2020

ZONING ORDINANCE

BUILDING CODES

AND

IMPACT FEE ORDINANCE

Price $10.00

HISTORY OF THE ZONING ORDINANCE
& BUILDING CODES OF THE TOWN OF HAMPTON, NH

ADOPTED: March 08, 1949

(By Town Meeting)

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Amended: March 12, 1996
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Amended: March 9, 1999
Amended: March 14, 2000
Amended: March 13, 2001
Amended: March 12, 2002
Amended: March 11, 2003
Amended: March 8, 2005
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October 18, 1993
November 22, 1999
March 11, 2003 – by Town Meeting Vote

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AUTHORITY AND PREAMBLE

ZONING ORDINANCE AND BUILDING CODES OF

THE TOWN OF HAMPTON, NH

In order to preserve and improve the attractiveness of the Town of Hampton as a resort community and to continue its desirability as a place in which to live and do business; in order, to safeguard the health, welfare, morals, convenience and safety of its citizens and recreational guests and to provide for an orderly growth in the future, the Town of Hampton in pursuance of authority conferred by Chapters 31 and 36 of the New Hampshire Revised Statutes Annotated, 1955 or any amendments thereto, adopts the following ordinance:

"Point of Information": The members of the Hampton Planning Board and the Board of Adjustment have taken an oath to uphold the Constitution of New Hampshire. Under Article 8 it requires them to be accountable at all times to the people. If during their work a conflict arises between private goals of individuals and/or parties presenting proposals, plans or requests for variances, and the Board's public responsibilities, the public goal shall take precedence, in order to promote the general welfare of the majority of the people, and to protect the community's environment for present and future generations. ("Point of Information" Amended by Petition 1988)

ARTICLE I - GENERAL

Section 1.1 Building Permits

Any person, before commencing work on the erection, alteration or demolition of any building or structure; or the erection of a perimeter/boundary fence, must first obtain a permit duly granted for such purpose by the Building Inspector authorized by the Board of Selectmen to issue such permits. No permits shall be issued when the alteration, construction or change in use would be in violation of any provisions of the Ordinance nor before any plan is filed which conforms to the regulations of this Ordinance or to any amendments thereto. (Amended 1976, March, 2001)

Section 1.2 Reconstruction of Non-Conforming Uses

In the event of the damage or destruction by fire, storm, or Act of God of any building not conforming to the regulations of this Ordinance, said building may be rebuilt to its former non-conforming use provided such construction commences within one year of its damage or destruction and is completed within two years. The structure shall, however, conform to the dimensional requirements of the Zoning Ordinance and Building Codes of the Town of Hampton and the State of New Hampshire, as amended. (Amended March 2016)

Section 1.3 Expansion, Alteration, and Abandonment of Non-Conforming Uses

The expansion of non-conforming uses and structures is prohibited. Non-conforming uses or structures shall not be altered or used for a purpose, or in a manner, substantially different from the use in effect prior to alteration. Non-conforming uses or structures shall not be permitted to revert to an original non-conforming use or structure once a change into a conforming use or structure has occurred. A non-conforming use or structure shall not be reestablished after abandonment for more than two years, except so as to conform to the current provisions of the

Town of Hampton Zoning Ordinance. "Abandonment" shall be construed to include the visible or otherwise apparent intention by an owner to discontinue the use of a building or premises, or the substantial removal of the characteristic equipment or furnishings needed for the operation of said building or premises. (Amended March 2016)

Section 1.4 Board of Adjustment

The Board of Adjustment shall consist of five members. The members shall be elected in the manner prescribed by RSA 669, as amended. The terms of members shall be in accordance with RSA 673:3 and RSA 673:5, as amended. Up to five (5) alternate members may be appointed by the Board of Adjustment in accordance with RSA 673:6. In addition to the general powers granted to the Board of Adjustment by RSA 674:33, as amended, the Board may:
(Amended 2002)

1.4.1 Permit variances from the specified terms of the Ordinance where it can be shown that the specific terms would result in unnecessary hardship, but such variances shall be in harmony with its general purpose and intent.

1.4.2 Pass on any of the special exceptions to the terms of this Zoning Ordinance; however, no special exception will be granted unless the Board finds that the following special exception complies with the following:

a) That the use is so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected.

b) That the use will be compatible with adjoining development and the proposed character of the zone district where it is to be located.

c) That adequate landscaping and screening is provided as required herein.

d) That adequate off-street parking and loading is provided and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.

e) That the use conforms with all applicable regulations governing the district where located.

f) That if the application is for a use in the Industrial District such exception will not:

1) affect the quality of water supplies;

2) constitute a health hazard to the community;

3) permit temporary structures.

g) The applicant shall demonstrate that handling, storage and containment of any chemicals or substances defined as “hazardous” will be handled in strict accordance with the regulations and recommendations of the EPA and/or any governmental body charged with enforcing compliance with any laws or statutes regarding hazardous substances. (Amended 3/94)

1.4.2.1 Grant equitable waivers of dimensional requirements when the proof or provisions of RSA 674:33-a. is met upon the discovery that a lot or other division of land, or structure thereupon, is in violation of a physical layout or dimensional requirement imposed by the Zoning Ordinance. Such waivers shall not be applicable to property use violations. (Amended April 1997).

1.4.3 Hear all building code appeals. (Amended 3/96)

1.4.4 Any property owner(s) granted a variance shall have a period of two years from the date of said grant to implement the terms of the variance, either by evidence of a use change or substantial (i.e. at least 20%) construction/alteration/renovation. Failure to do so shall result in the grant becoming null and void, unless the owner(s) applies for a one year extension. Such an application shall be subject to the same requirements as any other petition for a variance and shall be filed at least one month prior to the month of expiration.

Current owners of property upon which there is a variance not yet implemented shall have a period of two years from the date of passage of this provision to comply with the same terms set forth above for a new variance. Failure to do so shall result in the grant becoming null and void, unless the owner(s) applies for a one year extension. Such application shall be subject to the same requirements as any other petition for a variance and shall be filed at least one month prior to the month of expiration.

