ten (10) percent of the total net usable acreage.

C. Open Space

A minimum of thirty (30) percent of the gross area (total number of acres) within the District shall be retained as “Open Space.” Open Space may include common open areas, perimeter Open Space, buffers between various uses or densities, open public use land, private or public recreation areas, easements which prohibit development, very poorly drained soils, marsh, open water, historic sites or other features which will enhance the value of the site, reduce adverse impacts and otherwise be an asset to the community.

For purposes of this Article, the term “Open Space” shall exclude open area in the private yards of residential units.

Designated open space, common open space and designated conservation areas shall be protected by assurances, acceptable to the Planning Board that preserve and maintain the open character of such land in perpetuity.

D. Public Use

The applicant and/or individual developers shall from time-to-time furnish to the Town a deed or deeds, in consideration, of the benefits conferred by the approval of the MUD 5 Master Plan by the Planning Board and the burdens imposed by the development of the MUD 5 Master Plan, conveying certain amounts of land for public use, in accordance with the MUD 5 Master Plan and/or as reasonably required by the Planning Board as sites for additional public services occasioned by the development of the various subdivisions within the district. The land shall be selected by the applicant and/or developer, but must be suitable from the standpoint of size, location, topography, and to the public purpose for which it is to be used.

The amount of land required to satisfy the requirements of this Section shall be one and one-half (1.5) net usable acres per one hundred (100) approved dwelling units or one (1) net usable acre per thirty (30) net usable acres of approved industrial or commercial uses.

The total amount of net usable acreage dedicated for public use shall not exceed ten (10) percent of the total net usable acreage in the District irrespective of whether it is dedicated by the applicant or developers.

The Public Use obligation imposed upon the applicant or developer and the timing as to the transfer of title of required parcels shall be satisfied in whole or in part by written agreement between the applicant or developer and the Planning Board.

Failure of the applicant or developer to comply with the requirements of the Section shall be grounds for withholding approval of any pending or future subdivision plan. Any Public Use land contribution made by the applicant or developer after the effective date of the ordinance shall be credited toward the requirements of this Section.

For the purpose of this section, land dedicated for public streets, including local and collector roadways, as defined in the Hooksett Subdivision Regulations, shall not be classified as Public Use land or counted as such. However, one-half of the net usable acreage required for any multi-lane arterial roadway shall be classified as Public Use land for the purpose of this section and counted as such.

In the event that the State of New Hampshire, Merrimack County or the Town of Hooksett shall directly or indirectly establish any type of impact fee Law, Ordinance, rule, regulation, By-Law, or any other measure requiring either the applicant or developer to make any contribution to the State, County or Town in relation to existing or purposed development or subdivision, the fair market value of certain Public Use land dedicated pursuant to this section shall be offset against any such contributions. For the purpose of this paragraph, only the following types of dedicated Public Use lands shall offset impact fee contributions: municipal parks and playgrounds, and land for schools or other municipal buildings and facilities, specifically excluding any public use lands dedicated for streets, roadways, sidewalks, and their associated rights-of-way.

E. Mixed Use District 5 (MUD 5) Master Plan

Before any subdivision is allowed within this District the applicant shall submit three (3) copies of the MUD 5 Master Plan.

1. Purpose – The purpose and design of the MUD 5 Master Plan shall establish a sense of community by integrating the proposed mixed uses and infrastructure of the District with existing municipal development, utilities and services.
2. Procedure – MUD 5 Master Plan shall be construed as a planning instrument to be utilized by the applicant and the Planning Board.

The Planning Board must approve the MUD 5 Master Plan, before the applicant or any developer may subdivide any parcel within the District. Said approval shall not be unreasonably withheld provided the applicant has followed the parameters outlined by the provisions of this Ordinance applicable to the MUD 5 Master Plan.

The MUD 5 Master Plan shall be kept on file with the Planning Board and all subdivisions shall generally follow the uses, densities, locations, and phasing contained therein. The Planning Board may allow deviation from the MUD 5 Master Plan during the subdivision and/or non-residential site plan approval process when it deems it to be in the best interest of the community and consistent with the overall purpose of this District.

3. Format – The MUD 5 Master Plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect, or planner. A scale of one (1) inch equals three hundred (300) feet may be used so that the entire parcel can be shown on one piece of paper. The MUD 5 Master Plan shall include:

- a) An insert map at a scale of not less than one (1) inch to one (1) mile, showing property in relation to surrounding roads, subdivisions, or major landmarks.
- b) A North arrow.
- c) The location of existing property lines, very poorly drained soils, marsh, open water, existing road and utilities which are within or adjoin the property, easements which prohibit development, and abutting uses.
- d) The appropriate boundaries of each section by category or general use and density; the approximate location of proposed major streets and rights-of-way and other infrastructure requirements including water, sewer, and other utilities, the approximate location of recreation areas and open space; and areas proposed for deduction to Public Use.

Open space shall be located so as to enhance the living environment of the proposed development. Generally, this shall mean that open space shall be distributed throughout the site and not aggregated in large areas that provide little or no benefit to the individual uses or the development at large. Each section of the MUD 5 Master Plan shall be designated as follows:

- (1) Industrial Use
 - (2) Commercial Use
 - (3) Low Density Residential
 - (4) Medium Density I Residential
 - (5) Medium Density II Residential
 - (6) High Density Residential
 - (7) Village Center Area
 - (8) Quarry/Sand and Gravel Use and Related Uses
 - (9) Public Use
 - (10) Open Space Use, including proposed Designated Conservation Areas
- e) The MUD 5 Master Plan, along with the accompanying text and tables, shall contain the following information:
- (1) The gross or total number of acres within the district
 - (2) The use of each section or area
 - (3) Approximate phasing
 - (4) The approximate square feet of floor space for commercial and industrial areas and the approximate number of dwelling units and densities for residential areas

- (5) The approximate total acreage and the approximate net usable acreage of each use
 - f) Proposed language acceptable to the Planning Board on the guarantees and assurances to be provided for the maintenance of open space, common areas, recreation area, sidewalks, parking, private streets, and other privately owned, but common facilities.
4. Substantial Revisions - For purposes of this subsection, “substantial revisions” shall be determined by the Planning Board. Substantial revision of an approved MUD 5 Master Plan may occur in two ways:
- a) The applicant may from time-to-time come before the Planning Board with a proposed substantial revision of the MUD 5 Master Plan. In the event that the applicant shall convey in excess of fifty (50) percent of its title and interest in the total number of acres owned by it at the time of the original submission of a MUD 5 Master Plan, to any one person or entity, such person or entity, shall be deemed to be the applicant for purposes of this Subsection 4.
 - b) If the applicant or a developer proposes a subdivision which substantially and materially differs from the existing MUD 5 Master Plan, the Planning Board may require the applicant to revise the MUD 5 Master Plan before approving such a subdivision.

F. Community Impact Statement

The subdivision of any parcel of land within the MUD 5 Master Plan shall require that the developer submit a Community Impact Statement which shall describe the probable effects of the proposed subdivision upon the community. The Community Impact Statement for each subdivision shall additionally address the cumulative community impact of the subdivision combined with all other approved subdivisions within the MUD 5 Zoning District. Further, the developer of any subdivision which is still under construction or incomplete five (5) years from the date of its original municipal subdivision approval shall resubmit a Community Impact Statement to the Planning Board. At a minimum, each Community Impact Statement shall address the following topics:

- 1. Adequacy of existing public infrastructure and services required by the subdivision. Analysis shall be made of sewer, water, schools, fire stations, and other major locally-financed facilities.
- 2. Additional on-site and off-site public facilities or services, which would be required as a result of the subdivision.
- 3. Traffic to be generated by the project; the existing and projected capacity of surrounding roads and specific road improvements necessary.
- 4. Fiscal impact of the proposed project on the municipal capital and operating budgets, such as estimated tax revenues to be generated, versus the cost of public improvements to be financed by the local or state government.

5. Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics and storm water drainage.
6. Employment opportunities to be generated by the subdivision.

G. Uses

All uses in the MUD 5 Master Plan shall be classified in one of the four general use categories listed in Section B, including, but not limited to, the following allowed uses:

1. Industrial Uses

- a) Industry and Manufacturing non-nuisance as defined in Article 21.
- b) Office/Technology Park.
- c) Truck and/or freight terminals.
- d) Warehouse in excess of 100,000 square feet.
- e) Auto body shops.

2. Commercial Uses

- a) Neighborhood convenience store as defined in Article 21.
- b) Lodging houses, hotels, inns, motels, tourist courts, cabins, including such retail businesses within these permitted buildings as are conducted for the convenience of the residents or guests.
- c) Shops and other retail establishments.
- d) Garages, parking lots, and motor fuel dispensing stations, excluding motor vehicle body shops, with the exception of those motor vehicle body shops are an integral part of a motor vehicle dealership.
- e) Business and professional offices, banks.
- f) Theaters, halls, clubs, amusement center, and private recreational facilities.
- g) Greenhouses and florist shops.
- h) Undertaking establishments.
- i) Wholesale establishments and warehouses.
- j) Restaurants.
- k) Drive-ups.

- l)** Privately operated child day care, adult day care, day nurseries and kindergartens.
- m)** Nursing homes (for long term patient care, residential treatment, and rehabilitation facilities).
- n)** Hospitals, sanitariums, convents, and non-residential health centers.
- o)** Institutions of higher education.
- p)** Non-municipal elementary and secondary schools.
- q)** Any other uses similar to the commercial uses permitted in this section, which fit the spirit and character of the area for which they are opposed.

3. Residential Uses

- a)** Single family dwellings. Clustering of single family dwellings may be allowed under the provisions of Article 8.
- b)** Two-family dwellings provided they are served by municipal sewer. Clustering of two family dwellings may be allowed under the provisions of Article 8.
- c)** Multi-family dwellings provided they are served by municipal water and municipal sewer. Clustering of multi-family dwelling shall be allowed under the provisions of Article 8.
- d)** Housing for the elderly and/or handicapped, including, but not limited to, the following:
 - (1)** Shared Housing Residence as defined by the State of New Hampshire.
 - (2)** Community Residences as defined by the State of New Hampshire.
 - (3)** Sheltered Care Residence as defined by the State of New Hampshire.
 - (4)** Congregate Housing.
 - (5)** Manufactured Housing Parks in accordance with the provisions of Article 9 and subdivisions for Manufactured Housing, provided that the total amount of land for said uses shall not, in the aggregate, exceed ten (10) percent of the total net usable acres.
 - (6)** Any other uses similar to the residential uses permitted in this section which fit the sprit and character of the area for which they are proposed.

4. Public Use

- a) Municipally operated recreational and community center buildings.
- b) Municipal buildings and Municipal schools.
- c) Municipal parks, playgrounds and other Municipal uses.
- d) Religious facilities. *(Amended 5/13/14)*
- e) Any other uses similar to the public uses permitted in this section which fit the spirit and character of the area for which they are built.

5. Other Uses

- a) Essential Public Utilities.

Essential public utilities may be allowed by special exception provided that the installation of same does not create a nuisance or hazard to adjoining property uses and further provided that such facilities are designed such that they are architecturally compatible with the neighborhood or are adequately screened by existing or proposed vegetation. Any such utility shall be classified as either an industrial or commercial use as determined in the discretion of the Planning Board.

- b) Home Occupation.

Home occupations shall be allowed in any Low and Medium I residential density areas within MUD 5 in accordance with the provisions of Articles 4 and 5.

- c) Wireless Communication Facilities *(See Article 28)*.

H. Densities and General Design Requirements

1. Industrial

Industrial uses shall be included in the MUD 5 District as required in Section B. They shall be located in well-planned industrial areas and so designated on the MUD 5 Master Plan. All industrial uses shall be serviced by municipal water and municipal sewer systems.

Industrial development shall conform to the minimum requirements for industrial development as outlined in Article 11, Section B, Subsections 4-7, C, D, and E of the Zoning Ordinance. Industrial activities shall be of such a nature and conducted so that the effect of noise, dust, light, or odor shall not extend beyond the limits of the industrial area. Building height shall not exceed thirty-five (35) feet when a Hooksett Fire Department ladder truck is unavailable. If a Hooksett Fire Department ladder truck is available, no building shall exceed seventy-five (75) feet in height. *(Amended 5/8/01)*

2. Commercial

Commercial uses shall be included in the MUD 5 District as required in Section B. They shall be located in well-planned commercial areas, except where integrated into accordance with the MUD 5 Master Plan. Commercial development shall conform to the minimum requirements for commercial development as outlined in Article 10, Sections B through D, and F through H of the Zoning Ordinance. Clustering of commercial buildings may be allowed where such groupings are consistent with the safety of the users of the development and are further consistent with the overall intent of this Article.

The size and scale of commercial uses shall be compatible with the surrounding uses. Building height shall not exceed thirty-five (35) feet when a Hooksett Fire Department ladder truck is unavailable. If a Hooksett Fire Department ladder truck is available, no building shall exceed seventy-five (75) feet in height. *(Amended 5/8/01)* Parking requirements may be satisfied for commercial uses in the design of Village Center area(s), through the utilization of Municipal or private parking lots or garages, and pedestrian ways.

For purposes of creating so-called “downtown” areas, up to 100 percent lot coverage and zero minimum setbacks may be allowed for land designated as Village Center area(s) in accordance with the MUD 5 Master Plan.

3. Residential

a) Four Residential Densities

The number of dwelling units which may be construed shall be determined by the number of net usable acres available for residential use, as outlined in Section B, and the types of residential development included. Residential Development areas in the MUD 5 District shall include four (4) density types:

- (1) Low Density - Not more than sixty (60), or less than ten (10) percent of the net usable acreage dedicated to residential use, shall be Low Density, so as not to exceed one unit per 87,120 square feet. Low Density Residential Areas are restricted to single family detached dwellings and their accessory uses.
- (2) Medium Density I - Not more than sixty (60), or less than ten (10) percent of the net usable acreage dedicated to residential use shall be Medium Density I, so as not to exceed one (1) unit per 12,000 square feet in areas where the unit is served by municipal water and municipal sewer; not to exceed one (1) unit per 22,500 square feet I areas where the units are served by municipal water or municipal sewer; and not to exceed one unit per 44,000 square feet in areas where no municipal water or municipal sewer are available. All dwelling units, except single family detached dwelling, must be serviced by both municipal water and municipal sewer.

- (3) Medium Density II - Not more than sixty (60), or less than ten (10) percent of the net usable acreage dedicated to residential use shall be Medium Density II, so as not to exceed eight (8) units per acre. All dwelling units within the Medium Density II area shall be serviced by municipal water and municipal sewer. Medium Density II may be used to assist the applicant and the Planning Board to more effectively integrate varying residential uses and to more efficiently design a Village Center area.
- (4) High Density - Not more than ten (10) percent of the net usable acreage dedicated to residential use shall be High Density, so as not to exceed eighteen (18) units per acre. All dwelling units within the High Density area shall be serviced by municipal water and municipal sewer. High Density may be used to assist the applicant and the Planning Board to more effectively integrate varying residential uses and to more efficiently design a Village Center area.

b) Height, Lot Coverage, and Yard Requirements

All dwelling units constructed in the MUD 5 District shall conform to the building height limitations and maximum lot coverage and yard requirements, as herein below specified for corresponding uses and zones.

Low Density - Sections D, E, and F of Article 4; Low Density Residential District;

Medium Density I - Sections D, E, and F of Article 5; Medium Density Residential District;

Medium Density II - Sections D, E, and F of Article 5; Medium Density Residential District;

High Density - Sections D, E, and F of Article 6; High Density Residential District; and

Elderly/Handicapped Housing - Sections A, B.1, B.2c, d and e, and B.3-7 of Article 7: Elderly and/or Handicapped Housing.

Building height shall not exceed thirty-five (35) feet when a Hooksett Fire Department ladder truck is unavailable. If a Hooksett Fire Department ladder truck is available, no building shall exceed seventy-five (75) feet in height. *(Amended 5/8/01)*

For the purpose of creating a so-called “down town” area, up to 100 percent lot coverage and zero minimum setbacks shall be allowed for land designated as Village Center area(s) in accordance with the MUD 5 Master Plan.

4. Public Use

The densities and general design requirements for Public use Land shall be the same as those required for Commercial under Section H, 2 herein.

5. Frontage Requirements the for MUD 5 District

Every fee simple lot, shall have frontage on a State or Town maintained road of Class V designation or better. Frontage shall be a minimum of 100 feet. Frontage requirements may be satisfied by providing two (2) fifty (50) foot rights-of-way serving to access the lot. Zero lot line subdivisions or subdivisions in which the land under a structure is owned in fee by the owner of the structure while the land surrounding the structure and the underlying land is owned in common by an association of the landowners will be allowed. The minimum frontage required for the zero lot line subdivision, as a whole, will be the same as any other fee simple lot. No frontage will be required for the land under structures within the zero lot line subdivisions even though those parcels will be held in different ownership.

I. Types of Ownership

1. The following types of ownership shall be allowed in the MUD 5 District:
 - a) All fee simple type ownerships.
 - b) Condominium.
 - c) Land lease.
 - d) Use easements.
 - e) Zero lot line subdivisions with fee simple ownership.
 - f) Multiple buildings on one (1) lot when not restricted by any other subsection of this Article.
 - g) Cooperative ownership.

J. Parking Requirements

Where applicable, the requirements of *Article 17* shall apply.

K. Quarry/Sand and Gravel Use and Related Uses

Quarry and sand and gravel operation uses, within the MUD 5 District, shall be allowed pursuant to applicable State law and local ordinances. The following related uses shall be permitted in the MUD 5 District: concrete batching, concrete block manufacturing, other concrete manufacturing, asphalt manufacturing, and related open storage, and wholesale or retail distribution and sales of the foregoing. As a result of the transitional nature of such land use, land which is no longer put to such uses may be phased into other allowed uses in accordance with the MUD 5 Master Plan, and prior thereto, shall not be subject to the provisions of this Article, except that the total number of acres shall be used in the calculation of “net usable acreage.”

L. West Side Prohibition and Limitation

Notwithstanding the other provisions of this Article, for any portion of the MUD 5 District that lies west of U.S. Route 3, residential use or development shall be prohibited and commercial use or development shall be limited to twenty-five (25) percent of the net usable acreage west of U.S. Route 3.

M. *Article 3, General Provisions*, shall apply, when applicable.

(End of Article 16)

ARTICLE 16-A

WORKFORCE HOUSING

(Adopted 05/11/10)

This ordinance is adopted as an Innovative Land Use Control under RSA 674:21.

A. Authority

This Article is adopted under Authority granted pursuant to RSA 674:16 entitled Grant of Power; and RSA 674:21 entitled Innovative Land Use Controls. In administering this Innovative Land Use Control Ordinance, the Planning Board shall enjoy the Authority to grant Conditional Use Permits if and when a Workforce Housing proponent is able to demonstrate to the satisfaction of the Board that the granting of such Permits is in the public interest and serves to achieve an outcome consistent with the stated Purpose of this Article. Any appeal of a decision made by the Planning Board in administering this Innovative Land Use Control Ordinance shall be made to Superior Court pursuant to the provisions of RSA 676:5, III; RSA 677:15; and when applicable, RSA 674:61.

B. Purpose

The Purpose of this Article is to assist the Planning Board in implementing certain recommendations pertaining to Affordable housing specified in Chapter 5 of the 2004 Master Plan. The Planning Board recognizes that while the Zoning Ordinance affords significant opportunities for the development of a diverse variety of housing, including Affordable housing, this Workforce Housing ordinance has been adopted for the Purpose of ensuring Reasonable and Realistic Opportunities for the Development of economically viable Workforce Housing, sufficient to satisfy the municipality's obligations under RSA 674:59, I exist within the Town of Hooksett.

C. Definitions of Words & Terms

1. Affordable: Pursuant to RSA 674:58, I means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30-percent of a household's gross annual income.
2. Multi-family Housing: Pursuant to RSA 674:58, II for the purpose of workforce housing developments, means a building or structure containing five or more dwelling units, each designed for occupancy by an individual household.
3. Reasonable and Realistic Opportunities for the Development of Workforce Housing: Pursuant to RSA 674:58, III means opportunities to develop economically viable workforce housing within the framework of Hooksett's ordinances and regulations adopted pursuant to Chapter 674 of the New Hampshire RSA's and consistent with RSA 672:1, III-e. The collective impact of all such ordinances and regulations on a proposal for the development of Workforce Housing shall be considered in determining whether opportunities for the development of Workforce Housing are reasonable and realistic.

4. Workforce Housing: Pursuant to RSA 674:58, IV, means housing which is intended for sale and which is affordable to a household with an income of no more than 100-percent of the median income for a 4-person household for the Merrimack County, New Hampshire Fair Market Rent Area, as published annually by the U.S. Department of Housing and Urban Development. Workforce Housing also means rental housing, which is affordable to a household with an income of no more than 60-percent of the median income for a 3-person household for the same area. Housing developments that exclude minor children from more than 20-percent of the dwelling units, or in which more than 50-percent of the dwelling units have fewer than two bedrooms, shall not constitute Workforce Housing for the purposes of this Ordinance.

D. Applicability

1. The provisions of this Article shall have applicability in the following Districts: High Density Residential District; Medium Density Residential District; Urban Residential District; Mixed Use District – 2; and Mixed Use District – 5.
2. Special benefits which may be afforded under this Article are available to proponents of Workforce Housing developments within each of those Districts specified in Paragraph D.1 above, provided: the type and style of Workforce Housing proposed is otherwise permitted by right in the District; and the Planning Board grants a Conditional Use Permit pursuant to the authority of this Article. In the case of Workforce Housing development proposals which neither request nor require special benefits potentially afforded under the provisions of this Article, a Conditional Use Permit application shall not be necessary.
3. If and when the Planning Board finds certain dimensional standards or administrative provisions of any Article of the Zoning Ordinance compromise or unduly frustrate the development of economically viable Workforce Housing, the Board may, if it deems appropriate and consistent with the stated Purpose of this Article, grant a Conditional Use Permit, which shall have the affect of relaxing or modifying certain dimensional standards or administrative provisions of the Zoning Ordinance to the extent the Board deems necessary to ensure Reasonable and Realistic Opportunities for the Development of Workforce Housing are afforded.
4. The Board's authority to grant Conditional Use Permits under this Article shall be limited to dimensional standards and administrative provisions of the Zoning Ordinance. No Conditional Use Permit granted under the authority of this Article shall have the affect of relaxing or modifying any provision of the Zoning Ordinance regulating the use of land.
5. If the Planning Board finds the ordinances and regulations of the Town of Hooksett make feasible the development of sufficient Workforce Housing to satisfy the Town's obligation under RSA 674:59, and such development is not unduly inhibited by natural features, the Town shall not be in violation of its obligation under RSA 674:59 by virtue of economic conditions beyond the Town's control that may affect the economic viability of Workforce Housing development. In such instances, the Board may decline to grant a Conditional Use Permit pursuant to the authority of this Article.

E. Conditional Use Permit Standards

Prior to the Planning Board issuing a Conditional Use Permit under this Article, an applicant for such Permit shall demonstrate to the satisfaction of the Board that:

1. The Workforce Housing proposal in question is not and cannot otherwise be modified so as to be made economically viable without the specific relief sought; and
2. The lack of economic viability of the Workforce Housing proposal is not the result of economic conditions beyond the control of the Town; and
3. The Workforce Housing proposal in question will be made economically viable should the relief sought be provided; and
4. The Workforce Housing proposal in question is needed in order to assist the Town in satisfying its obligations under RSA 674:59; and
5. Appropriate controls will be provided in order to ensure that each dwelling unit developed as a direct result of the granting of a Conditional Use Permit under authority of this Article will remain Affordable for a period of not less than 30-years.

F. Workforce Housing – Land Use Permit Application Procedures

The provisions of RSA 674:60, entitled Procedure, shall have applicability in the case of any land use application submitted to the Hooksett Planning Board for approval; and for which the applicant has filed a written statement of intent indicating that such application is intended to qualify as Workforce Housing as defined under RSA 674:58, IV and this Article.

G. Workforce Housing – Appeal Procedures

The provisions of RSA 674:61, entitled Appeals, shall have applicability in cases involving any applicant who, prior to the time of application acceptance by the Planning Board, had properly filed a written statement of intent, pursuant to RSA 674:60 indicating that such application was intended to qualify as Workforce Housing as defined by RSA 674:58, IV; and whose application to develop Workforce Housing is ultimately denied or approved with conditions or restrictions alleged to have a substantial adverse effect on the viability of said development.

(End Article 16-A)

ARTICLE 17

PARKING STANDARDS

(Adopted 05/08/07)

A. Purpose

The purpose of this ordinance is to establish on and off street parking standards for any enlargement and/or modification to parking areas of an existing commercial, industrial or multi-family residential property/site.

All parking for the above-noted applications must comply with the current Town of Hooksett Subdivision and Non-Residential Site Plan Regulations' parking technical requirements.

(End of Article 17)

ARTICLE 18

WETLANDS CONSERVATION OVERLAY DISTRICT

(Amended 5/99)

A. PURPOSE

1. The purpose of this district is to protect the public health, safety, general welfare, and property. Wetlands are extremely important to the Town of Hooksett as they provide areas for floodwater storage, wildlife habitat and groundwater recharge. They also serve to protect and enhance surface water quality through filtration and augmentation of stream flow during dry periods. The primary objective of the Wetlands Conservation Overlay District is to preserve and protect the Town's wetlands.
2. It is intended that these wetland provisions shall:
 - a) Be a guide in the use of wetlands in Hooksett.
 - b) Aid in the protection of persons and property from the danger of floods by preserving natural floodwater toward areas.
 - c) Control the development of structures and land use on wetlands to prevent the pollution of surface and groundwater by sewage, hazardous substances or siltation.
 - d) Protect aquifers, unusual natural areas and wildlife habitats and maintain ecological balances.
 - e) Protect aquifers, which serve as existing or potential water supplies and the aquifer recharge system.
 - f) Prevent the Town from incurring unnecessary or excessive costs of constructing storm drains or extending additional municipal sewage collection and/or treatment facilities, which will be necessitated by unwise development or other misuse of wetland areas.
 - g) Encourage those uses that can appropriately and safely be located in wetland areas.
 - h) Safely address wetland areas of one (1) acre or more in size, or of any size if adjacent or contiguous to a lake, pond, perennial stream or prime wetland.
 - i) Preserve and enhance the aesthetic values associated with water resources of the Town, natural and manmade.
3. The Wetlands Conservation Overlay District shall be superimposed over all zoning districts in the Town of Hooksett where wetland areas, as herein defined, have been identified.

B. WETLAND CONSERVATION DISTRICT DEFINED

1. Delineation of Wetland Boundaries: Wetlands shall be delineated on the basis of hydrophytic vegetation, hydric soils and wetland hydrology, in accordance with the techniques outlined in the current State and Federal standards for identifying jurisdictional wetlands.
2. Wetlands, as defined herein, shall be areas that, under normal circumstances, have hydrophytic vegetation, hydric soils and wetland hydrology and may be:
 - a) Identified in the National Wetland Inventory Maps including subsequent amendments as provided for in Section F, Boundary Appeals, of this Article.

The referenced map is considered as a guide only. The precise location of a wetland boundary in any particular case must be determined by on-site inspection by a Wetland Scientist using techniques outlined in the Corps of Engineers Wetlands Delineation and Field Indicators for Identifying Hydric soils in New England or most current State and/or Federal standards and stipulations. Other wetlands identified in field using wetlands characteristics of soils, hydrology and vegetation.

C. DEFINITIONS

1. Hydric Soils:

- a) Poorly drained: Soils that are commonly wet or near the surface during a sufficient part of the year that crops cannot be grown under natural conditions. Poorly drained conditions are caused by a saturated zone, a layer with low hydraulic conductivity, seepage or a combination of these conditions.
- b) Somewhat Poorly Drained: Soils that are wet near enough to the surface or long enough that planting or harvesting operations or crop growth is markedly restricted unless artificial drainage is provided. Somewhat poorly drained soils commonly have a layer of low hydraulic conductivity, wet conditions high in the profiles, additions of water through seepage or a combination of these conditions.
- c) Very Poorly Drained Soils: Soils that are wet to the surface most of the time. These soils are wet enough to prevent the growth of important crops (except rice) unless artificially drained.

2. Wetland Hydrology:

The sum total of wetness characteristics in areas that are inundated or have saturated soils for a sufficient duration to support Hydrophytic Vegetation.

3. Hydrophytic Vegetation:

Plant life growing in water or on a substrate (non-soil) that is at least periodically deficient in oxygen as a result of excessive water content.

4. Wetland Scientist:

A person certified or otherwise deemed qualified as a wetland scientist by the NH State Board of Natural Science in delineating wetlands.

5. 1987 Corps of Engineers, Wetlands Delineation Manual, Field Indicators for Identifying Hydric Soils:

The most recent document adopted by the Federal Interagency Committee of Wetland Delineation detailing the criteria and the methodology for delineating wetland boundaries. A copy of this report is in file at the Hooksett Town Hall.

6. Perennial Stream:

Year round water flow.

7. Bog:

Wetlands distinguished by stunted trees and shrubs, peat deposits, poor drainage and highly acidic conditions.

8. Prime Wetlands:

Shall be defined as the areas designated under Article 18-A Prime Wetlands.

9. Prime Wetland Buffer:

Shall be defined as that area extending one-hundred (100) feet outside and beyond the boundary of each prime wetland as described in Article 18-A Prime Wetlands. *(Amended 5/12/09)*

10. Mitigated Wetlands:

Shall be classified as containing very poorly drained, poorly drained and somewhat poorly drained soils or any combination thereof.

11. Wetlands:

Shall be defined as an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. They shall be delineated, located in the field, by a wetland scientist using the procedure described in Wetland Bureau Rules and the 1987 Corp of Engineers Manual.

D. PERMITTED USES

1. Poorly Drained Soils

Permitted uses in areas of poorly drained soils are those which are permitted by the Zoning Ordinance so long as they 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 dredging. Such uses may include the following, as long as they conform to all local, State and Federal regulations and all required permits have been granted.

a) Forestry

Using the best management practices as outlines in the 1979 Water Supply and Pollution Control Division booklet, "Erosions Control Guidelines for Timber Harvesting", in order to protect streams from damage and to prevent sedimentation.

b) Agriculture

Cultivation and harvesting of agricultural crops according to recognized soils conservation practices. Including the protection of wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation and sedimentation caused by erosion.

c) Wildlife refuges, parks and recreational uses consistent with the purpose and intent of this Ordinance, such as nature trails and conservation areas.

d) Open spaces as permitted by the Subdivision Regulation or the Zoning Ordinance.

e) State approved water impoundments.

f) Construction of wells for water supply.

g) Dry hydrants and fire protection ponds.

h) Fences, footbridges, cartbridges, pathways, docks and catwalks.

i) Underground utilities where the ground surface is restored to the original grade and conditions.

j) Within in MUD 5 District, public beaches and public car top boat access areas. (No boat trailers). (*Amended 5/14/02*)

k) Within the MUD 5 District, golf courses provided they are maintained in accordance with the recognized protocols established by the NH Department of Environmental Services for fertilizers, pesticides and herbicides for the protection of wetlands from pollution. (*Amended 5/14/02*)

2. Very Poorly Drained Soils, Bogs, Open Water and Perennial Streams

Permitted used in areas containing very poorly drained soils, bogs, open water and perennial streams are as follows: as long as they conform to all local, State and Federal regulations and all required permits have been granted.

- a)** Uses specified under Section D-1 (Permitted Uses – Poorly Drained Soils) shall be permitted, but no alteration of the surface configuration of the land by filling or dredging and no use which results in the erection of a structure, except as provided for in (Section D.2-b) below, shall be permitted.
- b)** The construction of fences, footbridges, cartbridges, pathways, catwalks and docks on surface waters provided: (*Amended 5-14-02*)
 - (1)** Said items are constructed on posts or pilings so as to permit the unobstructed flow of water;
 - (2)** The natural contour of the wetlands is preserved;
 - (3)** The Conservation Commission has first reviewed and approved the proposed construction.
- c)** Within the MUD 5 District, public beaches and public car top boat access areas. (No boat trailers). (*Amended 5/14/02*)
- d)** Within the MUD 5 District, golf courses, provided they are maintained in accordance with the recognized protocols established by the NH Department of Environmental Services for fertilizers, pesticides and herbicides for the protection of wetlands from pollution. (*Amended 5/14/02*)

3. Permitted Uses of Prime Wetlands and Prime Wetland Buffers

Permitted uses in areas designated as Prime Wetlands and/or Prime Wetland Buffers are as follows:

- a)** Wildlife habitat development and management
- b)** Conservation areas and nature trails
- c)** Cultivation and harvesting of agricultural crops according to recognized soil conservation practices. Including the protection of wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation and sedimentation caused by erosion.

4. Conditional Use of Prime Wetland and Prime Wetland Buffers

A conditional use permit may be granted by the Planning Board for:

- a)** Forestry and tree farming within the prime wetland buffer using best management practices to protect prime wetland from damage, sedimentation

and loss of wildlife habitat. Forestry and tree farming activity shall first be reviewed and approved by the Conservation Commission.

- b) Construction of fences, footbridges, catwalks and wharves provided structures are constructed on posts or pilings so as to permit the unobstructed flow of water and the natural contour of the prime wetland is preserved. The proposed construction shall be reviewed and approved by the Conservation Commission and the Planning Board has received the approval.
- c) The applicant shall file such information as the Planning Board reasonably requires in order to review an application for a Conditional Use Permit. Prior to the granting of a Conditional Use Permit under this section, the applicant shall submit to the Town a Performance Security Bond. The Security Bond shall be submitted and approved prior to issuance of a permit authorizing construction. The Security Bond shall be submitted in a form and amount, with surety and conditions satisfactory to the Conservation Commission and approved by the Planning Board, to ensure that the construction will be carried out in accordance with the approved design.
- d) The Planning Board, on its own or at the request of the Conservation Commission, may require the applicant to submit environmental studies when necessary to evaluate an application made under this section. The costs of these studies shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and the costs incurred for the review of documents required by particular applicants.
- e) A conditional use permit may be granted by the Planning Board only after a due public notice hearing on the application.

5. Conservation Commission Review

Prior to any construction and/or alteration around wetlands under Section D, the Conservation Commission must review plans and provide comments within 30 days of submission of plans to the Conservation Commission.

E. SPECIAL EXCEPTIONS

- 1. Special Exceptions to the restrictions of permitted uses of wetlands may be granted by the Zoning Board of Adjustment only after public notice and hearing in accordance with the provisions of New Hampshire RSA Chapter 676:7, and only for such purposes and uses as hereinafter described:
 - a) For the construction of roads and other access ways, for pipelines, power lines and other transmission lines, water impoundment and construction of well water supplies, drainage ways, where final grade is to be altered; and provided that all of the following conditions are found to exist:
 - (1) The proposed construction is essential to the productive uses of land not within the Wetlands Conservation District.

- (2) Design and construction methods will be such as to minimize detrimental impact upon the wetland and the site will be restored as neatly as possible to its original condition.
 - (3) No reasonable alternative, which does not cross a wetland or has less detrimental impact on the wetland, is feasible.
 - (4) Economic advantage, alone, is not the reason for the proposed construction.
 - (5) The Zoning Board has received Conservation Commission and Planning Board approval in writing.
 - (6) The Conservation Commission and Planning Board must submit their written reply to the Zoning Board within thirty (30) days of receiving the proposed plan.
 - (7) No Special Exceptions shall be granted in a Prime Wetland or a Prime Wetland Buffer.
 - (8) No dredging or filling shall be permitted in a Prime Wetland.
2. The Zoning Board of Adjustment, after consulting with the Conservation Commission and Planning Board, may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this section. The cost of the assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the cost of other special investigative studies made under this section and for the review of documents required by particular applications.