In the case of a variance which is relied upon by the owner of property in subsequently obtaining subdivision or site plan approval, that variance shall expire on the expiration of the subdivision or site plan approval. Current owners of property upon which there is a variance not yet implemented shall have the shorter of two (2) years or the period specified in the terms of the site plan and/or subdivision approval, unless an extension is granted by the Zoning Board of Adjustment for good cause shown. (Amended 1996)

Section 1.5 Planning Board - Site Plan Review

The Planning Board is empowered to review, and approve or disapprove site plans for the development of tracts for non-residential uses whether or not such development includes a subdivision or re-subdivision of the site. "Uses" shall be construed to apply to both initial construction and use changes. When uses are so subject to review and approval by the Planning board, procedures shall be in accordance with regulations and amendments governing the subdivision of land adopted by the Planning Board and approvals shall be subject to satisfactory compliance with the conditions set forth herein. All site plans approved by the Planning Board shall comply with RSA 674:39. (Amended 1986, March 2012)

Section 1.6 Definitions

Accessory Building: A non-habitable structure used in a manner as defined under Accessory Use. (Amended 2002)

Accessory Dwelling Unit: A residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one to four persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. A residential living unit located within a detached structure that predates the enactment of Article III-A, and that is already detached from the principal dwelling unit shall also be considered an Accessory Dwelling Unit. (Adopted March 2017)

Accessory Use: A use which is customary, incidental and subordinate to the permitted use of the property. An accessory use must be minor in relation to the permitted use and bear a reasonable relationship to the primary use. Examples of traditional accessory uses and structures include garages, tool sheds, recreational facilities and outdoor pools. (Amended 1987, 2003)

Alternative tower structure: Innovative siting techniques that shall mean man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers. (Amended March 1999)

Amateur Radio Tower: A structure that is not used for human occupancy, which contains no heated space, which exceeds the height of 35 feet, yet does not exceed 65 feet in height, and is utilized exclusively for amateur radio purposes. (Amended March 1999)

Amusement Device: A mechanical device which is operated by the public through the insertion of a coin, token, slug or plate, or the paying of consideration for the general purpose of a game entertainment or amusement. Such devices may include but are not limited to: pinball machines, pool tables, electronic and/or video games, gaming devices or children's rides. Such devices shall not include pay telephones, cigarette machines, newspaper, food, beverage or product dispensing machines (Amended 1982)

Antenna: Shall mean any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth. (Amended March 1999)

Bed and Breakfast: A dwelling in which compensation is paid to provide sleeping accommodations and one or more meals per day to guests. Not more than six (6) guest rooms are allowed. (Amended 1991)

Building Height: The vertical distance from the grade plane to the highest point of the building, excluding chimneys and residential antennae. (Amended 1986, Amended 1991)

Certified Boundary Survey: A plot plan, drawn to scale, prepared by a land surveyor registered in the State of New Hampshire, and displaying an original surveyors stamp (Amended 1995)

Congregate Housing (also called sheltered or "enriched" housing): Multi-unit structure where residents usually live in their own apartments and come to a common area for some or all of their meals. Usually there are supportive services such as housekeeping, transportation, and social or recreational activities. (Amended March, 1998)

Dealer: A person who offers, onsite for sale or trade, 3 or more new or used registered or unregistered motor vehicles, off highway recreational vehicle (OHRV), utility vehicles, trailers, recreational vehicle (RV's), boats, or construction equipment for wholesale or retail sales shall be considered a dealer and subject to Site Plan Review Regulations. (Amended 1997).

Demolition: The act of pulling down, destroying, removing or razing a building or part of a building or commencing the work of total or substantial destruction with the intent of completing the same. It does not include interior demolition which does not alter the appearance of the exterior of the building. (Adopted March 2019)

Dog Day Care Center: A short-term daytime care operation for dogs which provides activities and supervision. (Adopted March 2018)

Dwelling Unit: A single unit or structure, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. (Amended 1981, 1987, 2003)

Dwelling Unit, Multi-Family: Any building or group of buildings on a single lot containing three (3) or more dwelling units.

Dwelling Unit, Two-Family (Duplex): A building containing two individual dwelling units, attached and separated by a common party wall, on a single lot. (Amended 1990) (Amended 1991, 2003)

Dwelling Unit, Seasonal: A dwelling unit designed for occupancy from May 15 to October 15 which is not subject to the New Hampshire Energy Code. (Amended 2003)

Dwelling Unit, Single-Family: One dwelling unit on a single lot.

Expansion of Non-Conforming Use: Any change of use of a non-conforming use, or any increase in size, increase in intensity of use, or increase in non-conformity of a nonconforming use which does not in and of itself comply with the provisions of this ordinance for the District in which it is located, shall constitute an expansion of a nonconforming use. (Amended 1995)

Expanded Garage: A structure, attached or detached, more than one story in construction used for the purpose of housing automobiles, yard equipment, and/or the storage of household items, above which is contained habitable or potentially habitable space. (Amended 1997)

FAA: An abbreviation shall mean the Federal Aviation Administration. (Amended March 1999)

FCC: An abbreviation shall mean the Federal Communication Commission. (Amended March 1999)

Fence: An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas. (Amended March 2000)

Footprint: The area on the ground encompassed by the outer most perimeter of a structure inclusive of the drip edge, decks, stairways, chimneys, HVAC (Heating, Ventilation and Air Conditioning) equipment and any other appurtenance attached to the structure. See Article 4.5 and Footnote (25). (Amended 1997).

Frontage: The length of the lot bordering on and providing access to a Class V (or better) highway that has not been discontinued as an open highway and made subject to gates and bars by vote of the Town, or a street, as defined and as used in Title LXIV, Planning and Zoning, of the Revised Statutes Annotated, shown on a plat approved by the Planning Board. Footage requirements specified in Article IV, Dimensional Requirements, of this Ordinance shall be contiguous. (Amended 1985, 1987, 1988, 1991, 1996)

Garage: A structure, attached or detached, one story in construction used solely for the purpose of housing automobiles and/or yard equipment and the storage of household items. (Amended 1997).

Grade Plane: A reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, when the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building. (Amended 1991)

Group Shared Residence: Shared housing structure where more than three unrelated people reside with at least one kitchen. They are not the stereotypical "group home", nor are they halfway houses for deinstitutionalized persons. Each resident has his or her own bedroom and share the rest of the living space in the house. Together, all residents make the decisions about the management of the house in most cases, and they share in the daily running of the house while pursuing their own individual lives outside the house. There are two types of shared residences: (1) the agency-sponsored group shared residence that may or may not provide a sheltered or supportive environment and (2) the self-initiated group shared residence where individuals cooperatively purchase or rent a dwelling. (Amended March, 1998)

Hazardous Materials: Any substance, whether in solid, liquid, gaseous or other form, that is outlined in the National Fire Codes, applicable State and Federal Codes, or local ordinances, and requires that special precautions be taken during its manufacturing, storage, transportation or disposal. (Amended 1985)

Health/Athletic Club: An indoor facility including uses such as game courts, exercise equipment, locker rooms, Jacuzzi, sauna and pro shop. (Amended 1991)

Health Care Facilities: Any facility not a home occupation or profession, providing health services, either for persons or animals, either on an inpatient or outpatient basis, and/or medical or surgical care of the sick or injured, including any related parts of such facility such as laboratories and service area. (Amended 1976)

Height: When referring to a tower or other antenna support structure, means the vertical distance from grade plane to the highest point of the support structure, even if such highest point is an antenna or other appurtenance. (Amended March 1999)

Hotel: A facility offering transient lodging accommodations on a daily rate to the general public and which may provide additional services such as a restaurant, meeting rooms, and recreational facilities for its guests. (Amended 1991)

The following standards are established for the development of hotels:

- Use of hotel rooms as permanent residences is prohibited.
- Hotel rooms equipped with a refrigerator up to five cubic feet in size, a microwave, a coffee maker and a second sink are exempt from an impact fee assessment. All hotel rooms with a kitchen will be assessed the multi family impact fee.
- Each hotel shall have an office for the purpose of operations, including but not limited to maintenance, unit rental and general management. This required office must be located in Hampton. Each hotel must have a 24-hour emergency number.