F. BOUNDARY APPEALS

1. When a boundary of the Wetlands Conservation District is disputed, or in the event that an area is incorrectly mapped, the Planning Board and/or Conservation Commission, at the applicant's expense, may engage a Wetland Scientist to determine the precise location of the Wetlands Conservation District boundaries, using the most current methodology for delineating Jurisdictional Wetlands as outlined in Section B, Wetlands Conservation District Defined, subsection 2.a) on the properties affected. As an alternative, the applicant may hire and pay such a scientist as acceptable to the Planning Board and Conservation Commission to make such determination.

A report of their findings shall be submitted to the Planning Board and shall include, if warranted, a revised wetland map of the area in question along with a written report of their on-site field inspection and any data forms completed.

2. The Planning Board shall adjust the map, if necessary, based on the evidence provided as set forth above. If the evidence indicated that the boundary or area in question has been incorrectly mapped as a wetland, the restrictions contained in this section shall not apply to the area laying outside of the District boundaries as

corrected. Conversely, in the event that a wetland is not so geographically designated, then the restrictions contained in this section shall nevertheless apply. The Planning Board shall reserve the right to withhold action on any plot pending the results of the studies described above or an on-site inspection by the Board or its appointed agent.

G. SPECIAL PROVISIONS

1. Prime Wetland Restrictions

- a) The one-hundred (100) foot buffer from the delineated prime wetland boundary shall remain in its natural, undisturbed state. *(Amended 5/12/09)*
- b) No roadway crossing or other special exceptions are permitted.
- c) Wetlands of any size, regardless of soil types, that are contiguous with a prime wetland will require setbacks and restrictions as listed in G-2, a) through f).

2. Wetland restrictions for wetlands of one (1) acre or more of very poorly, poorly and/or somewhat poorly drained soils.

- a) A forty (40) foot buffer shall be required from the wetland boundary and shall remain in its natural, undisturbed state.
(Amended 5/14/13)
- b) A seventy five-(75) foot setback shall be required from the wetland boundary to any septic tank or leach field.
- c) Any roadway and/or driveway crossings require ZBA approval (See Article 18, Section E, Special Exceptions).
- d) All construction, forestry and agricultural activities within one hundred (100) feet of any wetland shall be undertaken with special care to avoid erosion and siltation into the wetland. Construction plans must include measures for erosion control and treatment of runoff during construction and long-term treatment with special consideration for salt, gas and grease. Such considerations shall be treatment swales, silt fence, haybales, oil/gas separators, etc.
- e) Where an existing use, within a setback, is destroyed or in need of extensive repair, it may be rebuilt, provided that such rebuilding is completed within one year of the event causing destruction. The new or rebuilt use shall not be extended further into the wetland or setback area than the original use.
- f) Within the MUD 5 District, golf courses may be located within the twenty-five (25) foot setback provided that:
 - 1) The areas within the twenty-five (25) foot setback must remain entirely vegetated in all areas except where provided in Section D.2.b.

- 2) Erosion and drainage control measures are implemented in accordance with approval of the Planning Board and a positive recommendation of the Conservation Commission. *(Amended 5/14/02)*

3. Minimum Lot Sizes

Wetlands may be used for calculation of the minimum lot size to the following additional limitations:

- a) Areas designated as “poorly drained” may be utilized to fulfill a maximum of twenty-five (25) percent of the minimum lot size required for the district in which the lot is located. For lots which are served by on-site septic systems, the remainder of the lot (i.e. 75 percent of the minimum) must be sufficient in size and configuration to adequately accommodate both a primary and secondary leach field location (i.e. two approved leach field locations).
- b) No wetland area, designated as “very poorly drained” may be used for purposes of calculating minimum lot sizes.

4. Wetlands of Special Concern:

- a) Wetlands 46, 47, 48, and 49, as described in the Hooksett Wetlands Inventory Map, dated January 1993, shall have a 100 foot vegetative buffer and building setback from the wetland boundary. Upon approval of the Planning Board and a positive recommendation of the Conservation Commission, vegetation may be cut, added, or replaced and berms and swales constructed (and revegetated) within the buffer area provided that these actions minimize disturbance, prevent erosion, and maximize water quality. *(Amended 5/14/02)*
- c) Roadways, driveways, underground utilities, golf courses, public beaches, car top boat access (no boat trailers), pathways, bridges, fences, any docks are permitted within the 100 foot buffer provided that they are constructed in a manner which minimizes disturbance, prevents erosion, and maximizes water quality, the location and construction of which shall be subject to the approval of the Planning Board and a positive recommendation of the Conservation Commission. *(Amended 5/14/02)*

5. Compensatory Mitigation Fee *(Adopted 5/12/09)*

- a) Any proposed land use, which will involve encroachment on a wetland or wetland setback in excess of 1,000 square feet, shall require the assessment of a mitigation fee to offset and compensate for the impact of the project and loss of wetland functions and values. In the alternative and subject to the approval of the Zoning Board of Adjustment, and with the advice of the Conservation Commission, and also the approval of the Planning Board for proposals subject to Planning Board jurisdiction, an applicant may propose and implement a plan that adequately mitigates the impact of the project and loss of wetland functions and values.

- b) The local compensatory mitigation fee shall follow the DES guidelines, as shown on the DES Aquatic Resource Mitigation Fund Payment Calculator. Encroachments within wetland setbacks shall be calculated as “all other areas”.
http://des.nh.gov/organization/divisions/water/wetlands/wmp/faq_arm_funds_calc.htm.
- c) If the project is required to financially mitigate any wetland impacts through the NH DES permit process, then no local compensatory mitigation fee shall be imposed.
- d) The fee is to be paid to the Building Department, as part of the Zoning Board of Adjustment application and to the Community Development as part of the Planning Board application (if wetlands jurisdiction falls under the Planning Board).
- e) The mitigation fee shall be set-aside in a separate conservation fund to be used exclusively for the purpose of acquiring or protecting wetlands and surrounding uplands to replace the wetland or wetland setback lost as a result of any development project or for other conservation purposes, per RSA 36-A:5 I.

H. FILLED LANDS AND PRE-EXISTING AND EXISTING USES

- 1. Lands which may have been wetlands, but were filled under properly issued State and Town permits, granted prior to the adoption of this Article, shall be judged conforming to Town regulations.
- 2. Structures and uses existing at the time of the adoption of this Article may be continued provided that such structure or use shall not be expanded to further encroach upon the wetlands or setbacks as set forth in Section G (Special Provisions) without approval of the Planning Board and Zoning Board.

I. RELATIONSHIP BETWEEN FEDERAL, STATE AND LOCAL REGULATIONS

- 1. Where Federal and/or State and/or Local regulations are applicable, the more stringent regulation shall take effect. If Federal and/or State regulation addresses an issue not included in the Local regulation, or if the Local regulation addresses an issue not included in the Federal or State regulation, that regulation shall automatically apply.

J. OTHER PROVISIONS

- 1. The Code Enforcement Officer shall not issue any permit for construction within the Wetlands Conservation Overlay District, except with the approval of the Zoning Board and Conservation Commission.
- 2. The Code Enforcement Officer, with notice to and consent of the Town Council, shall have the power to enforce this article and violations may be punishable by fines as provided by RSA 676:17A
- 3. Any Wetland altered in violation of the Ordinance shall be restored at the expense of the violator(s).

K. *Article 3, General Provisions*, shall apply, when applicable.

(End of Article 18)

***** INFORMATIONAL – U.S. ARMY CORPS OF ENGINEERS**

IF YOU PERFORM WORK IN A WATERWAY OR WETLAND, YOU MAY NEED A FEDERAL PERMIT.

If you are planning any work in inland waterways or wetlands in New England and have any questions about particular permits or about the extent of the Corps' jurisdiction, please contact:

State of New Hampshire Wetlands Bureau
(603) 271-2147, 1-800-343-4789

ARTICLE 18-A

PRIME WETLANDS

(Amended 5/14/02)

Prime Wetlands shall be defined as those areas designated Prime Wetlands within the scope of RSA 483-A and NH Code of Administrative Rules WT 700. These wetlands are described in the Hooksett Wetlands Inventory Map, dated January 1993, including the following numbered wetlands:

No.s: 10, 11, 12, 16, 17, 18, 20, 23, 26, 27, 28, 29, 31, 37, 41, 53, 59, 69, 71, 72, and 76

The topographical definition of each “Prime” Wetland is included in separate maps correlated to the report. Both the aforementioned maps and report are incorporated in this Ordinance by reference and are on file at the Hooksett Town Hall.

Article 3, General Provisions, shall apply, when applicable.

(End of Article 18-A)

ARTICLE 19

GROUNDWATER RESOURCE CONSERVATION DISTRICT (Amended 5/13/08)

A. Authority and Purpose

Pursuant to the authority granted under RSA 674:21, the Town of Hooksett hereby adopts the following regulations. The purpose of these regulations is, in the interest of public health, safety and general welfare, to protect, preserve and maintain existing and potential groundwater supply and groundwater recharge areas within known aquifers from adverse development, land use practice and to protect surface waters that are fed by groundwater. This is to be accomplished by regulating land uses which would contribute polluted water to designated wellhead protection areas and/or aquifers identified as being needed for present and future public and private water supply.

It is also the intent of these regulations to incorporate by reference and to encourage implementation of the recommendations and findings of the recently completed report by the Southern New Hampshire Planning Commission entitled Town of Hooksett Wellhead Protection Program. This report was accepted by the Town Council on June 27, 2007 to protect the existing and future viability of the Town of Hooksett's primary water supply located at Pinnacle Pond.

B. District Defined

The Groundwater Resource Conservation District shall encompass those areas, which have been designated as wellhead protection areas and stratified drift aquifers as shown on the attached Groundwater Resource Conservation District Map. This map is based upon the Town of Hooksett Stratified Drift Aquifer Map developed by NHDES, dated March 1999, which is on file with the Planning Board. The basis for said map is the report titled "Geohydrology and Water Quality of Stratified Drift Aquifers in the Middle Merrimack River Basin-South Central NH" prepared by the U.S. Geological Service in cooperation with NHDES Water Resources Division, dated 1995.

The Town of Hooksett Groundwater Resource Conservation District Map is hereby adopted by reference as a Zoning Overlay District within which additional standards apply to the underlying zoning classification. In all cases where the standards for this district conflict with those of the underlying district, the more restrictive requirement(s) shall apply.

Note: NHDES is currently contracting with USGS to update the Stratified Drift Aquifer Map for the Town of Hooksett. When this map has been updated, the Town of Hooksett will need to update this ordinance.

C. Disputed Boundary Zones

When the actual boundary of the Groundwater Resource Conservation District is in dispute by any landowner or abutter affected by said boundary, the Planning Board, at the landowner/abutter's expense and request, may engage the services of a professional geologist, hydrologist or hydrogeologist to prepare a report addressing the location and extent of the aquifer and recharge area relative to the property in question.. Geology testing required by

the Planning Board for review of boundary disputes shall be conducted at the owner/abutter's expense in accordance with a scope of work determined by a consultant hired by the Town, but paid for by the owner/abutter. This report shall include but not be limited to the following:

- (a) A two-foot interval topographic layout prepared by a registered land surveyor of the subdivision and/or area to be developed;
- (b) A site specific soils map of the subdivision and/or area to be developed prepared by a soils scientist qualified in hydrologic studies including a written report of his/her on-site field inspection and test boring data
- (c) The Groundwater Resource Conservation District boundary shall be overlaid on the plat and the newly proposed boundary location shall be indicated on the same plat by a broken line;
- (d) Evidence derived from a pumping test(s) or a sufficient number of test borings, test pits, observation wells and groundwater elevations to clearly demonstrate that the area in question does not meet the definition of aquifer or recharge area; and
- (e) Where the area in question is the Wellhead Protection Area, evidence shall also comply with guidelines published by NHDES for Phase II delineations of public water systems in order to determine the contribution zone of any portion of a municipal water supply that lies beneath the subject parcel.

Additional mapping, hydrogeologic reports or information which becomes available as a result of recent or on-going scientific investigations of the locations and extent of aquifers performed by the U.S. Geological Survey, New Hampshire State agencies or boards, the Town of Hooksett or agents of any of the above.

The Planning Board, under the advisement of the Conservation Commission, shall have the authority to adjust the boundary or area designation of the Groundwater Resource Conservation District based upon any findings or reports submitted under this section.
(Amended 5-14-02)

D. Prohibited Uses

In addition to all other uses not permitted in the underlying district, the following uses shall not be permitted within the Groundwater Resource Conservation District, except where permitted to continue as a nonconforming use under *Article 26* of this ordinance:

- 1. The development or operation of a hazardous waste disposal facility as defined under RSA 147-A;
- 2. The development or operation of a solid waste landfill or the storage or disposal of solid wastes defined in RSA 149-M:4,XXII., other than brush or stumps (clarification: brush and stump dumps require State permit).
- 3. Storage of 100 gallons or more or 800 pounds dry weight at any one time of petroleum products or other hazardous substances as defined by EPA Regulated Substance list under 40CRF 302.4, December 1998, used for any public or private resale or distribution, including internal distribution unless all Best Management Practice Rules are in place and documented and an adequate spill prevention, control

and countermeasure (SPCC) plan, in accordance with Section G. of this ordinance is approved by the Hooksett Fire Department and Emergency Management Director.
(Amended 5-14-02)

4. Outdoor storage of road salt or other deicing chemicals in bulk.
5. The development or operation of a wastewater or septage lagoon or injection wells that dispose of waste in the ground, or the storage or disposal of liquid or leachable wastes, except from residential, commercial or industrial systems that discharge human sanitary wastes only.
6. Industrial uses which discharge contact type process waters on site. Non-contact cooling water discharge is permitted.

(Note: EPA National Pollution Discharge Elimination System – Non-Contact Cooling Water General Permit (NHDES) permit is required).

7. Dumping of snow containing de-icing chemicals if -it is brought from off-site.
8. Disposal, processing, storage or recycling of hazardous waste as defined in RSA 147-A:2,VII, unless such material is pre-packaged for retail sale prior to storage on the site.
9. The development or operation of a petroleum bulk plant or terminal or automotive uses including: car washes, automotive service and repair shops, gas stations; filling stations; or motor vehicle dispensing stations or pumps; any container of gasoline greater than 100 gallons. (Amended 5-14-02)
10. The development or operation of junk and salvage yards.
11. The establishment of a new excavation site within the Wellhead Protection Area, unless it is incidental to a permitted use and with the exception of any existing excavation legally permitted under the excavation regulations of the Town of Hooksett at the time of adoption of this ordinance.
12. The operation of any motorized recreational vehicles, snowmobiles, ATVs , motorboats or other similar motorized watercraft upon the surface of Pinnacle Pond or on land-owned by the Hooksett Village Water Precinct surrounding Pinnacle Pond and or within the Wellhead Protection Area.
13. The outdoor commercial storage of fertilizers, animal manure and compost unless in accordance with the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets and Food, August 1998, and subsequent revisions, and for an agricultural use already in existence at the time of this ordinance. Normal residential uses are exempt from this prohibition.
14. Any groundwater withdrawal well extracting water in excess of 57,000 gallons per day.

E. Permitted Uses

Any permitted use shall comply with all applicable State of New Hampshire Best Management Practice Rules, ENV-WS-421, February 1999. Any use permitted in the underlying district shall be permitted within the Groundwater Resource Conservation District, except those, which are expressly prohibited in Section D above with the following additional limitations:

1. All uses requiring a septic system located within the Wellhead Protection Area are reviewed by the Town Engineer and Health Officer for compliance with applicable rules, laws and best management practices.
2. The expansion of a nonconforming use as long as it complies with Section I. of this Article and Article 26, Nonconforming Uses and Buildings of this ordinance, provided, however that such expansion prevents no tangible increased risk of contamination or reduction in the quantity of groundwater at the site.
3. Within the Groundwater Resource Conservation District, no more than 10 percent of a single lot or building site or more than 2,500 square feet of any lot or building site, whichever is greater may be rendered impervious to groundwater infiltration. To the extent feasible, all runoff from impervious surfaces shall be recharged to the aquifer on-site. Recharge impoundments shall have a vegetative cover for surface treatment and infiltration.
4. Maximum impervious site coverage may exceed 10 percent or 2,500 square feet of any lot or building site, provided a stormwater management plan is prepared and submitted which the planning board, and the Town Engineer determines is consistent with the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, Rockingham County Conservation District, August 1992 (as amended) , the i Best Management Practices for Urban Stormwater Runoff, NHDES, January 1996 (as amended), and will not result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary.
5. The Stormwater Management Plan as required above must include Best Management Practices designed to retain or percolate all development generated stormwater runoff for the 2-year, 10-year, 25-year, 50-year and 100-year storm events for the site utilizing the rainfall intensities as defined in the Town of Hooksett's Development Regulations, as currently revised, such that the post-development discharge rate and volume to the aquifer is, at a minimum, equal to the pre-development discharge rate and volume to the aquifer. Futhermore, the Stormwater Management Plan shall provide for the removal of oil and gasoline from parking lot runoff by the use of treatment swales, oil/gas separators or other devices, or through the use of low impact development (LID) techniques, prior to retention and percolation of the runoff. A drainage model must be submitted and approved by the Town Engineer to fully demonstrate that there is no increase of runoff at any point along the border of the site for any of the modeled events. The design and construction of any drainage facility shall be approved by the Building Department, and/or Town Engineer. All stormwater treatment and drainage facilities located within the Wellhead Protection Area shall be cleaned/serviced and inspected at the landowner's expense at least once

per year at a minimum, in accordance with design specifications. An inspection and maintenance report shall be filed by the landowner with the Building Department annually.