Condominium Hotel: A building constructed, maintained and operated and managed as a hotel in which each room is individually owned and in which some or all of the rooms are available for rent and where the structure, common areas and facilities are owned by all the owners on a proportional, individual basis.

Cooperative ownership: A multiple-family dwelling owned and maintained by the residents. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

Time Share Ownership: Concept of property ownership through which a purchaser receives a) the right in perpetuity, for life or for a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, or segment of the real property, annually or on some other periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the property has been divided, or b) a property interest in which a license or contractual or membership right of occupancy is not coupled with any title in fee in the real property**.** (Amended 2007)

Impervious Surface: An impervious surface (also referred to as "sealed surface" or "lot coverage") is any modified surface that cannot effectively absorb or infiltrate water. Examples of impervious surfaces include, but are not limited to roofs and the following unless designed and maintained to effectively absorb or infiltrate water: decks*, patios, and paved, gravel, or crushed stone driveways, parking area, and walkways. *A deck may be considered to be pervious if it is elevated a minimum of 6 feet off the ground and the area underneath remains permeable. (Amended March 2014, March 2020)

Kennel: Any premises, except where accessory to an agricultural use or a veterinarian hospital, where five or more dogs, ten weeks in age or older are bred, raised, trained or kept. (Amended March 1999)

Lifecare of Continuing Care Retirement Communities: Planned communities offering a range of choices for residents under a contractual arrangement, possibly including independent living units, assisted or personal care living units, and long-term care. Residents may move from one level of accommodation to another as their needs change. Residents may be required to pay a substantial entry fee plus a monthly payment calculated to provide the wide range of services throughout the resident's life. (Amended March 1998)

Lodging House: A dwelling in which compensation is paid to provide sleeping accommodations in a temporary or permanent basis.

Lot Area: The total area measured on the horizontal plane within the property boundaries. When calculating the "Percentage of Impervious Coverage" of a given lot area, the "Lot Area" shall exclude areas of wetlands and poorly or very poorly drained soils. (Adopted March 2017).
If the property contains wetlands or areas of poorly and very poorly drained soils or their buffers, refer to Section 2.3.7 (C) – Special Provisions regarding minimum lot size and minimum lot size per dwelling unit. (Adopted March 2019)

Lot of Record: Land designated as a separate and distinct parcel in a legally recorded deed and/or plan filed in the records of Rockingham County, New Hampshire, or a site plan previously approved by the Hampton Planning Board which has not been extinguished by State statute. (Amended 1985)

Lot Width: The horizontal distance between the side lot lines, measured along a straight line parallel to the front line at the minimum front setback line. (Amended 1991, 1992, 1995)

Manufactured Homes: Any structure, transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. (Amended 1995) For Flood Plain management purposes the term MANUFACTURED HOME also includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. (Amended 1987) **Note**: The adoption of this amendment would serve to change all reference to MOBILE HOME within the Zoning Ordinance to MANUFACTURED HOME. (Amended 1987)

Manufactured Home Park: A tract of land which has been developed with all the necessary facilities and services in accordance with a site development plan meeting all the requirements of this Ordinance and which is intended for the express purpose of providing a satisfying living environment occupancy basis.

Motor Home: A motor home built on a truck or bus chassis and designed to serve as self-contained living quarters for recreational travel.

Motel or Tourist Cabin: A building or group of buildings which:

a) contains living or sleeping accommodations used primarily for transient occupancy.

b) has individual entrances from outside the buildings, or a common hallway, to serve each such living or sleeping unit.

Nightclub: A commercial establishment serving alcohol or non-alcoholic beverages for consumption on the premises where a dance floor or entertainment is provided. A license from the State of New Hampshire is required for the sale of any alcoholic beverages. (Amended 1991)

Non-Conforming Use: A building, structure, or use of land, existing and lawfully occupied at the time of the enactment of this Ordinance or any subsequent amendment thereto, or any building, structure, or use of land granted a variance or special exception, which does not conform to one or more provisions of the Ordinance for the district in which it is located. (Amended 1986)

Parking Lot: Any public or private area providing parking (including for pay) under, within, or outside of a building or structure, designed and used for parking motor vehicles, such as parking lots and garages, and also including any off-street ground level open area, enclosed area, or elevated area used for the temporary storage of motor vehicles. (Amended March 2017)

Parking Space: A surfaced area, enclosed in the main building or in an accessory building, or un-enclosed, having the dimensions of not less than nine (9) feet by eighteen (18) feet, measured at right angles (rectangle), exclusive of driveways, permanently reserved for the temporary storage of one or more automobiles and connected with a street or immediately by a surfaced driveway which affords satisfactory ingress and egress. Legally designated areas of a public street are also included herein. (Amended March 2017)

Stacked Parking: A parking situation where more than one space exists in a line of spaces and only one space in the line has unobstructed access at all times into or out of the adjacent street or right-of-way. (Amended March 2017)

Penny Arcade: A hall, walk, room, structure or building containing three or more amusement devices or gaming machines, which are primarily for the purpose of deriving income or profit through public use. The expansion of a penny arcade is intended to include the addition of more such devices, machines or equipment within any existing penny arcade and/or the establishment of a new penny arcade, whether separate from, connected to or part of any existing penny arcade or other hall, walk, room, structure or building where any such devices, machines or equipment are located. (Amended 1982)

Percentage of Impervious Coverage: A percentage equal to the total area of all impervious surfaces on a given lot divided by its "Lot Area" (see the definition for "Impervious Surface" and "Lot Area" in this section). Also refer to Article IV – Dimensional Requirements for the "Maximum Percentage of Impervious Coverage" per Zoning District.

Percentage of Impervious Coverage = (Total Area of Impervious Surfaces ÷ "Lot Area") X 100 (Adopted March 2017)

Permanent Foundation: Poured concrete, concrete masonry units, or engineered pilings placed continuously or intermittently to a depth that equals or exceeds the frost line, to which a structure is attached. (Amended 1998)

Personal Services Establishment: A business which provides beauty-health services including beauty and barber shops, nail salons, cosmetologists, spas, skin care therapies, tanning salons, massage therapists, and other similar services as may be regulated by the State of New Hampshire under RSA 313-A. (Amended 2018)

Restaurants: A place where meals can be bought and eaten. (Amended 1980)

Retail Sales: Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sales of such goods. (Amended 1996)

Service Club: Buildings or facilities owned and operated by an organization, association or persons for a social, educational or recreational purpose; but not primarily for profit or to render a service that is customarily carried on as a business. (Amended 1991)

Site Plan for Non-Residential Development: A scale plan drawn by a registered Civil Engineer or Land Surveyor showing in addition to the subdivision of land as Adopted by the Planning Board, all structures existing and proposed, roadways, pathways, parking areas, recreational areas, utilities, exterior lighting installations, landscaping, existing and proposed grade elevations, storm water drainage, all existing structures and any other elements as may be deemed essential by the Planning Board.