6. All regulated substances, petroleum products, chemicals, road salt and other materials stored in containers with a capacity of 5 gallons or more which have the potential for contaminating groundwater are allowed provided that the products are not prohibited under paragraph D of this article and they are in compliance with State of New Hampshire Best Management Practice Rules, Env-Ws 421, February 1999, if applicable and any subsequent revisions. In addition, these products shall be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains and outside drains. Floor drains must comply with applicable state and federal regulations. *(Amended 5-14-02)*
7. Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner.
8. Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least 50 feet from surface water or storm drains, at least 75 feet from private wells, and outside the sanitary protective radius of wells used by public water systems. Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of 275 gallons or more of regulated substances are stored outdoors on any particular property. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.
9. Prior to any land disturbing activities, all inactive wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with We 604 of the New Hampshire Water Well Board Rules.
10. In the case of any sand or gravel excavation permitted in accordance with RSA 155-E and the Town of Hooksett Sand and Gravel Ordinance, or with respect to any earth removal as being incidental to any permitted use, such excavation or removal shall not be carried out within eight (8) vertical feet of the seasonal high water table.
11. Storm drainage shall be designed to maintain infiltration to groundwater. Infiltration systems shall not be placed within fifty (50) feet of either a well or septic system and must be a minimum of four (4) vertical feet above the Estimated Seasonal High Water Table as outlined in the Town of Hooksett Development Regulations, as currently revised.
12. There shall be a minimal use of deicing chemicals within the Wellhead Protection Area on all public and private roads and parking lots. The use of these chemicals shall be free of sodium and chloride to the greatest extent possible.
13. A 50-foot wide no cut riparian or vegetative buffer shall be maintained around Pinnacle Pond and along both sides of Brickyard Brook to protect the water quality of these resources within the Wellhead Protection Area.

14. Agricultural and forestry uses, provided that fertilizers, pesticides, manure ,compost and other leachables are permitted, provided they are stored in accordance with the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 1998 and any subsequent revisions. (*Amended 5-14-02*)

F. Special Exceptions

Any use which may be allowed by Special Exception in the underlying zoning district must be found by the Zoning Board of Adjustment, in written findings of fact, that all of the following conditions are found to exist:

1. The lot upon which an exception is sought was an official lot of record, as recorded with the Merrimack County Registry of Deeds, prior to the date on which this Article was made effective.
2. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside of the Groundwater Resource Conservation District.
3. The proposed use will not have a detrimental effect on the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants.
4. The proposed use will not cause a significant reduction in the long-term usability of water contained in the aquifer, or in the recharge or storage capacity of the aquifer. Cumulative impact of any single proposed use with other existing and future uses must be considered in detail.
5. The proposed use will discharge no wastewater on the site other than that which is permitted under the provisions of this Article.
6. The proposed use complies with all other applicable sections of this Article.

The Zoning Board of Adjustment may require that the applicant for a Special Exception provide data or reports prepared by a professional engineer or qualified groundwater consultant to assess potential damage to the aquifer that may result from the proposed use. The Zoning Board of Adjustment may engage such professional assistance as it required to adequately evaluate such report and to evaluate, in general, the proposed use in the light of above criteria. Costs for any of the above mentioned services shall be paid by the applicant.

Prior to rendering a decision on an application for a special exception, the Zoning Board of Adjustment shall request from the Planning Board (only if subsequent action by the Planning Board is required), the Conservation Commission, and the Health Officer opinions as to whether the proposed use is consistent with the purpose of this Article.

G. Spill Prevention, Control and Countermeasure (SPCC) Plan

The Hooksett Fire Department and Emergency Management Director shall review all SPCC Plans as required by this Article to determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods or fires that may cause large releases of regulated substances. This plan shall include:

- (1) A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.
- (2) Contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment.
- (3) A list of all regulated substances in use and locations of use and storage.
- (4) A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure.
- (5) A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.

H. Definitions

For the purpose of this Article, the following terms shall have the meaning given herein:

Animal Feedlot:	An agricultural establishment consisting of feeding areas and related structures used for the raising of livestock.
Aquifer:	A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water, as shown on the Town of Hooksett Stratified Drift Aquifer Map, dated March 31, 1999.
Best Management Practice Rules:	New Hampshire Code of Administrative Rules Env-Ws 421, Best Management Practice Rules for groundwater protection, on file at the Hooksett Municipal Building.
Gasoline Station:	Portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of gasoline.
Groundwater:	Subsurface water that occurs beneath the water table in soils and geologic formations.
Groundwater Recharge:	The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.

Hazardous or Toxic Materials or Regulated Substance:	Petroleum, petroleum products and substances listed under 40 CFR 302, 7-1-05 edition which may pose a present or potential hazard to human health or the environment when improperly stored, transported or disposed of or otherwise managed, excluding propane and other liquefied fuels which exist as gases at normal atmospheric temperatures and pressure. Also excluded are the following materials, used for treatment of water supplies: ammonia, sodium hydroxide, acetic acid, sulfuric acid, potassium hydroxide and potassium permanganate. .
Hazardous Waste:	A solid, semi-solid or liquid or contained gaseous waste, or any combination of these wastes, which, because of either quantity, concentration or physical chemicals or infectious characteristics may: cause or contribute to an increase in mortality or increase in irreversible or incapacitating reversible illness or; pose a present or potential threat to human health or the environment when improperly treated, stored, transported, disposed of or otherwise mismanaged. Such wastes include, but are not limited to those, which are reactive, corrosive, toxic, ignitable, irritants, strong sensitizers, or which generate pressure through decomposition, heat or other means. <i>(Amended 5-14-02)</i>
Impervious:	Not readily permitting the infiltration of water.
Impervious Surface:	A surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt, earthen, wooden or gravel surfaces or other surfaces, which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.
Junkyard:	An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary landfills. The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.
Leachable Wastes:	Waste materials including but not limited to solid wastes, sewage sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment, and specifically excluding wastes from functional, approved residential septic systems.
NHDES:	New Hampshire Department of Environmental Services. <i>(Amended 5-14-02)</i>

Outdoor Storage:	Storage of materials where they are not protected from the elements by a roof, walls and a floor with an impervious surface.
Petroleum Products or Oil:	Petroleum products and their by-products, including, but not limited to petroleum, fuel, sludge, crude and all other liquid hydrocarbons, regardless of specific gravity. Does not include natural gas, liquefied petroleum gas or synthetic natural gas regardless of derivation or source. (<i>Amended 5-14-02</i>)
Petroleum Bulk Plant or Terminal:	Portion of property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline tank car, tank vehicle, portable tank, or container.
Public Water System:	A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.
Sanitary Protective Radius:	The area around a public water supply well, which must be maintained in its natural state as required by Env-Ws 378 or 279 (for other public water systems) and Env-Ws 372.13 and Env-Ws 372.13 (for other public water systems)
Seasonal High Water Table:	The depth from the mineral soil surface to the uppermost soil horizon that contains 5% or more distinct or prominent redoximorphic features that increase in percentage with increasing depth. (<i>Amended 5-14-02</i>)
Secondary Containment:	A structure such as a berm or dike with an impervious surface which is adequate to hold at least 110% of the volume of the largest regulated substance container that will be stored there.
Sludge:	Residual materials produced by water and sewage treatment processes and domestic septic tanks.
Solid Wastes:	Any discarded or abandoned material, including refuse, putrescible material, septage or sludge as defined by New Hampshire Solid Waste Rules, Env-WM-100-2800. Solid waste includes solid, liquid, semi-solid or certain gaseous waste material resulting from residential, industrial, commercial, mining and agricultural operations and from community activities.
Stratified Drift Aquifer:	A geologic formation of predominately well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt or clay, which contains sufficient permeable material to yield significant quantities of water to wells, as

shown as on the Town of Hooksett Stratified Drift Aquifer Map dated March 31, 1999.

- Surface water: Streams, lakes, ponds and tidal waters, including marshes, water courses and other bodies of water, natural or artificial.
- Wellhead Protection Area: The surface and subsurface area surrounding a water well or wellfield supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

I. Non-Conforming Uses

Any non-conforming use may continue and may be maintained, repaired and improved unless such use is determined to be a hazard to public health and safety by the Town Council, Health Officer or Code Enforcement Officer. It must be in compliance with all applicable state and federal regulations, including Env-WS 421, Best Management Practice Rules. No non-conforming use may be expanded, changed to another non-conforming use or renewed after it has been discontinued for a period of twelve (12) months or more.

J. Site Plan Review

All development proposals other than single family dwellings and two-family dwellings shall be subject to review in accordance with the provisions of this ordinance and Town of Hooksett regulations concerning erosion control and stormwater drainage.

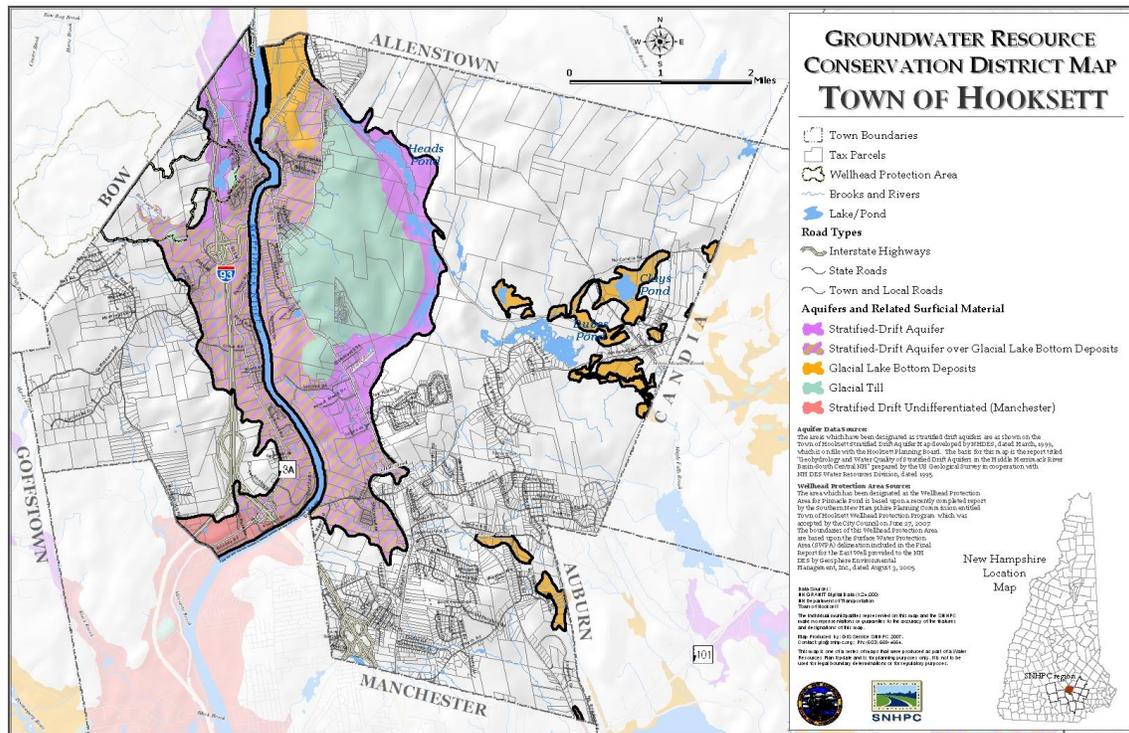
K. Exemptions

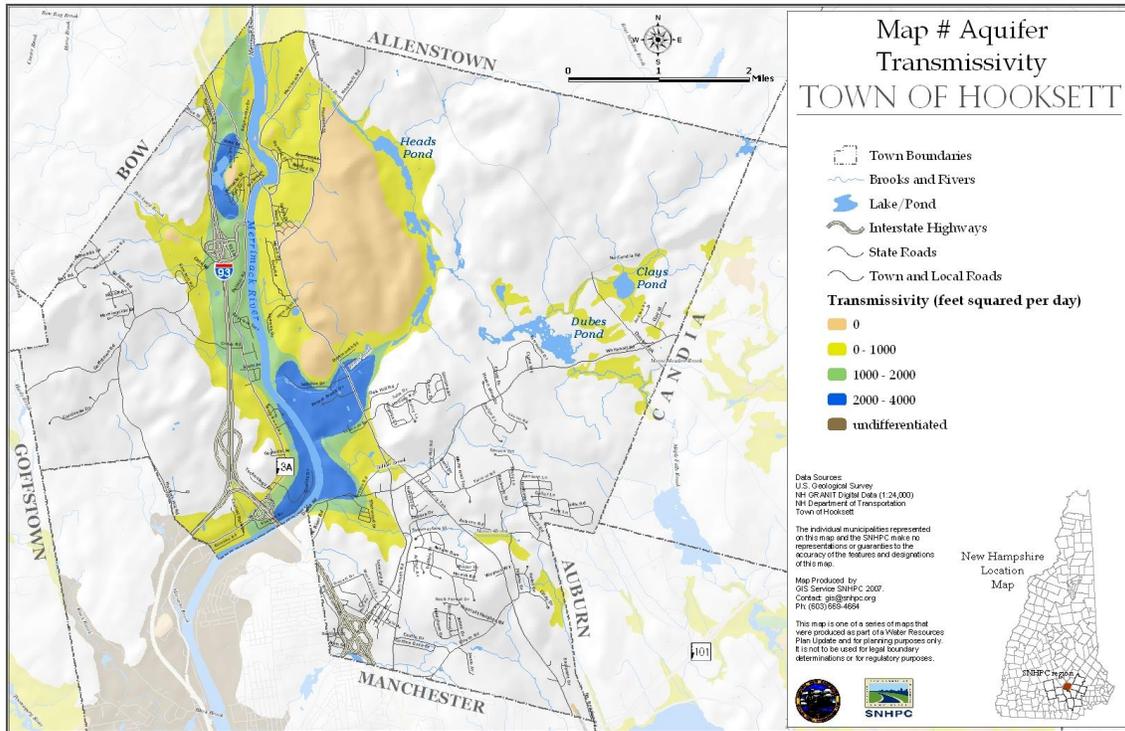
The following uses are exempt from the specified provisions of this ordinance, as long as they are in compliance with all applicable local, state and federal requirements:

1. Any private residence.
2. Storage of heating fuels for on-site use or fuels for emergency electric generation provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection and secondary containment in place.
3. Storage of motor fuel in tanks attached to vehicles with permanent fuel lines for use of fuel by that vehicle.
4. Temporary storage of construction materials on a site where they are to be used.
5. Sale, transportation and use of pesticides as defined in RSA 430:29 XXVI.
6. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03(b)(1) and 501.01(b).
7. Underground storage tank systems and above ground storage tank systems that are in compliance with applicable state rules unless prohibited elsewhere in this ordinance.
(Amended 5-14-02)

L. Enforcement

Any violation of the requirements of this ordinance shall be subject to the enforcement procedures and penalties detailed in RSA 676.





(End of Article 19)

ARTICLE 20

SIGNS

(Amended 5/13/14)

A. Permit Required

No sign shall be permitted in the Town of Hooksett, except in accordance with this Ordinance. No sign, other than those specified in Sections E.1., E.3., and E.6. of this Article, shall be erected or placed, nor shall any existing sign be altered in structure or material, relocated or replaced, in the Town without issuance of a permit by the Code Enforcement Officer after he has satisfied himself that the sign will meet all the requirements of this Article. Application for a sign permit shall include plan, sketches, photographs, and written information adequate to clearly identify the size, materials, message, and location of the sign.

1. Definitions

- (a) Address Sign: The street address shall be included at the topmost part of a directory/monument sign and shall be illuminated if logo and lettering are illuminated at night. Address shall measure approximately three and one-half (3.5) to four (4) inches.
- (b) Animated or Moving Sign: Any sign that has moving or rotating components, flashing lights, or special materials to illustrate action or create a special effect or scene.
- (c) Awning Sign: A sign that is mounted, painted, or attached to an awning or other window or door canopy.
- (d) Banner Sign: A temporary sign of lightweight material (paper, plastic or fabric) hung either with or without frames.
- (e) Canopy Eaveline; Eaveline: The bottom of the roof eave or canopy eave. An eave as defined herein does not include the parapet of a flat roof building. (See Figure 20 (1))
- (f) Center Identification Sign: A freestanding sign that is either a monument or directory type. (See Figure 20 (2)).
- (g) Direct Lighting: Illumination resulting from light emitted directly from a lamp, luminary, or reflector and is not light diffused through translucent signs or reflected from other surfaces such as the ground or building faces.
- (h) Directional Sign: Sign limited to directional messages necessary for on-site public safety and convenience such as "one way," "entrance," or "exit;" no greater than four (4) square feet. May include business logo.
- (i) Directory Sign: A separate structure supported from the sides used for identification of the business or center as a whole and for listing the major tenants and their building numbers/address numbers. (See Figure 20 (2))
- (j) Double-Faced Sign: A single, freestanding structure designed with the intent of providing advertising on both sides.
- (k) Height of Sign: The greatest vertical distance measured from the finished ground below the middle of the sign to the highest element of the sign.

- (l) Identification Sign: Sign that illustrates the name, name and logo, type of business, or identifies a particular establishment.
- (m) Illuminated Sign: A sign lit with either an internal or external artificial light source.
- (n) Indirect Lighting: Illumination that is so arranged that the light is reflected from the sign to the eyes of the viewer.
- (o) Internally Illuminated: A sign illuminated directly or indirectly by a light fixture located within the sign structure. Internal illumination includes illumination designed to project light against the surface behind the sign lettering or graphic, commonly referred to as backlit channel lettering or halo lighting.
- (p) Monument Sign: A separate structure, commonly known as a ground sign, supported from grade to the bottom of the sign with a base or wall that is larger than the sign. Used for identification of the business or center as a whole and for listing the major tenants and their building numbers/address numbers. (See Figure 20 (2))
- (q) Nonconforming Sign: A legally established sign that fails to conform to the regulations as presented or referenced herein.
- (r) Nonpermanent Sign: A temporary, changeable, moveable sign designed to be transported, including, but not limited to, signs to be transported on wheels. Includes portable marquis-style signs and electronic or digital message signs.
- (s) Sign: Any device, display, structure, or part thereof, visible from a public place, which is used to advertise, identify, display, or attract attention to or communicate information about products, accommodations, services, or activities.
- (t) Sign Area: The entire face, including the surface and any molding, framing, and projections, but not including the base, wall or column supports. Individual letters and logos mounted on a building shall be measured by the area enclosed by four (4) straight lines outlining each word and logo.
- (u) Wall Sign: A sign fastened or painted onto a wall.
- (v) Window Sign: A permanent sign affixed to a window or door or any other sign inside the building containing a message legible from the public right-of-way or adjacent property clearly intended for public recognition outside the building.

B. Location of Signs

1. No part of any sign shall be located in or over the public Right-of Way, except for traffic control devices and directional signs authorized by the Town or State agencies.
2. No sign in a Non-Residential District shall be located within twenty-five (25) feet of a Residential boundary.
3. Outdoor advertising signs or structures designated for any other purpose than to direct attention to a use contained on the premises, where such a sign or structure is located, are not permitted in any district. Existing legally authorized, installed and maintained off-premises signs shall only be relocated or replaced in accordance with this Article.
4. No sign or signs shall be located or placed where they will interfere with safe sight distance, traffic flow, pedestrian traffic, views or vistas, or any aspect of public safety. Signs or their supports shall not be placed in such position or manner as to

obstruct or interfere, either physically or visually, with any fire alarm, police alarm, traffic signal or sign, or any devices maintained by or under public authority; or with vehicular or pedestrian ingress or egress to or from any public or private right-of-way, roadway, driveway, or sidewalk.

C. Signs Permitted in Residential District

1. The following signs shall be allowed by permit, unless noted otherwise:
 - a) Two advertising signs not greater than six (6) square feet each, identifying a permitted use.
 - b) One (1) sign, not greater than twenty (20) square feet identifying a legally maintained, non-conforming use.
 - c) Those signs designated in Section E (1) + (6) of this Ordinance.
2. No signs in these districts shall be placed within five (5) feet of a property line, nor exceed eight (8) feet in height above the surrounding ground surface to the top of the sign, nor shall any part project above the lowest point of the nearest roof line.

D. Signs Permitted in Commercial, Industrial and Multi-Use Districts

Figure 20 (1)

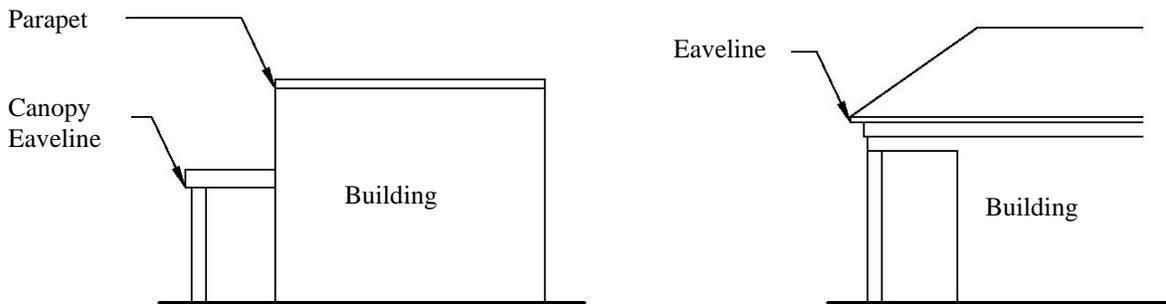
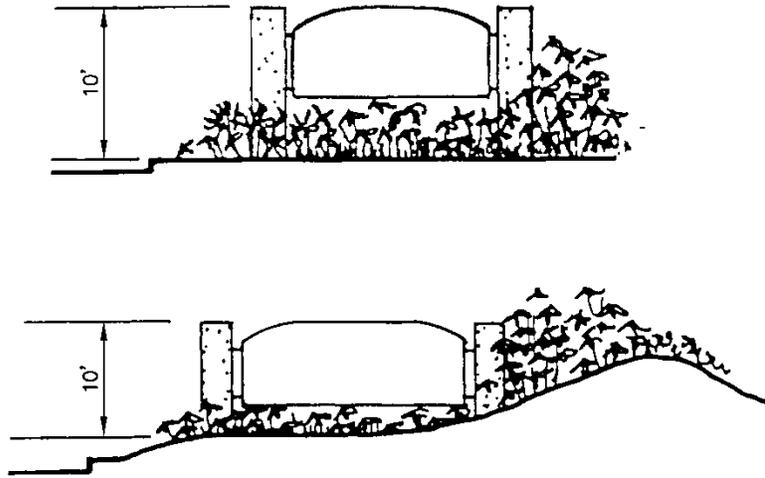
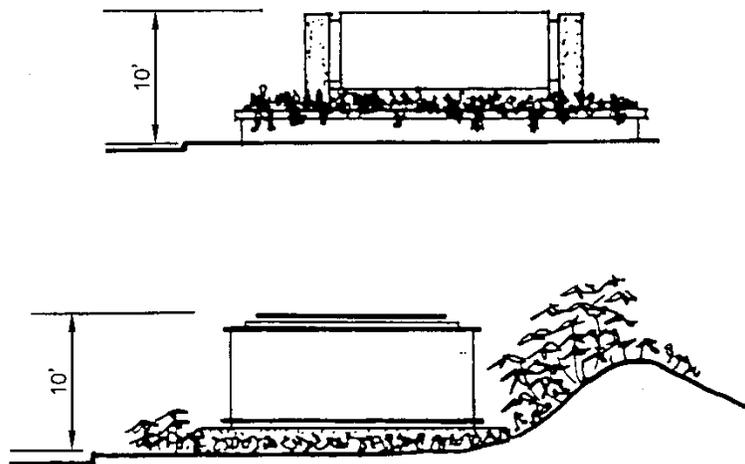


Figure 20 (2) Center Identification Sign (Freestanding)



Directory Type



Monument Type

1. General Provisions

(a) Direct and Indirect Lighting

- (1) Direct and indirect lighting methods are allowed provided that they are not unnecessarily bright and consistent with Article 31, Outdoors Lighting Standards of the Hooksett Zoning Ordinance.
- (2) Internally illuminated panels shall be opaque and only the lettering and logo shall appear to be illuminated. (See Figure 20 (3)).
- (3) Externally lit signs shall be illuminated with direct lighting.

(b) Prohibited Signs

- (1) Animated, moving, flashing and noise making signs are not permitted.
- (2) Off premises temporary signs, streamers, and flags, with the exception of flags specified in Section G. 1 of this ordinance.

(c) Lettering on a Sign

The letter area, as it relates to the overall sign background area, shall be in proportion. In general, letters shall not appear to occupy more than seventy-five (75) percent of the sign panel area.

Figure 20 (3) Internally Illuminated Panels



2. Identification Sign (Building)
 - (a) Signs on a building wall or eaveline shall be compatible with the predominant visual elements of the building.
 - (b) Where there is more than one (1) sign, all signs shall be complementary to each other as follows:
 - (1) Letter size and style of text;
 - (2) Sign support method;
 - (3) Sign configuration;
 - (4) Sign shape and proportion; and
 - (5) Construction materials (text and background surfaces)
 - (c) The use of internally illuminated, individually cut letter signs is encouraged.
 - (d) All identification signs (building) shall comply with the Table of Wall Sign Standards.
3. Center Identification Sign (Freestanding)
 - (a) Freestanding signs shall include:
 - (1) The identification of the business or center as a whole; and
 - (2) Major tenant and street address range included within the center.
 - (b) A freestanding sign shall be either a monument or directory type sign, (See Figure 20 (2)); no other form of Center Identification Sign shall be allowed.
 - (c) A minimum of ten (10) percent of the sign area shall be devoted to the identification of the building or center by name.
 - (d) Freestanding monument signs or directory signs shall be placed perpendicular to approaching vehicular traffic.
 - (e) All free-standing signs and the premises surrounding same shall be landscaped in an aesthetically pleasing or appropriate manner with hardy plant materials, groundcover, lawn or hard surfaces that will remain attractive throughout the year and be maintained by the owner thereof clear of rubbish and weeds.
4. All Center Identification Signs (Freestanding) shall comply with the Table of Monument/Directory Sign Standards.
5. Awning Signs
 - (a) Awnings above windows or entryways may include:
 - (1) Business logo, but shall not include lettering or text.
6. Window Signs
 - (a) No permanent window sign shall occupy more than twenty (20) percent of the area of an individual window area. (See Figure 20 (4)).

Figure 20 (4) Permanent Window Sign



Table of Identification/Wall Sign Standards

Maximum Number of Signs	Allowable Sign Area*	Maximum Sign Height
<p>In buildings where the entire first floor is occupied by a single tenant, that tenant shall be permitted to have a maximum of three (3) wall signs for each road frontage or parking lot frontage on which the building is situated, provided that the total of all sign areas does not exceed the maximum area specified in the “Allowable Sign Area” column of this table.</p>	<p>Allowable sign area shall be determined by one and one-half (1.5) times the building’s linear frontage.</p>	<p>Shall not project above eaveline or canopy eaveline.</p>
<p>In buildings with two tenants on the first floor, OR more than two tenants on the first floor, OR multiple tenants on multiple floors, each tenant with a separate public entrance shall be permitted to have a maximum of three (3) wall signs, provided that the total of all sign areas does not exceed the maximum area specified in the “Allowable Sign Area” column of this table.</p>	<p>Allowable sign area shall be determined by one and one-half (1.5) times the unit’s linear frontage.</p>	<p>Shall not project above eaveline or canopy eaveline. Shall not project above first floor line or twelve (12) feet, whichever is less.</p>

***Distance Bonus:**

Any wall sign located more than five-hundred (500) feet from the edge of the right-of-way providing frontage may increase the sign area by one and one-half (1.5) square feet times the allowable sign area. In a multi-tenant building, the tenant farthest from the road determines the distance bonus for all other tenants in the building.

Table of Monument/Directory Sign Standards

Number of Building Tenants	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height
One (1)	One (1) double-faced sign per lot.	Thirty-two (32) square feet per sign face.	Twenty (20) feet above grade.
Two (2)	One (1) double-faced sign per lot.	Sixty-four (64) square feet per sign face.	Twenty (20) feet above grade.
Three (3)	One (1) double-faced sign per lot.	Ninety-six (96) square feet per sign face.*	Twenty (20) feet above grade.
Four (4)	One (1) double-faced sign per lot.	One-hundred and twenty-eight (128) square feet per sign face.*	Twenty-five (25) feet above grade.
Five (5) or more	One (1) double-faced sign per lot	One-hundred and sixty-five (165) square feet per sign face.*	Thirty (30) feet above grade

*Signs greater than sixty-four (64) square feet may be required to have a fifteen (15) foot setback from the road.

E. Nonpermanent Signs

I. Signs for sale or lease of the property:

- (1) A maximum of two (2) signs, with a total area of five (5) square feet in a Residential District or thirty-two (32) square feet in a Non-Residential District shall be allowed by right.
- (2) No permit is required for these signs.
- (3) The signs must relate to the sale or lease of the lot on which they are placed and must be removed upon sale or lease of such property.

II. Banners

1. Temporary banners shall be allowed by permit for a time limit determined by the Code Enforcement Officer, based on individual circumstances.

III. Promotional Signs & Decorations

(Includes but is not limited to sandwich boards, lawn signs, feather/sail flags, “air dancers”, or other non-permanent means of promotion.)

- a) Shall be allowed only in Non-Residential Districts.
- b) Shall be placed on-premises only.
- c) Must have a separation of twenty (20) to thirty (30) feet apart.
- d) Must have a four (4) foot wide unobstructed path if in the pedestrian right-of-way.
- e) Shall be displayed during operating business hours only, and must be stored indoors or removed from the premises when the business is closed.

IV. Seasonal Signs

- a) Non-permanent seasonal signs, including but not limited to Farmers' Market, Farm Stand, or Christmas Tree Sales, shall be allowed by permit.
- b) Seasonal signs shall be located on the lot of the applicant only, and shall not be located off-premises.
- c) Multiple signs of any type are allowed provided that the total of all sign areas does not exceed thirty-two (32) square feet.
- d) No seasonal sign shall be placed without a permit. A new permit shall be required, and a new fee charged, for each (30) thirty-day period for the same sign. A maximum of four (4) permits (30-day periods) shall be allowed per year for each business. Four (4) consecutive thirty (30) day periods is permitted. Each seasonal sign application shall specify the date of placement and the date of removal. A sign shall be physically removed from the premises at the end of each permit period.

V. Portable Signs

- i. Portable signs shall be allowed only in Non-Residential Districts and by permit only.
- ii. Only one (1) portable sign shall be allowed on a lot at a given time.
- iii. Portable signs shall not display off-site advertising or commercial messages.
- iv. Portable signs shall not exceed thirty-two (32) square feet in area.
- v. Portable signs shall be located on the business lot only, and shall not be located off-premises.
- vi. No portable sign shall be placed without a permit. A new permit shall be required, and a new fee charged, for each thirty (30) day period for the same sign. A maximum of four (4) permits (30-day periods) shall be allowed per year for each business. Four (4) consecutive thirty (30) day periods is permitted. Each portable sign application shall specify the date of placement and the date of removal. A sign shall be physically removed from the premises at the end of each permit period.

VI. Political Signs

All political advertising signs shall, at all times, be in complete compliance with applicable State and Federal laws regulating the same. Please refer to RSA 664:17. (*Amended 05/12/15*)

F. Signs for Special Events and Non-Profit Organizations

1. Non-Profit Events

- a) Temporary signs for public, neighborhood, or institutional events occurring within the Town shall be allowed by right for a period not to exceed twenty (20) days.
- b) The signs shall be placed only in Non-Residential Districts and shall be limited to thirty-two (32) square feet in area per lot on which a sign is placed. Except that two additional signs, not exceeding six (6) square feet, may be placed on a site if the event is to occur in a Residential District.

- c) A permit shall be required for each sign and shall state the dates of placement and removal. The date of placement shall not precede the event by more than ten (10) days and the date of removal shall be the last day of the event.
- d) Temporary signs for yard sales and all similar sales, as described in the Yard Sale Ordinance #00-22, may be placed in accordance with this section.
 - 1) There shall be no fee charged.
 - 2) All pertinent requirements of this Article shall be adhered to, such as, location, size, number, etc.
 - 3) The maximum duration of placement of such signs shall be three (3) days at any one time and no longer than six (6) days per calendar year.
 - 4) There shall be no more than two (2) signs per yard sale and each sign shall not exceed six (6) square feet in size.

G. Sign Movement and Illumination

- 1. No sign shall move or create an illusion of movement through shimmering or rippling. Nor shall any sign contain parts which move except those parts unrelated to advertising and which indicate only date, time, and temperature. No strings of flags or streamers or banner shall be permitted with the exception of State or National Governmental flags. One (1) flag, with measurements no greater than three (3) feet by five (5) feet, with the word “Open” printed on the flag will be allowed for each business.
- 2. No sign shall be intermittently illuminated nor of a traveling, or tracing, light type. No sign shall contain or be illuminated by animated or flashing lighting except those parts which indicate only date, time and temperature.
- 3. No sign or related lighting fixture shall be so placed as to create a hazard to vehicles traveling within the public right-of-way, nor as to be a nuisance to any abutting residence.
- 4. Signs shall comply with Sections 16.10 Illuminated Signs and 16.11 Electronic Signs of the Town of Hooksett Development Regulations, which state:

16.10 Illuminated Signs

It is the intent of this section to allow illuminated signs but to ensure that they do not create glare or unduly illuminate the surrounding area. All signs in Hooksett shall meet the requirements of Article 20 of the Hooksett Zoning Ordinance. The applicant shall provide the Planning Board with sufficient technical and design information to demonstrate that the following provisions are met, which shall include the following:

- 1) The average level of illumination shining onto the vertical surface of the sign shall not exceed 10 foot-candles, and the uniformity ratio shall be at least 20:1.
- 2) The lighting fixtures illuminating signs shall be carefully located, aimed, and shielded so that the light is directed only onto the sign façade. Lighting fixtures shall not be aimed toward adjacent streets, roads, or properties.
- 3) Light fixtures illuminating signs shall be of the type such that the light source (bulb) is not directly visible from adjacent roads, streets or properties.

- 4) To the extent practicable, fixtures used to illuminate signs shall be top mounted and directed downward. (i.e. below the horizontal).
- 5) Internally Illuminated, Free-Standing Signs: In order to prevent internally illuminated signs from becoming light fixtures in their own right, it is the intent of this section that such signs consist of light lettering or symbols on a dark background.
 - a) The lettering or symbols shall constitute no more than forty (40) percent of the surface area of the sign.
 - b) The luminous transmittance for the lettering symbols shall not exceed thirty five (35) percent.
 - c) The luminous transmittance for the background portion of the sign shall not exceed fifteen (15) percent.
 - d) Light sources shall be fluorescent tubes, spaced at least twelve (12) inches on center, mounted at least 3.5 inches from the translucent source material.

16.11 Electronic Signs

Electronic Signs, Electronic Message Display Signs shall be subject to the following criteria:

- 1) Electronic Message Displays shall display static messages for a period not less than 8 seconds;
- 2) Transitions from one static message to the next static message may include the use of frame effects, so long as such effects do not utilize flashing, scrolling or in any manner imitate movement;
- 3) Electronic Message Displays shall have automatic dimming technology which automatically adjusts the sign's brightness levels. The daytime brightness shall not exceed 7,500 nits and the nighttime brightness shall not exceed 500 nits.
- 4) The owner/installer of Electronic Message Displays shall certify as part of the application that signs will not exceed the brightness levels noted in item 16.10 c. above.

H. Construction Requirements

The materials and construction of any sign shall be in accordance with the Hooksett Building Code and/or such other requirements as the Code Enforcement Officer shall dictate.

All signs and their supporting structures shall be maintained in a safe, neat, and legible condition or may be ordered removed by the Code Enforcement Officer. A separate Electrical Permit shall be required for the installation and connection of any sign erected. No sign shall be painted directly onto any building, wall or roof, or onto any fence or similar structure. No sign shall be affixed to any tree, utility pole, rock or other similar object.