Structure: A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of the land or water, excluding a boundary wall or fence. (Amended 1995)

Supportive Agency Sponsored Group Shared Residence: Housing situation in which an agency owns or rents the home, and the residents pay rent to the agency. The agency offers a package of services included in the rental of space in the residence. Such services could include meal preparation, transportation, housekeeping, laundry service, shopping, and counseling. The residents may or may not have a voice in the management of the home and selection of future residents. (Amended March 1998)

Telecommunications Facilities: Shall mean any structure, antenna, tower, or other devise which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services. (Amended March 1999)

Temporary Advertising Sign: Any sign which is Portable or otherwise not permanently affixed to any building, structure or surface, which directs attention to a business, profession, commodity, service, or entertainment conducted, sold or offered upon the premises where the sign is located (Amended 1992)

Tent: A portable shelter, as of canvas, stretched over a supporting framework of poles with ropes and pegs. (Amended March 2000)

Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This term does not include amateur radio operator's equipment, as licensed by the FCC. (Amended March 1999)

Trailer: A structure standing on wheels, towed or hauled by another vehicle, and used for short-term human occupancy, carrying of materials, goods, or objects, or as a temporary office. (Amended March 2000)

Use Change: Any use of a residential or non-residential nature which is proposed to be changed to a dissimilar non-residential use but is in conformance with the Use Regulations provided in this Ordinance. In the Town Center-Historic District, all changes of building occupancy involving any use of a non-residential nature shall require Use Change Approval from the Planning Board (see Article II, Section 2.8C) regardless of similarity or not to the former use. Any use which, in the opinion of the Building Inspector or the Town Planner, requires Planning Board approval in order to safeguard the health, welfare, convenience and safety of Hampton's citizens and recreational guests shall also require Use Change Approval. Use Changes are also subject to the applicable provisions of the Site Plan Review and Subdivision Regulations. (Amended March 2016, 2020)

Wetlands: Tidal wetlands and inland wetlands are defined in Section 2.3.2 of this Ordinance. (Amended 1985)

Section 1.7 Re-numbering of Articles, Sections and Article References

This section authorizes the re-numbering of articles, and/or sections and related article references within the Zoning Ordinance as required. (Amended March 2013)

Section 1.8 Demolition Review (Adopted March 2019)

A. Purpose.

The purpose of this section is to encourage the preservation of buildings and places of historic, architectural and community value.

B. Review Thresholds.

Any demolition within the Town of Hampton shall be subject to the requirements of this section where the building was constructed more than one hundred (100) years before the date of application for a demolition permit (per Assessor records), or is listed in the National or State Register of Historic Places. Manufactured homes shall be exempt.

C. Review Process.

(1) Prior to the issuance of a demolition permit, the applicant shall meet with the Building Inspector and the Town Planner to review the proposed demolition and discuss potential alternatives to demolition (i.e. including the subject building in the development design, relocating the building to another parcel, etc.)

(2) The following criteria shall be considered during the review process:

(a) The building, or part of a building, is of such interest or quality that it would meet national, state or local criteria for designation as a historic, cultural, or architectural landmark.

(b) The building, or part of a building, is of such architectural or historic interest that its removal would be contrary to the purpose of this section.

(c) Retention of the building or, part of a building, would help preserve and protect a historic place or area of historic interest in the town.

(3) The results of the review process shall be provided to the Planning Board for applications requiring subdivision and/or site plan review.

(4) The review process shall take no more than 30 days, unless there is a delay caused by the applicant or if the Town and applicant mutually extend the timeframe.

D. Demolition Activity.

(1) Prior to proceeding with demolition, the Hampton Historical Society or its designee shall be provided with the opportunity to photographically document the building. The applicant is also encouraged to salvage significant architectural features. However, the Town's preference for buildings of historic, architectural and community value will be preservation and the reasonable implementation of alternatives to demolition.

(2) Nothing in this Article shall be construed to prevent immediate demolition where public safety is at stake.

E. Authority.

If the Town of Hampton establishes a Historic District Commission pursuant to RSA's 673:1 and 673:4 and/or a Heritage Commission is established pursuant to RSA's 673:1 and 673:4-a, nothing in this Article shall be construed to limit the statutory powers and duties of each Commission.

ARTICLE II – DISTRICTS

Section 2.1 Zoning Map (See Attachment B)

The Town of Hampton is hereby divided into districts as shown on the Zoning Map adopted September 1, 1972, as revised and filed with the Town Clerk. The following districts and map symbols are established.

District	Map Symbol
Adult Entertainment	AE
Residence AA	RAA
Residence A	RA
Residence B	RB
Residence C- Seasonal	RCS
Business	B
Professional Office/Residential	POR
Town Center	TC-H, TC-N & TC-S
Business-Seasonal	BS
Business-Seasonal 1	BS1
Industrial	I
General	G

Town Center Zoning District Map (See Attachment C)

NOTE: The Zoning Map was changed by amending portions of the Business (B), Industrial (I), Professional Office/Residential (POR) and Residence A (RA) zoning district to Town Center zoning districts – Town Center-South, Town Center-Historic and Town Center-North. (Amended March 2014)

Business Seasonal 1 Zoning District Map (See Attachment D)

NOTE: The Zoning Map was changed by amending a portion of the BS zoning district to BS1. The specific boundaries of the Business-Seasonal 1 (BS1) Zoning District can be determined from the Town of Hampton Zoning Map, April 1, 2009 as amended by the mapping of the Business-Seasonal 1 Zoning District dated December 16, 2013 as prepared by the Hampton Tax Assessor's Office. (Amended March 2014)

NOTE: A portion of BS and RCS were re-delineated to become RB district. See APPENDIX for description. (Amended March 1998)

NOTE: The Zoning Map was changed by amending the zoning district from RAA to Industrial for all the properties which are bounded on the west by the State of New Hampshire Route 101, Route 111 highways or interchange rights of way, and on the east by the State of New Hampshire Route 95 highway right of way and on the north by the boundary line between the Town of Hampton and North Hampton, Exeter and Stratham, and on the south by the State of New Hampshire Route 101 highway right of way. (Amended March 2001)