I. Existing Signs – Amended 05/08/07

1. All sign structures that are legally in existence at the time of adoption of this Article are grandfathered regarding subsequent zoning changes.
2. Any proposed change to the sign structure (height, width, foundation, etc.) shall require that all parts of the sign and its structure come into conformance with the existing zoning ordinance.

3. If any change to the lettering on an internally illuminated sign involves the removal of the background panel on which the lettering is placed, then the background panel shall become opaque (not translucent) and the lettering shall become illuminated.
4. Signs may be replaced only with a conforming sign or signs, regardless of how the original sign was approved or erected.
5. A new or separate permit will be required to change, alter, add or otherwise modify any signs within the Town of Hooksett.
6. Nothing in these sections shall be construed to prohibit the normal maintenance and upkeep of legally existing and conforming signs, in so far as they retain their existing sign, configuration, etc.

J. Fees

The fee for each sign permit shall be established by the Town Council with the recommendation of the Hooksett Planning Board.

(End of Article 20)

ARTICLE 21

SEXUALLY ORIENTED BUSINESS

A. Purpose and Intent

It is the purpose of this Article to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Hooksett; and, it is the intent to promote the health, safety, and general welfare of the citizens of the Town of Hooksett; and it is the intent of this Article that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of sexually oriented businesses; and, the provisions of this Article have neither the purpose nor the effect of imposing limitation or restriction on the content of any communicative materials, including sexually oriented material; and, it is not the intent nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually orientated entertainment to their intended market; and, neither is it the intent nor effect of this Article to condone or legitimize the distribution of obscene material.

B. Definitions of Sexually Oriented Business

A sexually oriented business is any place of business at which any of the following activities is conducted:

1. **Adult Bookstore or Adult Video Store** – a commercial establishment that devotes more than 15 percent of the total display, shelf, rack, wall, table, stand or floor area, utilized for the display and sale of the following. The establishment, as one of its principal business purposes, offers for sale or rental for any form of consideration, any one or more of the following:
 - a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, video reproductions, slides, tapes, records, CD-ROMs or other forms of visual or audio representations which depict or describe “specified sexual activities” or “specified anatomical areas” or meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1 or ,
 - b) Instruments, devices or paraphernalia which are designed for use in connection with “sexual conduct” as defined by RSA 571-B:1, other than birth control devices. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual conduct or activities” and still be categorized as “Adult Video/Book Store” so long as one of its principal business purposes is offering for sale or rental for consideration to specified material which depict or describe “specified sexual conduct or activities” or “specified anatomical areas.”
 - (1) Specified sexual conduct or activities – means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

- (2) Specified anatomical areas – means and includes any of the following:
- (a) The fondling or other erotic touching of the human genitals, pubic region, buttocks, anus, or female breasts;
 - (b) Sex acts, normal or perverted, actual or simulated, including intercourse, or copulation, or sodomy;
 - (c) Masturbation, actual or simulated; or
 - (d) Excretory function as part of or in conjunction with any of the activities set forth in (a) through (c) above.

AN ADULT BOOKSTORE OR ADULT VIDEO STORE DOES NOT INCLUDE AN ESTABLISHMENT THAT SELLS BOOKS OR PERIODICALS AS AN INCIDENTAL OR ACCESSORY PART OF ITS PRINCIPAL STOCK AND TRADE AND DOES NOT DEVOTE MORE THAN 15% OF THE TOTAL DISPLAY AREA TO THE ESTABLISHMENT TO THE SALES OF BOOKS AND PERIODICALS.

2. **Adult Motion Picture Theater** – an establishment with a capacity of five or more persons, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1, for observation by patrons.

For subsections C, D, E, F and G, a “substantial portion of the total presentation time shall mean the presentation of films or shows described above for viewing on more than seven (7) days within any 56 consecutive day period.

3. **Adult Motion Picture Arcade** – Any place to which the Public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct,” as set forth in RSA 571-B:1.
4. **Adult Drive-In Theater** – An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions or other forms of visual productions, for any form of consideration to person on motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct,” as set forth in RSA 571-B:1.
5. **Adult Cabaret** – A nightclub, bar, restaurant, or similar establishment which during a substantial portion of the total presentation time features live performances which meet the definition of “harmful to minors” and/or “sexual conduct,” as set forth in RSA 571-B:1, and/or feature films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time features live performance which meet the definition of “harmful to minors” and/or “sexual conduct,” as set forth in RSA 571-B:1.

6. **Adult Motel** – A motel or similar establishment offering public accommodations of any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis on the depiction of materials which meet the definition of “harmful to minors” and/or “sexual conduct,” as set forth in RSA 571-B:1.
7. **Adult Theater** – A theater, concert hall, auditorium or similar establishment either indoor or outdoor in nature, which for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which features live performances which are distinguished or characterized by an emphasis on the depiction of materials which meet the definition of “harmful to minors” and/or “sexual conduct,” as set forth in RSA 571-B:1.
8. **Nude Model Studio** – A place where a person who appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or characterized by an emphasis on activities which meets the definition of “harmful to minors” and/or “sexual conduct,” as set forth in RSA 571-B:1.
9. **Sexual Encounter Center** – A business or commercial enterprise that as one of its primary business purposes, offers for any form of consideration: (a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (b) activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; or where activities in (a) or (b) meet the definition of “harmful to minors” and/or “sexual conduct,” as set forth in RSA 571-B:1.

C. Allowed Locations and Location Restrictions of Sexually Oriented Businesses

Sexually oriented businesses, as defined above, shall be permitted only in Commercial Districts, by Special Exception, provided that all other regulations, requirements, and restrictions for the zone in which the sexually oriented business is to be located are met; and no sexually oriented business shall be permitted within 1,000 feet of another existing sexually oriented business or one for which a building permit has been applied for; and,

No sexually oriented business shall be permitted within 750 feet of any other Zoning boundary.

No sexually oriented business shall be permitted within 750 feet of any religious facility, place of worship, parish house, convent, public, parochial or private school, kindergarten, State approved Day Care Center or public sports/recreation parks; and no sexually oriented business shall be permitted within 750 feet of Town boundaries; and,

No sexually oriented business shall be permitted within 1,000 feet of another existing sexually oriented business on the date of the passage of this Article and, no sexually oriented business shall be permitted within a building, premise, structure, or other facility that contains a sexually oriented business as defined in paragraphs 1 through 9 above. (*Amended 5/13/14*)

D. Measure of Distance

The distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall or temporary or permanent physical divider between each of the businesses.

E. Additional Reasonable Regulations

The Planning Board is empowered hereunder to review and approve permit applications for sexually oriented businesses and impose restrictions for buffering, outdoor lighting, parking, adequate ingress and egress from the site off of and onto public roads, pedestrian movement, and to provide for appropriate landscaping and building aesthetics in the “Non-Residential Site Plan Review Regulations of the Town of Hooksett, New Hampshire” and to avoid site development layouts which may result in negative environmental impacts.

F. Severability

The invalidity of any section or provision of this Article shall not invalidate any other section or provision thereof.

(End of Article 21)

ARTICLE 22

DEFINITIONS

For the purpose of this Ordinance certain terms are defined as provided in this section.

Abutter: Any landowner whose property abuts (touches, borders on, or shares a common property line with) a subject property, including any properties directly opposite the subject property separated by a thoroughfare (i.e. street, stream, railroad, etc.); or any abutting holder of a conservation, preservation or agricultural preservation restriction or easement. In the case of an abutting property being under a condominium or other collective form of ownership, the term ‘abutter’ means the officers of the collective or association. In the case of an abutting property being under a manufactured housing park form of ownership, the term ‘abutter’ includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of notification by a municipality of local land use hearing, in the case of abutting properties owned by the applicant, notification to the applicant/owner is not required. Likewise, if an applicant abuts several properties owned by a single owner, only one notification per owner is required. 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. *(Adopted 5/13/14)*

Accessory Building: Means a building subordinate to the main building on a lot, used for purposes customarily incidental to those of the main building.

Accessory Dwelling Units: A residential living unit that is within or attached to a single-family dwelling, 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. *(Adopted 3/14/17)*

Accessory Use: A use which exists on the same lot and which is customarily incident and subordinate to the principal use and a new definition for affordable unit. *(Adopted 5/12/09)*

Alternative Treatment Center (ATC): A not-for-profit entity registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis, and related supplies and educational materials, to qualifying patients, designated caregivers and ATCs. For the purpose of this definition, “not-for-profit” means a corporation that is registered with the NH Secretary of State under RSA 292 and is a charitable trust pursuant to RSA 7:19 et seq., for the benefit of qualifying patients. *(Adopted 5/12/15)*

Bed and Breakfast: An establishment operating primarily in a single family detached dwelling or a building designated on the National Register of Historic Places and originally devoted to another use that supplies temporary accommodations to overnight guests for a fee. *(Adopted 5/11/10)*

Buffer Zone: Whenever a commercial or industrial use abuts a residential use, zone or district, a buffer zone shall be provided subject to the approval of the Planning Board. The buffer is an area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences and/or berms, designed to limit continuously the view of and/or sound from the site to adjacent sites or properties. The buffer

shall be not less than fifty (50) feet in width and shall be planted with a dense screen of shrubbery and trees not less than eight (8) feet in height at the time of planting. The screen shall be at least twenty-five (25) feet in width and shall be permanently maintained suitably by the owner. The buffer shall provide a year-round dense visual screen in order to minimize adverse impacts. In order to maintain dense screen year-round, at least fifty (50) percent of the plantings shall be evergreens. Existing natural growth may be included as part of the screen. No penetration of this buffer zone shall be allowed. With the approval of the Planning Board, a suitable combination of other elements, such as fencing, berms, boulders, may be incorporated within the buffer zone. *(Adopted 5/8/12)*

Building: A structure for the enclosure of persons, animals, property or activities. Notwithstanding any fire or building codes to the contrary, the subdivision of a structure by firewalls, partitions or other dividers does not create multiple buildings for the purpose of this Ordinance. *(Adopted 5/9/00)*

Building Height: The distance measured from the average finish grade along the street side of a building to the mean level of the highest gable or slope of a pitched roof and the highest roof beam for a flat or mansard roof. Ornamental projections such as a cupola's weather vane, etc., and chimneys, antennae, etc., or potentially habitable structures like roof decks, cupolas, silos, mezzanines, etc., shall be included in the height calculations.

Change of Use: Any proposed use that differs from the currently approved use and has an impact on certain aspects of the use, including but not limited to water, sewer, traffic, noise, parking, lighting, hours of operation and drainage, or a change of use as recognized by the currently adopted Building Code. *(Adopted 5/8/12)*

Conditional Use Permit: As authorized under RSA 674:21, Innovative Land Use Controls, a Conditional Use Permit is a permit granted by the Planning Board which sets special conditions governing the use of property in a zone where such uses are conditionally permitted. It ensures that the proposed use will be compatible with the existing and permitted uses located in the area. *(Adopted 5/11/10)*

Development: Any building, construction, renovation, dredging, filling, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any activity that alters a shore, beach, river, stream, lake, pond, canal, marsh, woodlands, wetland, endangered species habitat, including an aquifer or other resource area. *(Amended 5/10/05)*

Discontinuance: As noted in Article 26 Non-Conforming Uses and Buildings, the term 'discontinuance' means the abandonment of the use for a period of at least one (1) year; it further means that no documented effort has been made during that time by the owner or his/her agent to re-establish the former use, or to establish a use similar to the former use. If an advertisement in a publication available locally has been made during the entire year, then abandonment or discontinuance has not occurred. *(Amended 5/10/05)*

Dwelling: A private or publicly owned, permanently fixed structure, containing a dwelling or dwelling units. The terms one-family, two-family, or multi-family dwelling shall not include hotel, motel, lodging house, hospital, membership club, trailer, or dormitory.

Dwelling, Multi-Family: An apartment house, condominium, or building containing three or more dwelling units, but in no event more than twenty-four (24). The criteria governing three (3) or more units can be found in the Development Regulations. (*Amended 05/13/08*)

Dwelling, Two-Family: A building containing two dwelling units constructed on a single lot.

Dwelling Unit: One (1) or more living or sleeping rooms arranged for the use of one(1) or more individuals living as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities not shared with any other unit, regardless of structure type, whether detached single-family, duplex or multi-family structure. *(Amended 5/13/08)*

Farmer's Market: A designated public market at which two or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale must include products of agriculture such as, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees and tree products as defined in RSA 21:34-a. *(Adopted 5/11/10)*

Gross Floor Area: As noted in Article 26, Non-Conforming Uses and Buildings, the term 'gross floor area' includes that part of the dwelling, which is finished for living purposes. It would exclude storage rooms, mechanical rooms, unfinished attics and/or basements, garages, carports, decks or any other unoccupied areas of the existing building. *(Amended 5/10/05)*

Frontage: The distance along the lot line dividing a lot from either (a) a public highway, except Limited Access Highways as defined by RSA 230:44 and Class VI highways; or (b) a road shown in an approved and recorded subdivision plan.

Home Produce and Products: Means and includes everything of an agricultural nature grown, produced, conditioned, or otherwise carried on the property of the resident. Also, such articles as are manufactured or altered by members of the household of the bonafide resident of any property.

Industry, Non-Nuisance: Any industry, which is not detrimental to the environment in which it is located by reasons of emission of smoke, noise, odor, dust, vibration, or excessive light, will not be obnoxious or injurious to adjoining property or ground water and will not generate excessive traffic with its attendant hazards.

Additionally, all such industries must comply with the following:

1. The requirements of 42 U.S.C. 7401 (Clean Air Act) and all subsequent amendments.
2. All recommendations for noise levels as established by the U.S. Environmental Protection Agency.
3. The requirements of the NH Air Resources Agency Implementation Plan.
4. The requirements for noise and safety established by the Occupational Safety and Health Agency.
5. The Town of Hooksett Sewer Commission regulations.

Specifically excluded are operations which manufacture caustic materials, ammunition or explosives and activities which process or reprocess similar discarded or waste materials which are the by-products of other business or industries.

Junk: Means any old metals, old bottles, cotton, woolen, or other mill waste, unfinished mill yarns, old paper or rubber products, discarded lumber, more than one (1) unregistered/uninspected vehicles, old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand materials, or parts which have been a part, or intended to be a part, of any motor vehicles, discarded machinery, or scrap metal, and any second hand articles the accumulation of which is detrimental or injurious to the neighborhood. *(Amended 05/13/08)*

Junk shall not include unregistered motor vehicles and the parts thereof which are in the process of being restored, or are being used in a restoration project, provided that such vehicles, parts and restoration activities are confined within a fully enclosed structure, and provided further, that the vehicles and parts are owned by the resident of the property on which they are legally maintained.

Junkyard: Means any area, lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sales, or abandonment of junk.

Lot: An area or parcel of land or any part thereof, not including water area, in common ownership, designated on a plan filed with the administrator of this Ordinance, by its owner or owners as a separate lot. For the purpose of this Ordinance, a lot may or may not have boundaries identical with those recorded in the County Courthouse.

Lot Line: A line dividing one lot from another.

Manufactured Housing: Any structure, transportable, in one (1) or more sections which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site is 320 square feet or more in area and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to required utilities which include plumbing, heating, and electrical systems contained therein. A Manufactured Housing Unit must meet the requirements and specifications of the Department of Housing and Urban Development. All manufactured housing located within subdivisions for manufactured housing must be placed on a full foundation. Manufactured Housing as defined shall not include Pre-Site Built Housing as defined in RSA 674:31-A.

Mall: A mall is a roofed over common pedestrian area serving more than one (1) tenant located within a Covered Mall Building.

Mall Building, Covered: A building enclosing a number of tenants and occupancies such as retail stores, drinking and dining establishments, entertainment and amusement facilities, office and other similar uses wherein two (2) or more tenants have a main entrance into one (1) or more malls.

Motor Fuel Dispensing: The storage of gasoline, including diesel fuel, kerosene, liquid heating fuels, or any similar petroleum fuels, and the dispensing of the same into motors or vehicles, either on wheels or stationary. *(Amended 5/14/02)*

Neighborhood: Shall mean an area 1,000 feet in radius.

Neighborhood Convenience Store: A retail establishment having a gross floor area of not more than 3,000 square feet, selling such products as groceries, baked goods, beverages, newspapers/magazines, sundries and similar items but, specifically excluding the sale or dispensing of motor vehicle fuels, including diesel fuel, kerosene, and similar petroleum products. *(Amended 5/14/02)*

Non-Conforming Building or Structure: A non-conforming building or structure is a building or structure, the size, dimensions or location of which, fails to conform to the present regulations of the District in which the building or structure is located.

Non-Conforming Use: A non-conforming use is a use of any land, building, or structure which does not conform to the present requirements of the Zoning District.

Non-Conforming Lot: A lot of record which does not meet the area and/or dimensional requirements of this Ordinance. (*Amended 5/8/01*)

Personal Service Establishments (*Adopted 5/11/10*): Include such uses as barber shops, hairdresser, tailor, dry cleaner, florist shop, etc., not more than 3,000 square feet in size and may be located in buildings containing Small Scale Neighborhood Oriented Retail Establishments.

Private Rights-Of-Way (ROW): Private rights-of-way may be approved by the Hooksett Planning Board and shall include rights-of-way which are not less than fifty (50) feet in width and which are in a location approved by the proper Town Boards and Ordinances regarding new streets and extensions of existing streets, and such rights-of-way may become public streets at some future time only if the construction of said streets is brought up to and meets current standards as set forth in the Town of Hooksett Subdivision Regulations, as amended, and under established procedures as set forth in the New Hampshire RSAs. (*Amended 5/14/02*)

Publicly Approved Street: The term publicly approved street shall mean any street maintained on a year-round basis by the State of New Hampshire or the Town of Hooksett, or any street shown on an approved subdivision plot signed by the Town of Hooksett Planning Board.

Public Right-Of Way: Means and includes all Town, State and Federal highways and roads, which are dedicated to public use or laid out by, or deeded to, a government agency, including all of the land so dedicated, deeded or laid out for said highway or road and not limited to the traveled way or paved surface only.

Religious Facility: Churches, synagogues, temples, mosques and other places of religious worship. (*Adopted 5/13/14*)

Sign: Any device, display, structure, or part thereof, visible from a public place, which is used to advertise, identify, display, or attract attention to or communicate information about products, accommodations, services, or activities. (*Amended 5/13/14*)

Small Scale Neighborhood Oriented Retail (*Adopted 5/11/10*): A small business establishment intended primarily to provide services or products that meet the retail and service needs of a traditional village or community center and its vicinity, and may contain other compatible uses, such as civic and institutional uses of community importance, including second story residential uses. Such establishments shall not exceed 1,500 square feet in size when located in buildings with one and one-half stories and 5,000 square feet in size when located in buildings of two or more stories. The maximum building footprint of any single building or group of buildings containing such establishments owned or operated by the same entity shall not exceed 10,000 square feet in size.

Story: That portion of a building included between the upper surface of a floor and the upper surface of the floor, or roof next above. That portion of a building under a sloping roof shall be considered a story when the cubic contents of the usable area exceed 49 percent of the story next below.

Story, First: The lower most story which is at or above finish grade for at least 50 percent of the total length of the perimeter of the building.

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

Tourist Home: Means a place consisting of a room or group of rooms located on one (1) premise where transient accommodations for sleeping or living purposes are provided, for a price.

Travel Trailer: A vehicular, portable, non-self-propelled structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, having a body width not exceeding eight (8) feet and a body length not exceeding forty (40) feet.

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

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 the Ordinance.

Wireless Communication Facility: Any towers, poles, antennas or other structures and accessory buildings intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic spectrum based transmissions/receptions. Wireless Communication Facilities shall not be considered public utility structures for purposes of this ordinance.

Workforce housing/owner occupied (*Adopted 5/12/09*): Housing which is intended for sale and which is affordable to a household with an income of no more than one-hundred (100) percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located, as published annually by the United States Department of Housing and Urban Development, and as made available by the Hooksett Community Development Department.

Workforce housing/renter occupied (*Adopted 5/12/09*): Rental housing which is affordable to a household with an income of no more than sixty (60) percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located, as published annually by the United States Department of Housing and Urban Development, and as made available by the Hooksett Community Development Department. Housing developments that exclude minor children from more than twenty (20) percent of the units, or in which more than fifty (50) percent of the dwelling units have fewer than two bedrooms shall not constitute workforce housing for the purposes of this subdivision.

Yards:

1. Front Yard: A space extending for the full width of a lot between the extreme front line of a building and the nearest side of the right-of-way.
2. Rear Yard: A space extending the full width of a lot between the extreme rear of a building and the rear lot line.

3. Side Yard: A space extending from the extreme side line of a building to the adjoining lot line or the nearest side of the right-of-way, on a corner lot.

(End of Article 22)

ARTICLE 23

ZONE BOUNDARIES

The boundaries for all districts within the Town of Hooksett are identified on a set of tax maps, which are on file with the Town Clerk. *(Amended 5/13/03)*

(End of Article 23)

ARTICLE 24

BOARD OF ADJUSTMENT

A. Membership

There shall be a Board of Adjustment, consisting of five (5) members and up to five (5) alternates, as are authorized by RSA 673:3, and 673:6, hereafter referred to as the “The Board”.

B. Appointment

Upon passage and approval of this Ordinance, the present members of the Board shall continue to serve. Thereafter, as terms expire or vacancies occur, the Town Council shall be responsible for filling vacancies and maintaining full membership on the Board of Adjustment. The Town Council shall appoint alternates and be responsible for filling vacancies and maintaining a full complement of alternates.

C. Powers

The Board of Adjustment shall conform in membership and term of office to the provisions of Section 67, Chapter 31, NH RSA 1955, as amended. In addition to the general powers granted said board, by Chapter 31, it may, in harmony with and subject to its provisions;

1. Waive such requirements and grant such permits and extension as hereinbefore provided in this Ordinance, subject to the condition upon which such waivers, permits and extensions are allowable under the terms of the various sections providing for them.
2. Permit, in a Commercial District, manufacturing which is incidental to a retail business, where articles are sold at retail on the premises where not more than five (5) operators are employed in such manufacturing.

3. Adoption of Rules

The Board shall adopt rules to govern its proceedings.

4. Appeals

The Board of Adjustment may hear and decide appeals, if it is alleged that there is an error in any order, requirement, decisions, or determination made by the Code Enforcement Officer in the enforcement of this Zoning Ordinance.

Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Board, a Notice of Appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

D. Special Exceptions

The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, grant such permits for uses as Special Exceptions, as set forth in this Ordinance. Before reaching a decision under this Article, three (3) members of the Board shall have viewed jointly the subject property. The viewing shall be noted in the records. The Board, in acting on the application for a Special Exception, must find all of the following conditions are met:

1. The specific site is an appropriate location for such a use.
2. No factual evidence is found that property values in the District will be reduced, due to incompatible land use, by such use.
3. No nuisance or hazard will be created by the proposed use.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
5. The requested use will not impair the integrity or character of the District or adjoining Zones nor be detrimental to the health, morals, or welfare of the community.

Review by the Board: In acting on such Exceptions, the Board shall take into account the general purpose and intent of this Ordinance to preserve community values and may impose conditions and safeguards in addition to those specified in the Ordinance, if the occurrence of certain characteristics of the used warrant such.

1. Two (2) copies of plans for the proposed development of a site for a Special Exception shall be submitted with an application for a permit. Such plans shall show, as appropriate, the location of all buildings, parking areas, traffic access, and circulation drives, open spaces, landscaping, lighting, and other pertinent information that may be necessary to determine that the use meets the requirements set forth above.
2. The location and size of the use, nature and intensity of the operations involved, the size of the site with respect to existing or future streets giving access to it, shall be such that it will be in harmony with the orderly development of the District and the location, nature and height of buildings, walls, and fences will not discourage the appropriate development of adjacent land and buildings or impair the value thereof. In this regard, the Board may impose safeguards in addition to the applicable requirement of this Ordinance, including, but not limited to, the following.
 - a) Front, side, or rear setbacks in excess of the minimum requirements for this Ordinance.
 - b) Screening of parking areas or other parts of the premises from adjoining premises or from the streets by walls, fences, plantings, or other devices.
 - c) Limitations of size, number of occupants, method or time of operation, or extent of facilities.

- d) Regulation of number, design and location of drives, or other traffic features.
 - e) Off-street parking or loading spaces beyond the minimum requirements of this Ordinance.
3. Before reaching a decision on an application, one (1) copy of the above referenced plan shall be transmitted, by the Zoning Board, to the Planning Board for review and comment.

E. Variances

The Board of Adjustment may grant Variances as authorized under RSA 674:33.

F. Equitable Waiver of Dimensional Requirement

The Board of Adjustment may grant an Equitable Waiver as authorized under RSA 674:33-a.

G. Other Requirements

The granting of an 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 excepted on 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.

H. Public Hearing

The Board shall hold a public hearing notice of which shall be given as follows:

1. The applicant, and all abutters, shall be notified of the hearing by Certified Mail, Return Receipt Requested, stating the time and place of the hearing, and such notice shall be given not less than five (5) days before the date fixed for the hearing of the appeal.
2. A Public Notice of the hearing shall be placed in a newspaper of general circulation in the area, not less than five (5) days before the date fixed for the hearing of the appeal.

The Public Hearing shall be held within thirty (30) days of the receipt of the notice of appeal. Any party may appear in person or by his agent or attorney at the hearing of an appeal. The costs of posting, advertising, and mailing the notices of hearing shall be payable by the person making an appeal, prior to the hearing.

I. Additional Studies

The Zoning Board of Adjustment may require investigative studies or analyses in relation to any matter brought before it for judgment, and reasonable fees, in addition to fees for notice, may be imposed by the Board to cover its administrative expenses and costs of such investigative studies, review of documents, and/or other matters which may be required by particular applications brought before the Board. *(Inserted 5/11/04)*

(End of Article 24)

ARTICLE 25

ENFORCEMENT

A. It shall be the duty of the Town Council, and the Council is hereby given the authority, to appoint a Code Enforcement Officer with the power to administer and enforce the provisions of this Ordinance.

B. Upon any well-founded information that this Ordinance is being violated, the Town Council shall take immediate steps to enforce the provisions of this Ordinance by seeking an injunction in the Superior Court or by any other legal action.

C. Permit Required

It shall be unlawful for any person to erect, construct, move, reconstruct, or alter a structure without applying for and receiving, from the Code Enforcement Officer, a Building Permit. It shall be unlawful for any person to change the use, from a use permitted under this Ordinance, or to change the lot coverage, or extend or display the used of any building, structure or lot without applying for and receiving, from the Code Enforcement Officer, a use permit.

D. Previously Approved Permit

Nothing in this Ordinance shall require changes in the plans, construction, and/or use of any structure and/or lot for which a lawful Permit has been issued, or otherwise lawfully authorized, within one (1) year immediately preceding the effective date of this Ordinance, provided such construction, or use, shall have been, or is being, actively pursued within six (6) months of the issuance of such permit or the granting of such authorization.

E. Certificate of Use and Occupancy Required

It shall be unlawful to occupy any structure or lot for which a Building Permit is required herein without the owner applying for and receiving from the Code Enforcement Officer a Certificate of Use and/or Occupancy. *(Amended 05/10/16)*

The Certificate of Occupancy shall state that the building and use comply with the provisions of the Zoning Ordinance and of the Building Code of the Town of Hooksett in effect at the time of issuance. No such certificate shall be issued unless the building and its use and its accessory uses and the uses of all premises, are in conformity with the provisions of this Ordinance and of the Building Code, at the time of issuance.

A Certificate of Occupancy shall be conditional on the adequacy of parking space and other facilities as required by this Ordinance and shall lapse if such areas and facilities are used for other purposes. A Certificate of Occupancy shall be required for any of the following, in conformity with the Building Code and this Ordinance.

1. Occupancy and use of a building hereafter erected or structurally altered.
2. Change from one permitted use to another permitted use of an existing building or land use classification.

Certificate of Occupancy may be applied for coincidentally with the application for a Building Permit, and shall be issued within ten (10) days after, but not before, the lawful erection or alteration of the building is complete. Such Certificate of Occupancy shall be posted, by the owner of the property, in a conspicuous place for a period of not less than ten (10) days after issuance.

F. Permit and Certificate Fees

Fees shall be as required by the Current Building Permit Ordinance.

G. Permit Time Limits

Any work, for which a permit has been issued by the Code Enforcement Officer, must commence within six (6) months and must be completed within eighteen (18) months of the issuance of the permit. At least 30 days prior to the expiration of the permit, the applicant may apply for an extension for not more than twelve (12) months. The extension may not be approved, if the exterior of the building is not fully completed or safety issues exist. *(Amended 5/12/09)*

H. Violations

The Code Enforcement Officer shall serve notice of Violation and Order to any owner or person responsible for the erection, construction, reconstruction, conversion, alteration of a structure or change of use, increase in intensity of use, or extension or displacement of use of any structure or lot in violation of any approved plan, information or drawing pertinent thereto, or in violation of a Permit or Certificate issued under the provisions of this Ordinance. Such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation. Any owner who has been served with a notice and ceases any work or other activity, shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare.

I. Prosecution and Violation

If the notice of Violation and Order is not complied with promptly, the Town Council shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct, or abate such violation.

J. Penalty

The penalty for the violation of any of the provisions of this Ordinance shall be as specified in *Article 34*.

(End of Article 25)

ARTICLE 26

NON-CONFORMING USES, LOTS, AND STRUCTURES

(Adopted 5/12/09)

Amendment No. 2 Relative to Non-conforming Uses, Lots and Structures

A. Nonconforming Uses

Where on the effective date of adoption of this Ordinance or applicable amendment, a lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided that;

1. Any legally existing nonconforming use may not be changed to another nonconforming use.
2. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
3. No such nonconforming use shall be moved, in whole or in part, to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;
4. If any such nonconforming use of and ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such use is located;
5. No additional structure not conforming to the requirements of this Chapter shall be erected in connection with such nonconforming use of land; and
6. No junkyard may continue as a nonconforming use for more than one (1) year after the effective date of the adoption of the first zoning ordinance of the Town of Hooksett, except that a junkyard may continue as a nonconforming use if within that period it was enclosed with a continuous solid fence, not less than eight feet (8') in any case as to screen completely the operations of the junkyard. Plans for such fence shall have been approved by the Town and satisfy the requirements of RSA 236:111-129 before they were erected.

B. Nonconforming Lots

1. "Lot of Record" means a lot described by metes and bounds in a deed or plan recorded in the Merrimack County Registry of Deeds, prior to the adoption of this Ordinance, or approved by the Planning Board.
2. Use of Lot of Record. A nonconforming Lot of Record which does not meet the requirements for area or Town requirements established by this Ordinance, may be used for the purposes provided in the district in which the property is located in the following manner:

- a. The lot has frontage, as defined by this Ordinance sufficient to provide access to the lot;
 - b. The Code Enforcement Officer determines that the use of the lot will not create potential health or safety problems due to inadequate areas for on-site waste disposal and water supply, access for police and fire protection or other factors.
- 3. All provisions of RSA 674:39-aa are adopted to include the opportunity to reverse previous involuntary mergers. *(Amended 5/8/12)*

C. Nonconforming Structures

- 1. A single-family home located on a nonconforming lot may be enlarged so long as the enlargement will conform to all applicable setback and overlay district requirements and single-family residence are permitted in that district.
- 2. The Zoning Board of Adjustment may, upon application, grant a special exception in accordance with Article 24.D., permitting the enlargement of a single-family home which does not conform to an applicable setback or overlay district requirement so long as the proposed enlargement will not increase the existing nonconformity, will not violate any other provision of the zoning ordinance and is a permitted use in the district.
- 3. No nonconforming structure may be enlarged or altered in any way, except to decrease its nonconformity, and except as provided in paragraphs (1) and (2).
- 4. A nonconforming building or structure, which is destroyed by fire or other hazard, may be restored to its former bulk provided that it was not destroyed voluntarily and restoration is begun within twelve (12) months after the act of destruction.

(End of Article 26)

ARTICLE 27

ACCESSORY DWELLING UNITS

(Amended 3/14/18)

A. Purpose

1. Provide older homeowners with an opportunity to secure companionship, security and services, and thereby allow them to stay more comfortably in their homes and neighborhoods they might otherwise have to leave.
2. Add inexpensive rental units to the house supply to meet the needs of smaller households, both young and old, and to meet the needs of moderate income families or individuals.
3. Protect stability, property values, and the single-family residential character of a neighborhood by ensuring accessory dwelling units are installed only in owner occupied houses and under additional conditions required under this Article.

B. Where Allowed

Accessory Dwelling units are permitted within the Low Density Residential District, the Medium Density Residential District and the Urban Residential Districts, provided that all requirements of the district must be met. In addition, accessory dwelling units are restricted to single family, owner-occupied dwellings.

C. General

1. Only one (1) ADU shall be permitted for each single-family dwelling.
2. The ADU must provide independent living facilities for one or more persons containing the four elements of sleeping, eating, cooking, and sanitation.
3. The ADU shall have a means of ingress and egress through a common space such as a shared hallway to an exterior door. An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit.
4. The ADU shall be within or attached to the principal dwelling unit. In order to be considered an attached ADU, there must be a common wall between the principal dwelling unit and the ADU. Detached accessory dwelling units are prohibited.
5. Either the ADU or the principal dwelling unit shall be the principal residence and legal domicile of the owner of the property.
6. If the primary single family dwelling unit is less than or equal to 2,500 square feet in habitable living area, then the ADU may be a maximum of 700 square feet in habitable area. If the primary single family dwelling unit is greater than 2,500 square feet in habitable living

area, then the ADU may be a maximum of 30 percent of the primary single family dwelling unit.

7. An ADU shall be provided a minimum of one (1) off-street parking space.
8. An ADU shall make provision for adequate water supply and sewage disposal service in compliance with RSA 485-A: 38 and regulations adopted by the New Hampshire Department of Environmental Services. Separate systems shall not be required for the principal and accessory dwelling units.
9. The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the principal single-family dwelling.
10. Every Accessory Dwelling shall be deemed a unit of workforce housing for purposes of satisfying the municipality's obligation under RSA 674:59.
11. The aesthetic continuity with the principal dwelling unit as a single-family dwelling shall be maintained.

D. Permit Required

1. An accessory unit shall be permitted only upon application to the Code Enforcement Officer by the owner of the primary unit.
2. The following information must accompany the application:
 - a) A letter of application from the owner(s) of the primary unit stating that the owner(s) will occupy one of the dwelling units on the premises except for bonafide temporary absences.
 - b) A floor plan showing proposed changes to the building.
 - c) A site plan.
 - d) A fee, in an amount determined by the Code Enforcement Officer, to cover the costs of processing the application and code inspections.

(End of Article 27)

ARTICLE 28

WIRELESS COMMUNICATIONS FACILITIES

Wireless Communication Facility Submittal Requirements:

In addition to the application materials required in the Site Plan Review Regulations, the applicant for the telecommunications facility shall provide the following with the application:

- A. Scaled elevation perspective of the proposed telecommunications tower and associated structures.
- B. Radio frequency coverage for the proposed antenna and for existing antenna that provides coverage to the Town of Hooksett and vicinity and which are operated by the applicant.
- C. Engineering information detailing the minimum and optimal height and coverage required for the facility.
- D. For new telecommunications towers, information prepared by a qualified and licensed professional engineer documenting the capacity of the telecommunications tower, which shall include the maximum number of antennas it can support.
- E. An inventory of existing telecommunications towers and tall structures that are included within Hooksett and those within two miles of the border thereof, including specific information about the location, height and design of each telecommunications tower or structure, as well as the economic and technological feasibility for co-location on the inventoried telecommunications tower or structures.
- F. Written evidence demonstrating that none of the existing structures or telecommunications towers inventoried can accommodate the applicant's proposed antenna. This shall consist of:
 - 1. Substantial evidence that the installation of the proposed antenna and associated equipment would exceed the structural capacity of the existing structures or telecommunications towers inventoried, as documented by a qualified and licensed professional engineer, and that the structure or telecommunications tower cannot, at a reasonable cost, be reinforced, modified, or replaced to accommodate the antenna and equipment.
 - 2. Substantial evidence, as documented by a qualified and licensed professional engineer, that the proposed antenna and associated equipment would cause interference with existing antenna on the inventoried structures or telecommunications towers, or that the antenna already on an existing structure would cause interference with the applicant's proposed antenna.
 - 3. Substantial evidence that the existing structures or telecommunications towers inventoried are not of sufficient height to meet the applicant's engineering requirements and that the structure or telecommunications towers cannot, at a reasonable cost, be extended or replaced to meet the required height.