NOTE: The Zoning Map was changed by amending the zoning district from BS to RB for all of the properties which are bounded by the following description: Beginning at the Southeasterly corner of Map 152, Lot 19 (the Seascape Inn at Plaice Cove), then North along the property lines on the westerly side of Route 1-A (Ocean Blvd.) to the Northeasterly corner of Map 134, Lot 51 (the Gables Condominiums), then Westerly along the property lines of Map 134, Lots 51, 50, 42, and Map 152,

Lot 11 (the Greenlands) to the Northwesterly corner of Map 152, Lot 11 then south along the property line of Map 152, Lot 11 (the Greenlands), to the Southwesterly corner of Map 152, Lot 11, then Easterly along the property lines of Map 152, Lot 11 and 19 to the point of beginning. (Amended March 2003)

NOTE: The Zoning Map was changed by amending the portions of the RA and RB zoning districts to POR for the properties which are bounded by the following description: Beginning at the edge of the RB district located at the northwesterly corner of Map 162, Lot 43 proceed south along the westerly property lines of Map 162, Lot 43, Map 177, Lots 1, 5, 11, 15, 19, 22 across Winnacunnet Road to the northeasterly corner of Map 177, Lot 41. Proceed south along the easterly property boundaries of Map 177, Lots 41, 43, 44 to the southeasterly corner of Map 177, Lot 44. Proceed west along the southerly boundary of Map 177, Lot 44 to Map 177, Lot 39 then south along the easterly boundary to the southeast corner of said lot then proceed west along the southerly boundaries of Map 177, Lot 39 and Map 176, Lots 25, 24, 23, 21, 26, 26-1, 18, and 17 to the easterly edge of the existing B district. Proceed north along the edge of the existing B district then east along the same boundary and then north again along same boundary to High Street then east along southerly side of High Street to the point of beginning. The following properties are also changed to be included in the POR district: Map 161, Lots 7, 8, 9 and 10. The following properties are not included in the POR District: Map 161, Lots 29, 30, 31, 32, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50 and 51; Map 176, Lots 1, 2 & 2A, 4, 5 and 6. (Amended March 2007)

NOTE: Deleted (March 2015)

NOTE: For 2.1.1 and 2.1.2: In the event that the boundaries of a district are not clear, these subsections shall be applied. (Amended 1991, March 2015)

2.1.1 All distances measured from a street, railroad right-of-way, or other such landmark, shall be measured from the centerline of the street, railroad right-of-way or other such landmark.

2.1.2 District boundaries shall be deemed to follow the centerlines of streets, railroad right-of-way, or other such landmark, and shall be deemed to follow property lines where such interpretation is possible.

2.1.3 The paper Zoning Map is intended for reference only. The source of final determination as to the official zone lines shall be the parcel data in the Town of Hampton's GIS mapping system as overlayed with the Zoning Map. (Amended 1981, March 2015)

2.1.4 In the event that any lot is situated in more than one zoning district, a portion shall be permitted to be used in accordance with the use regulations and dimensional requirements for the district in which that portion is located, but multiple use of single lots is prohibited. (Amended 1983)

2.1.5 Any reference to lot and map numbers in any legal description of any zoning district shall be shown on the Town of Hampton Tax maps in effect at the date of the adoption of such description or as subsequently amended on account of any deeds duly recorded prior to such adoption. In the event such legal descriptions in whole or in part are by tax map reference, such reference shall not be affected by any subsequently discovered variations in lot configurations. (Amended 1981)

APPENDIX (Amended March 1998) *(See Zoning Map, filed with the Town Clerk)

Beginning at a point on the Southerly side of Island Path 167.2 feet (±) East of Brown Avenue. Then running in a Southerly direction 113 feet (±) along the Easterly side of [1]Lot Number 75, Map Number 282, 112 feet (±) along the Easterly side of Lot Number 100, across Page lane and 60 feet along the Easterly side of Lot Number 118, Map Number 282, 60 feet (±) along the Easterly side of Lot Number 132, Map Number 282, across Wall Street and 60 feet (±) along the Easterly side of Lot Number 150, Map Number 282 along the Easterly side of Lot Number 161, Map Number 282, across Bittersweet Lane and 60 feet (±) along the Easterly side of Lot Number 182, Map Number 282, 80 feet (±) along the Easterly side of Lot Number 190, Map Number 282, across Diane Lane and 80 feet (±) along the Easterly side of Lot Number 195, Map Number 282, 50 feet (±) along the Easterly side of Lot Number 199, Map Number 282, 50 feet (±) along the Easterly side of Lot Number 203, Map Number 282, 50 feet (±) along the Easterly side of Lot Number 213, Map Number 282, 50 feet (±) along the Easterly side of Lot Number 3, Map Number 287, 50 feet (±) along the Easterly side of Lot Number 16, Map Number 287, 62.4 feet (±) along the Easterly side of Lot Number 17, Map Number 287, then turning and running in a Westerly direction 63.63 feet (±) along the Southerly side of Lot Number 17, Map Number 287, and continuing in a Westerly direction to the Northwest corner boundary of Lot Number 23, Map Number 287, and Brown Avenue. Then turning and running in a Southerly direction 100 feet (±) along the Westerly side of Lot Number 23, Map Number 287, 80 feet (±) along the Westerly side of Lot Number 25, Map Number 287, 116.66 feet (±) along the Southwest side of Lot Number 28, Map Number 287. Then turning and running in a Southerly direction across Brown Avenue Extension to Lot Number 50, Map Number 287, running in a Southerly direction 475 feet (±) across Lot Numbers 34 and 50, Map Number 287 to the Southerly side of Lot Number 34, Map Number 287, 171 feet (±) across Lot Number 1, Map 290, to the Southerly side of Lot Number 1, Map Number 290, then turning and running in an Easterly direction 205 feet (±) to the Northeast corner of Lot Number 11, Map Number 290, then turning and running in a Southerly direction 58.8 feet (±) along the Easterly side of Lot Number 11, Map Number 290, across Hobson Avenue to the Northeast corner of Lot Number 36, Map Number 290, 58.8 feet (±) along the Easterly side of Lot Number 36, Map Number 290, then turning and running 94 feet (±) along the Northerly side of Lot Number 48, Map Number 290 to the Northeast corner of Lot Number 48, Map Number 290, then turning and running in a Southerly direction 69.31 feet (±) along the Easterly side of Lot Number 48, Map #290, across Manchester Street to the Northwest corner of Lot Number 64, Map Number 290, then turning and running 50 feet (±) along the Northerly side of Lot Number 64, Map Number 290, 50 feet (±) along the Northerly side of Lot Number 65, Map Number 290, to the Northeast corner of Lot Number 65, Map Number 290, then turning and running in a Southerly direction 71.09 feet (±) along the Easterly side of Lot Number 65, Map Number 290, 54.05 feet (±) along the Easterly side of Lot Number 72, Map Number 290, then turning and running in a Westerly direction 88 feet (±) along the Southerly side of Lot Number 72, Map Number 290 to the Southwest corner of Lot Number 72, Map Number 290, then turning and running in a Southerly direction across Keefe Street to the Northeast corner of Lot Number 87, Map Number 290, then in a Southerly direction 54.5 feet (±) along the Easterly side of Lot Number 87, Map Number 290, then turning and running in a Westerly direction 29.5 feet (±) along the Southerly side of Lot Number 87, Map Number 290, 58.5 feet (±) along the Southerly side of Lot Number 86, Map Number 290, then turning and running in a Southerly direction 67.7 feet (±) along the Easterly side of Lot Number 93, Map Number 290, across Mooring Drive to the Northeast corner of Lot Number 122, Map Number 290, 68.2 feet (±) along the Easterly

[1] All Lot and Map Numbers refer to Town of Hampton Tax Map Numbers

side of Lot Number 122, Map Number 290, then turning and running in an Easterly direction 43 feet (±) along the Northerly side of Lot Number 132, Map Number 290, 100 feet (±) along the Northerly side of Lot Numbers 133 and 134, Map Number 290, then turning and running in a Southerly direction 100 feet (±) along the Easterly side of Lot Number 134, Map Number 290, then turning and running in a Westerly direction 100 feet (±) along the Southerly side of Lot Numbers 133 and 134, then turning and running in a Southerly direction across Auburn Avenue to the Northwest corner of Lot Number 150, Map Number 290, 146.9 feet (±) along the Westerly side of Lot Number 150, Map Number 290, then turning and running in an Easterly direction 40.6 feet (±) along the Northerly side of Lot Number 5, Map Number 293, then turning and running Southerly 9.7 feet (±) along the Easterly side of Lot Number 5, Map Number 293, then turning and running Easterly 49.9 feet (±) along the Northerly side of Lot Number 12, Map Number 293, then turning and running Southerly 58.1 feet (±) along the Easterly side of Lot Number 12, Map Number 293, across Perkins Avenue to the Northeast corner of Lot Number 29, Map Number 293, 100 feet (±) along the Easterly side of Lot Number 29, Map Number 293, 80 feet (±) along the Easterly side of Lot Number 49, Map Number 293, across Johnson Avenue in a Southeasterly direction to the Northeast corner of Lot Number 65, Map Number 293, then turning and running in a Southerly direction 80 feet (±) along the Easterly side of Lot Number 65, Map Number 293, 80 feet (±) along the Easterly side of Lot Number 72, Map Number 293, across Riverview Terrace in a Southeasterly direction to the Northeast corner of Lot Number 90, Map Number 293, then turning and running in a Southerly direction 80 feet (±) along the Easterly side of Lot Number 90, Map Number 293, 80 feet (±) along the Easterly side of Lot Number 109, Map Number 293, across Bragg Avenue to the Northeast corner of Lot Number 126, Map Number 293, 80 feet (±) along the Easterly side of Lot Number 126, Map Number 293, then turning and running in a Westerly direction 40 feet (±) along the Southerly side of Lot Number 126, Map Number 293, 40 feet (±) along the Southerly side of Lot Number 125, Map Number 293, then turning and running in a Southerly direction 80 feet (±) along the Easterly side of Lot Number 146, Map Number 293, across Tuttle Avenue in a Southeasterly direction to the Northeast corner of Lot Number 165, Map Number 293, then turning and running in a Southerly direction 80 feet (±) along the Easterly side of Lot Number 165, Map Number 293, 80 feet (±) along the Easterly side of Lot Number 2, Map Number 296, across Fellows Avenue in a Southwesterly direction to the Northeast corner of Lot Number 14, Map Number 296, then turning and running in a Southerly direction 80 feet (±) along the Easterly side of Lot Number 14, Map Number 296, 80 feet (±) along the Easterly side of Lot Number 28, Map Number 296, across Dow Avenue to Lot Number 43, Map Number 296, then turning and running in a Westerly direction 80 feet (±) along the Northerly side of Lot Number 43, Map Number 296, then turning and running in a Southeasterly direction 79 feet (±) along the Northeasterly side of Lot Number 19, Map Number 295, to the Southeasterly corner of Lot Number 19, Map Number 295, then turning and running in a Southerly direction 50 feet (±) along the Easterly side of Lot Number 23, Map Number 295, 50 feet (±) along the Easterly side of Lot Number 27, Map Number 295, then turning and running in a Westerly direction 100 feet (±) along the Southerly side of Lot Number 27, Map Number 295, then turning and running in a Southerly direction 166.66 feet (±) along the Westerly side of Lot Number 31, Map Number 295, 74.26 feet (±) along the Westerly side of Lot Number 41, Map Number 295, 59.06 feet (±) along the Westerly side of Lot Number 49, Map Number 295, 99.92 feet (±) along the Westerly side of Lot Number 56, Map Number 295, then turning and running in a Westerly direction across Whitten Street, 110 feet (±) along the Southerly side of Lot Number 55, Map Number 295, 90 feet (±) along the Southerly side of Lot Number 54, Map Number 295, across Harris Avenue, 50 feet (±) along the Southerly side of Lot Number 46, Map Number 295, 50 feet (±) along the Southerly side of Lot Number 45, Map Number 295, 50 feet (±) along the Southerly side of Lot Number 44, Map Number 295, 41 feet (±) along the Southerly side of Lot Number 43, Map Number 295, 43 feet (±) along the Southerly side of Lot Number 42, Map Number 295, then turning and running in a Northerly direction 101.63 feet (±) along the Westerly side of Lot Number 42, Map Number 295, 419.88 feet (±) along the Westerly side of Lot Number 15, Map Number 295, 68.63 feet (±) along the Northwesterly side of Lot Number 15, Map Number 295,

156 feet (±) along the Northwesterly side of Lot Number 8, Map Number 295, 50 feet (±) along the Southeasterly side of Lot Number 1, Map Number 295, then turning and running in a Northwesterly direction 565 feet (±) along the Northeast side of Lot Number 1, Map Number 292, then turning and running in a Westerly direction to the Hampton and Hampton Falls town boundary line, turning and running Northerly along said Hampton and Hampton Falls town boundary line to the extension of the Hampton Precinct line, then turning and running in a Northeasterly direction along the Precinct line to the Southerly side of Island Path, then turning and running in an Easterly direction 1,200 feet (±) along Island Path to the point of beginning.

Section 2.2 Conflicts Between Business/Residential Zones

2.2.1 When a lot contains frontage on more than one street, any business establishment situated on such lot shall be so arranged that:

a) Its front elevation shall face whichever street frontage is zoned for commercial use, and

b) The principal access to said lot shall be provided from said street zoned for commercial use, and

c) Any parking space provided on said lot shall be furnished with an appropriate hedge or other approved landscaping device so as to screen the parking and service area from the nearest street or streets.