4. Substantial evidence that the fees, costs or contractual provisions required by the owner in order to share existing inventoried structures or telecommunications is unreasonable. One-time costs exceeding the costs of a new telecommunications tower development are presumed to be unreasonable.
 5. Substantial evidence that the applicant can demonstrate other limiting factors that render existing structures or telecommunications towers unsuitable.
- G.** For new telecommunications towers, a written commitment from the applicant that allows for the maximum allowance of co-location on the telecommunications tower. This commitment shall become a Condition of Approval. This commitment shall, at a minimum require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers.
- H.** A visual impact analysis prepared by a qualified professional that includes photo-simulations of the proposed telecommunications facility that, at a minimum, simulate the views of the facility from habitable structures on abutting properties and from the closest public roads.
1. Reduce adverse impacts through design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 2. Reduce visual impacts on view sheds and ridge lines, and other impacts by means of tower location, tree and foliage clearing, and the placement of incidental structures.
(Amended 5/14/02)
- I.** Reduce adverse impacts such facilities may create, including, but not limited to: impacts on aesthetics, on environmentally sensitive areas, on historically significant locations, on flight corridors, to health and safety by injurious accidents to person and property, and to prosperity through protection of property values. *(Amended 5/14/02)*
- J.** Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is incapable or unwilling to remove a facility. A surety estimate equal to 115% for the cost of the removal of the telecommunications facility.
- K.** A telecommunications facility shall be considered abandoned and be removed by the owner of the facility if it is not operated for a continuous period for twelve (12) months. If the owner of the facility does not remove the facility upon the Code Enforcement Officer's order, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within 90 days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within 90 days, the Town may execute the security to pay for this action.
- L.** A telecommunications facility shall be maintained in compliance with the standards contained in the Building Code adopted by the Town of Hooksett. If, upon inspections by the Town, it is concluded that any part of the facility fails to comply with the Building Code and the facility constitutes a danger to person or property, then upon notice provided to the owner

of the facility, the owner shall bring the facility into compliance with the Building Code. If the owner fails to bring the facility into compliance within the time frame determined by the Code Enforcement Officer, such failure shall constitute grounds for the Town to declare the facility abandoned, and execute the security to dismantle and remove the facility.

M. For new telecommunications towers, proof that the proposed tower complies with regulations administered by the Federal Aviation Administration.

N. Deployment of Personal Wireless Service Facilities:

1. Purpose:

This community requires all telecommunication providers to follow the requirements of NH RSA 12-K.

2. Telecommunication providers shall develop their facilities in as discrete and camouflaged a manner as possible.

3. Telecommunication providers shall provide maps of all telecommunication facilities within twenty (20) miles of this community and shall assist as required in the notification of municipalities within that radius. *(Amended 5/8/01)*

O. Design and Performance Standards:

1. Color

Telecommunications towers shall either maintain a galvanized finish, subject to any applicable standards of the Federal Aviation Administration, or be painted a neutral color, so as to reduce visual obtrusiveness.

2. Design of Accessory Structures

The design of accessory structures shall, to the maximum extent possible, use materials, colors, textures, screening and landscaping that will blend the telecommunications facility with the natural setting and built environment. All accessory structures shall also be subject to all other Site Plan Review Regulation requirements.

3. Telecommunications Tower Lighting

Telecommunications towers shall not be artificially lit, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the Hooksett Planning Board shall review the available lighting alternative and approve the design that would cause the least disturbance to the surrounding views.

4. Signs

Telecommunications towers shall not contain any permanent or temporary signs, writing, symbols or any graphic representation of any kind, with the exception of safety warning signs or equipment information signs.

5. Telecommunications Facility Setbacks

The following requirements shall supersede any less stringent standards found elsewhere in the Town Ordinance to Regulations.

- a. Telecommunications towers shall have a minimum front, side and rear yard setback equal to the height of the tower.
- b. Telecommunications tower guys and accessory structures shall satisfy the minimum setback requirements of the Zoning District.

6. Security Fencing

The perimeter of telecommunications facilities shall be enclosed by security fencing not less than six feet in height and shall also be equipped with appropriate anti-climbing controls, such as barbed-wire.

7. Height

The maximum height of a telecommunications tower shall be 190 feet. This standard shall supersede any more stringent standards found elsewhere in the Town Ordinance or Regulations.

P. Co-Location:

1. Design for Co-Location

All telecommunications towers shall be designed structurally, electrically and in all other respects to accommodate the applicant's antennas and comparable antennas for at least two additional users if the telecommunications tower is over 100 feet in height, or for at least one additional user if the tower is over 60 feet in height.

2. Review Procedure for Co-Location

The co-location of additional antennas on an existing telecommunications tower shall not require Special Exception or Site Plan Review by the Planning Board, except if any one of the following are met, then Site Plan Review by the Planning Board shall be required:

- a. The additional antennas require an increase in height or bulk of the telecommunications tower structure;
- b. The additional antennas require an accessory structure 400 square feet or greater in size, or
- c. The additional antennas and any associated accessory structures require the removal of trees or under story vegetation.

3. Following an application for collocation from the applicant, the state or local government will have thirty (30) days to determine whether the application complies with its requirements. The compliance notification shall be in writing and clearly and specifically delineate all missing documents or information. *(Amended 05/10/16)*
4. After supplemental submission from the applicant, the state or local government will have ten (10) days to determine whether the submission complies with its incompleteness notice. Grounds for incompleteness are limited to those in the original notice of incompleteness. *(Amended 05/10/16)*
5. The applicant must file a notice in writing stating that the review period has expired (accounting for any tolling) and that the application has been deemed granted. *(Amended 05/10/16)*

(End of Article 28)

ARTICLE 29

SMALL WIND ENERGY SYSTEMS

(Adopted 5/12/09)

A. Purpose

This small wind energy systems ordinance is enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA 672:1-III-a. The purpose of this 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.

B. Definitions

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 are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

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.

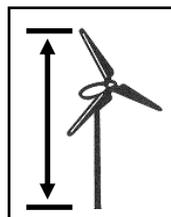
Net Metering: The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

Power Grid: The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

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.

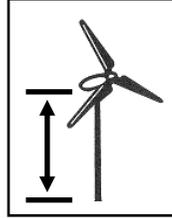
Small Wind Energy System: A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

System Height: The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.



Tower: The monopole, guyed monopole or lattice structure that supports a wind generator.

Tower Height: The height above grade of the fixed portion of the tower, excluding the wind generator.



Wind Generator: The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

C. Procedure for Review

1. **Building Permit:** Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. No small wind energy system shall be erected, constructed, or installed without first receiving a building permit from the building inspector. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.
2. **Application:** Applications submitted to the building inspector shall contain a site plan with the following information:
 - i) Property lines and physical dimensions of the applicant's property.
 - ii) Location, dimensions, and types of existing major structures on the property.
 - iii) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
 - iv) Tower foundation blueprints or drawings.
 - v) Tower blueprints or drawings.
 - vi) Setback requirements as outlined in this ordinance.
 - vii) The right-of-way of any public road that is contiguous with the property.
 - viii) Any overhead utility lines.
 - ix) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
 - x) 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.

- xii) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
 - xiii) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
 - xiv) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
 - xv) List of abutters to the applicant’s property.
3. **Abutter and Regional Notification:** In accordance with RSA 674:66, the building inspector shall notify all abutters and the local governing body 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 code enforcement officer prior to the issuance of the building permit. The code enforcement officer shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the code enforcement officer shall follow the procedures set forth in RSA 36:57, IV.

D. Standards

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

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 120 feet.
- c. **Sound Level:** The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.

- d. **Shadow Flicker:** Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
- e. **Signs:** All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
- f. **Code Compliance:** The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
- g. **Aviation:** The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.
- h. **Visual Impacts:** It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.
 - i) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical 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.

E. **Abandonment**

1. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
2. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building inspector. "Physically remove" shall include, but not be limited to:
 - a. Removal of the wind generator and tower and related above-grade structures.
 - b. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.
3. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the code enforcement officer may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the code enforcement officer 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 code enforcement officer shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
4. If the owner fails to respond to the Notice of Abandonment or if, after review by the code enforcement officer, 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 code enforcement officer may pursue legal action to have the small wind energy system removed at the owner's expense.

F. 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.

G. 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.

(End of Article 29)

ARTICLE 30

SOLAR ENERGY SYSTEMS

(Adopted 5/10/16)

A. Definition

Solar Energy Systems: Any equipment or system utilizing solar energy to provide electricity and/or space heating or cooling, hot water heating and swimming pool heating.

B. General Requirements

1. Solar energy systems shall be located and/or screened so as to minimize the visual impact from abutting properties. For the purpose of this ordinance, a ground mounted solar energy system shall be considered a structure. Roof mounted solar energy systems shall not be considered a structure.
2. Ground mounted solar energy systems shall adhere to the setback and coverage requirements of the district in which they are located.
3. Ground mounted solar energy systems shall not exceed twenty (20) feet in height above the ground.
4. All roof mounted and ground mounted solar energy systems require permits.
 - a. Electrical permits are required.
 - b. Plumbing permits may be required.
 - c. Building permits may be required.
 - d. Engineer stamped letter certifying that the roof can accommodate the load may be required.

C. Additional Requirements for Non-Residential Properties

1. All ground mounted solar energy systems shall require a site plan review by the Planning Board.
2. Perimeter fencing may be required to restrict unauthorized access.
3. The manufacturers' or installers' identification and appropriate warning signs shall be posted at the site in a clearly visible manner.
4. All distribution lines associated with the system shall, to the maximum extent practicable, be placed underground.

5. No ground mounted solar energy system shall be installed until a letter of acceptance from the utility company, which will receive the electric power from the system, is submitted to the town.
6. **Decommissioning:** All proposals for solar energy systems, which require a site plan review, shall include provisions, acceptable to the town, to insure that once the facility is no longer in use, it will be completely removed from the site.

(End of Article 30)

ARTICLE 31

IMPACT FEE ORDINANCE

(Adopted 5/8/01)

A. Purpose. This ordinance is enacted pursuant to RSA 674:21, and in order to:

1. Promote the 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 Hooksett;
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.

B. Definitions

1. **Fee payer** means the applicant for the issuance of a permit that would create new development as defined in this Section.
2. **Impact fee** means a fee or assessment imposed upon development, including subdivision, building construction or other land-use change, in order to help meet the needs occasioned by the development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public libraries; and public recreation facilities, not including public open space.
3. **New development** means an activity that results in:
 - a. The creation of a new dwelling unit or units; or
 - b. The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units; or

- c. Construction resulting in a new non-residential building or a net increase in the floor area of any non-residential building; or
- d. The conversion of an existing use to another use if such change creates a net increase in the demand on public capital facilities that are the subject of impact fee assessments.

New development shall not include the replacement of an existing mobile home, or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in its size, density or type of use, and where there is no net increase in demand on the public capital facilities of the town of Hooksett.

C. 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.

D. Standards and Methodology for Assessment

1. 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.
2. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.
3. The Planning Board may prepare, adopt, or amend studies or reports that are consistent with the above standards, and which define a methodology for impact fee assessment for public capital facilities, and impact fee assessment schedules therefore.

E. Waivers

The Planning Board may grant full or partial waivers of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular public capital facilities for which impact fees are normally assessed.

1. A fee payer may request a full or partial waiver of public school impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over in a development that is also maintained in compliance with the provisions of RSA 354-A: 15, Housing For Older Persons. The Planning Board may waive school impact fee assessments on such age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy by senior citizens age 62 or over for a period of at least 20 years.

2. The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that would involve a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the Town Council for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. All costs incurred by the Town for the review of such proposal, including consultant and counsel fees, shall be paid by the fee payer.

F. Administration of Impact Fees

1. 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.
2. Between the date of assessment and collection, the Planning Board may require fee payers to post security, in the form of a cash bond, letter of credit or performance bond so as to guaranty future payment of assessed impact fees.
3. 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.
4. The Planning Board and the fee payer may establish an alternate, mutually acceptable schedule of payment of impact fees.
5. Each impact fee shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the governing body, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are collected to meet.
6. In the event that bonds or similar debt instruments have been or will be issued by the Town of Hooksett or the Hooksett School District for the funding of capital improvements that are the subject of impact fee assessment, impact fees from the appropriate related capital facility impact fee accounts may be applied to pay debt service on such bonds or similar debt instruments.
7. The Finance Director shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership and tax map reference number of properties for which fees have been paid

under this Section for each permit so affected for a period of at least nine (9) years from the date of receipt of the impact fee payment associated with the issuance of each permit.

8. The total impact fee, as calculated from the applicable fee schedule, is to be assessed to the applicant if a new development is created on vacant land or on land wherein there has been a structure. If a new development replaces an existing use, then the assessed fee is to be calculated as the net fee between that of the former use and that of the replacement use. (*Amended 05/14/13*)

G. Refund of Fees Paid

The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest under the following circumstances:

1. When either the full or partial portion of the impact fee, whichever is applicable, has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee; or
2. When the Town of Hooksett, or in the case of school impact fees the Hooksett School District, has failed, within the period of six (6) years from the date of the full and final payment of such fee, to appropriate their proportionate non-impact fee share of related capital improvement costs.

H. Appeals Under This Section

1. A party aggrieved by a decision made by the Planning Board regarding the assessment or collection of impact fees authorized by this Section may appeal such decision to the Planning Board;
2. Upon denial of the appeal, a party aggrieved by a decision of the Planning Board under this Section may appeal such decision to the Merrimack County Superior Court as provided by RSA 676:5, III and RSA 677:15, as amended.

I. 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). Payment of the impact fee under this Section does not restrict the Town of Hooksett or the Planning Board from requiring other payments or improvements from new development. Nothing in this section shall be construed to affect fees that are assessed under the authority of other statutes, town ordinances or regulations.

(End of Article 31)

ARTICLE 32

DEVELOPMENT PHASING *(Deleted 05/12/15)*

(End of Article 32)

ARTICLE 33

OUTDOOR LIGHTING STANDARDS

(Adopted 5/05/07)

A. Purpose

The purpose of these outdoor lighting standards is to ensure that each lighting device, including signs and building facades on properties, will not result in light trespass or excessive glare, will comply with the applicable Town of Hooksett Regulations, will be dark-sky compliant, and will provide adequate safety, energy efficiency and security for nighttime business and industrial operations. The goal of this lighting ordinance is to recognize the benefits of outdoor lighting and provide clear guidelines for its installation. Appropriately regulated and properly installed outdoor lighting will maintain the Town's character and contribute to the safety and welfare of the residents of the town.

B. Applicability

The lighting requirements of this section shall apply to all outdoor lighting on all properties in Hooksett, as well as new and replacement lighting in those properties.

C. Commercial, Industrial and Multi-Family Residential Properties

The intent of this ordinance is to reduce the problems created by improperly designated and installed outdoor lighting, by establishing regulations which limit the areas that certain outdoor lighting luminaries can illuminate, and by limiting the total allowable lighting of commercial, industrial and multi-family residential properties in the Town of Hooksett.

All changes made to commercial, industrial and multi-family residential site lighting must be submitted to the Planning Board as part of the lighting plan prepared by a professional engineer with expertise in lighting design that shows all exterior lighting to be installed and/or modified on the property. All site lighting designs must comply with the requirements of the Town Development Regulations.

(End of Article 33)

ARTICLE 34

KEEPING OF CHICKENS

(Adopted 05/10/16)

A. PURPOSE AND INTENT

The purpose of this article is to allow for the keeping of chickens, including roosters and hens of any breed, in residential areas for the sole use and enjoyment of the residents of the lot on which such animals are kept. It is also the intent of this article to protect the health, safety, and welfare of residents and prevent a nuisance or menace to the public health or cause disturbance by noise, odor, or other adverse impacts to neighborhoods. It is the intent of this article to help preserve Hooksett's rural character and provide for fresh, local food sources, including eggs and poultry meat.

B. LIMITATIONS

1. The keeping of chickens is permitted in the LDR, MDR, URD and HDR. As the LDR permits "all general farming and forestry activities," the following limitations and yard and enclosure requirements apply only to the MDR, URD and HDR zones.
2. The keeping of chickens shall be accessory to and on the premises of a single family detached dwelling and shall be for personal use only.
3. Roadside stands or other commercial activity related to the keeping of chickens is prohibited.

C. YARD AND ENCLOSURE REQUIREMENTS

1. Building permits are required for chicken enclosures. Setbacks for enclosures apply per zoning district requirements.
2. Enclosures should provide a minimum of three (3) square feet per hen.
3. Chickens shall not be permitted to free-range beyond the property boundaries of the lot on which they are kept.

(End of Article 34)

ARTICLE 35

AMENDMENTS

This Ordinance may be amended by a majority vote of any legal Town Meeting, when such amendment is published in the warrant calling for the meeting. A Public Hearing must be held, notice of which shall meet the requirements to RSA 675:7

(End of Article 35)

ARTICLE 36

PENALTY

Any person, persons, firm, or corporation violating any of the provisions of the Ordinance shall be subject to the provisions of RSA 676:17.

(End of Article 36)

ARTICLE 37

SAVING CLAUSE

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

(End of Article 37)

ARTICLE 38

WHEN EFFECTIVE

This Ordinance shall take effect upon its passage.

(End of Article 38)