2.2.2 When a business zoning district boundary parallels a street, and in crossing any other intersecting streets, thereby includes in the business district any lots fronting on a street zoned predominantly for residential purposes, said lots, if developed for business purposes, shall be so arranged that:

a) The front elevation of the principal structure shall face the street zoned predominantly for business purposes, and

b) The principal access to said lot shall be provided from the street predominantly for business purposes, and

c) Any parking space provided on said lot shall be furnished with an appropriate hedge or other approved landscaping device so as to screen the parking and service area from the nearest street or streets.

Section 2.3 Wetlands Conservation District

2.3.1 PURPOSES. In the interest of protecting the public health, safety and welfare the Wetlands Conservation District (WCD) has been established to protect, preserve and prevent the despoliation and unregulated alterations of 1) tidal and freshwater wetlands, 2) areas of very poorly drained soils and poorly drained soils, 3) vernal pools, and 4) 1st through 4th Order Streams, and 5) their buffers. It is in the public interest to protect the valuable functions these areas provide such as habitat for fish, wildlife and flora, ground water protection, storm water and flood control, nutrient and pollutant filtering, recreation and aesthetic enjoyment. (Amended March 2005, March 2012, March 2016)

The Wetlands Conservation District is intended to:

A. Prevent the destruction and preserve the integrity and health of wetlands and areas of very poorly drained soils and poorly drained soils and their buffers, all of which provide flood protection, connection to the ground or surface water supply, filtration of water flowing into ponds and streams, and augmentation of stream flow during dry periods; (Amended March 2012)

B. Prevent the development of structures and land uses on wetlands, areas of very poorly drained soils and poorly drained soils, and their buffers, which would contribute to pollution of surface and ground water by sewage or other wastes or toxic materials; (Amended March 2012)

C. Prevent unnecessary or excessive expense to the Town for provision and maintenance of essential services and utilities;

D. Deleted. (Amended March 1998)

E. Protect wildlife habitat, including amphibian and invertebrate breeding habitat (i.e. vernal pools), maintain ecological balance and enhance ecological values; (Amended March 2015)

F. Preserve and enhance the aesthetic values associated with wetlands and areas of very poorly drained soils and poorly drained soils and their buffers in Hampton; (Amended March 2012)

G. Prevent construction or earth moving activities in wetlands and their buffers, which could impact adjacent property. (Amended March 1998)

2.3.2 DEFINITIONS AND DELINEATIONS. Detailed descriptive materials and maps of wetlands and wetlands soils and flora in the Town of Hampton are found in the reports listed in the Appendix to this section and are incorporated herein by reference.

A. The Wetlands Conservation District (WCD) includes tidal wetlands, freshwater wetlands, areas of very poorly drained soils and poorly drained soils, 1st through 4th order streams or rivers and their buffers. In case of any question, the precise location of a wetland boundary or stream edge in any particular case must be determined by on-site inspection of soil types and vegetation.

Any more detailed or updated study accepted by the Hampton Planning Board upon recommendation of the Conservation Commission shall supersede the Soils Conservation Service study where it is shown to be incomplete or inaccurate. (Amended March 1998, March 2012)

B. Tidal Wetlands are defined and delineated as: the wet side of the "Highest Observable Tide Line" (HOTL) edge which is a line defining the furthest landward limit of tidal flow, not including storm events, that can be recognized by indicators such as the presence of a strand line of flotsam and debris, the landward margin of salt-tolerant vegetation, or a physical barrier that blocks further inflow of the tide. In a given case, the HOTL shall be identified, documented, and mapped by an appropriate NH Certified Wetland Scientist. Examples of tidal wetlands include, but are not limited to the Atlantic Ocean, Hampton Harbor, and the Hampton Salt Marsh Complex. (Amended March 2005, March 2012, March 2020)

C. Freshwater Wetlands means 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. Examples include, but are not limited to, non-tidal portions of ponds, rivers and streams. (Amended 2005, March 2016, March 2020)

D. 1ST Through 4TH Order Streams or Rivers are defined as Ash Brook, Drakes River, Little River, Nilus Brook, Old River, Taylor River, and Winnicut River.

E. Areas of very poorly drained soils and poorly drained soils

1. Very poorly drained soils are those soils in which water is removed from the soil so slowly that the water table remains at or on the ground surface most of the year. Very Poorly drained soils shall be classified in accordance with the most recent definitions, standards, and procedures of the Society of Soil Scientists of Northern New England. (Amended March 2015)

2. Poorly drained soils are those soils in which water is removed so slowly that the soil remains wet for a large part of the year. A poorly drained soil has a water table near the ground surface that keeps the soil wet for seven to nine months of the year. Poorly drained soils shall be classified in accordance with the most recent definitions, standards, and procedures of the Society of Soil Scientists of Northern New England. (Amended March 2015)

F. Vernal Pool is a confined basin depression that, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, provides essential breeding habitat for certain amphibians and invertebrates, and is free of adult fish populations. A vernal pool must support one or more primary vernal pool indicators, or 3 or more secondary vernal pool indicators as described in Identification and Documentation of Vernal Pools in New Hampshire, 2nd Ed., 2004 published by the NH Fish and Game Department. (Adopted March 2015)

G. Buffer is the area extending:

1. fifty feet (50 ft.) out from the boundary line of any tidal or freshwater wetland, and/or areas of very poorly drained soils and poorly drained soils, and/or vernal pools or
2. one hundred feet (100 ft.) out from the edge of any of the following 1st through 4th order streams* or rivers: Ash Brook, Drakes River, Little River, Nilus Brook, Old River, Taylor River, and Winnicut River. *(Appendix 7 – Strahler, 1957) The buffer is intended to provide a natural vegetative zone between the upland and any tidal or freshwater wetland, area of very poorly and poorly drained soils, and vernal pool for water filtration, storm water retention, flood protection and wildlife. (Amended 2005, March 2012, March 2016, March 2020)

H. The Hampton Salt Marsh Complex as mapped in Exhibit 27 in the February 8, 2006 "Prime Wetland Inventory Report" by Gove Environmental Services, Inc. and as later also described in said Report under Recommendations for Hampton Prime Wetlands, is hereby designated a prime wetland for purposes of RSA 482-A:15 and Department of Environmental Services regulations. (Amended March 2009, 2012)

I. Mitigation means the measures that offset or counter the adverse environmental effects that developing or permanently disturbing land may have on the WCD. (Adopted March 2020)

2.3.3 PERMITTED USES. Uses permitted in the Wetlands Conservation District are those which do not result in the alteration of the land surface configuration by a) dredging, b) adding fill, or c) increasing the amount of impervious surface or the erection of any structure. (Amended March 2012; March 2015, March 2020)

A. The following uses are permitted in the WCD as defined in subsection 2.3.2 A 1-10. Additional exceptions or permitted uses for freshwater wetlands, very poorly and poorly drained soils, and 1st through 4th order streams are set forth in Sections 2.3.3 B and 2.3.3D.

1. Forestry and tree farming may be performed provided that best management practices, including leaving all stumps intact, are used to minimize siltation and protect wildlife habitat. (Amended March 2012; March 2015)
2. The cutting of live trees with a diameter of four and one-half (4-1/2) inches or less, measured four and one-half (4-1/2) feet above ground level, however this does not apply to the first 25 feet from the edge of a 1st through 4th order stream (see Section 2.3.3 C-1 for vegetation removal). Removal of dead, diseased or unsafe trees is permitted. Stumps and their root systems shall be left intact in the ground. (Amended March 2015)
3. Agriculture, such as harvesting marsh hay and gathering cast-up for fertilizer, provided that heavy equipment shall not be used in the WCD.
4. Wildlife refuge, conservation areas and nature trails.
5. Educational and passive recreational uses compatible with the purposes forth in Section 2.3.1.
6. By Wetlands Permit only, seawalls (including access structures), fences, footbridges, catwalks, and wharves may be constructed on tidal wetlands and must be constructed on posts and pilings (except seawalls) such as to permit the unobstructed flow of the tide and preserve the natural vegetation and contour of the tidal wetlands. (Amended March 1998, March 2012, March 2015)
7. By Wetlands Permit only, drainage ways as paths for normal runoff provided that they are constructed according to drainage plans, consistent with the purposes of the WCD Ordinance. (Amended 1998, March 2012, March 2015)
8. By Wetlands Permit only, roads, driveways, access ways, utilities, and power lines may be constructed in the WCD provided that the following conditions exist: (Amended March 2015)

    a. - Proposed construction is essential to the productive use of uplands outside the WCD;
    b. - Design and construction methods will be such as to minimize any impact in the WCD, and will include restoration of the site as nearly as possible to its original grade and vegetative condition;

c. - An alternative with less impact, which does not cross a wetland or buffer, is not feasible;
d. - The crossing will be at the point of least impact to the WCD; (Amended 2001)
e. - Applications for all necessary local and state wetlands permits shall be made concurrently. (Amended March, 1998, March 2012)

9. Landscaping: Provided that the Building Inspector determines that:

   a. - The area to be landscaped has been previously disturbed or cleared or is maintained as a lawn or beach;
   b. - The disturbed or cleared area is not being expanded;
   c. - The proposed landscaping will not be contrary to the spirit or intent of the WCD Ordinance. (If the Building Inspector determines that the proposal is not consistent with the purposes of the WCD Ordinance, the proposed activity shall only be permitted if the landowner obtains an approved Town Wetlands Permit.

10. Replacement or Repair of an existing fence, shed, or deck; provided that the Building Inspector determines that:

    a. - The fence, shed, or deck has a previously approved Town Wetlands and/or Building Permit;
    b. - The fence length or the shed or deck square footage is not increasing or encroaching further into the WCD;
    c. - The proposed work will not be contrary to the spirit or intent of the WCD Ordinance. (If the Building Inspector determines that the proposal is not consistent with the purposes of the WCD Ordinance, the proposed activity shall only be permitted if the landowner obtains an approved Town Wetlands Permit).

B. The following additional uses are permitted in freshwater wetlands and areas of poorly and very poorly drained soils and their buffers. (Amended March 2016)

1. Construction of wells for water supply and water impoundments constructed pursuant to plan approved by the Rockingham County Conservation District.

C. The following uses are permitted in the one hundred foot (100 ft.) buffer for 1st through 4th order streams or rivers as defined in Section 2.3.2: (Amended March 2016)

1. In the first twenty-five feet (25 ft.) from the nearest edge of the stream or river (known as the Vegetated Buffer Strip):

   a) the cutting of invasive species only with hand tools, and

   b) the application of limestone

2. Between twenty-five feet (25 ft.) and seventy-five feet (75 ft.) from the nearest edge of the stream or river (known as the Limited Cut Area):

   a) the cutting of invasive species, and

   b) the application of limestone

3. Between seventy-five feet (75 ft.) and one hundred feet (100 ft.) from the nearest edge of the stream or river:

   a) the application of low phosphate, slow release nitrogen fertilizers, and

   b) the cutting of invasive species

4. Construction of wells for water supply and water impoundments constructed pursuant to a plan approved by the Rockingham County Conservation District.

D. Other low density uses in WCD as defined in this Ordinance may be undertaken only by Wetlands Permit as provided in Section 2.3.5 of this Ordinance. (March 2020)

2.3.4 USE RESTRICTIONS AND PROHIBITED USES (Amended March 2012 & March 2019)

A. No septic system, leach field or other on-site waste disposal facility shall be installed within 75' (seventy-five) feet of the edge of any wetland, or any area of very poorly drained soils and poorly drained soils. In the event of failure of an existing system, the property must be tied into the town sewer system if available. If sewer is not available, an existing system may be replaced or repaired as necessary according to a design approved by the New Hampshire Water Supply and Pollution Control Division of the Department of Environmental Services. In the event the seventy-five foot (75') setback cannot be maintained, the replacement system shall meet the setback to the degree possible. (Amended 2005)

B. Except as provided in Subsections C & D below, no structure, impervious surface, parking space or building activity including dredging, filling or regrading shall be permitted within fifty feet (50') of any tidal or inland wetlands, or any area of very poorly drained soils and poorly drained soils or vernal pool, or within seventy-five feet (75 ft.) of the 1st through 4th order streams (as identified in Section 2.3.2 E). Any construction, forestry and agriculture activities within one hundred feet (100 ft.) of any wetland, or any area of very poorly drained soils and poorly drained soils, shall be undertaken with special care to avoid erosion and siltation into the wetlands, or any area of very poorly drained soils and poorly drained soils. The Building Department or the Planning Board, pursuant to its Site Plan Review and/or Subdivision authority, Section 1.5 of the Town of Hampton Zoning Ordinance, may require an erosion control plan using Best Management Practices (see Appendix Number 4). (Amended 2005, March 2015, March 2016)

C. An existing building within the buffer zone may be repaired and/or replaced provided that the new or repaired structure, including any impervious surface, shall not extend further into the buffer area than the original foundation. (Amended 1998, March 2015)

D. Where a variance is granted that enables building on a pre-existing lot of record, the setback shall be in line with the setback of existing buildings within 100' (one hundred feet) on either side. Where such buildings are set back varying distances, but closer than:

1. fifty feet (50 ft.) from the boundary of any tidal wetlands, inland wetlands, areas of very poorly drained soils and poorly drained soils, or vernal pools; or
2. one hundred feet (100 ft.) from any 1st through 4th order streams (as identified in Section 2.3.2 E),

The furthest setback among such buildings shall apply. (Amended 2005, March 2016)

E. (Deleted 1994)

F. No application of fertilizers, pesticides, insecticides, or herbicides shall occur in any tidal or inland wetlands, areas of poorly or very poorly drained soils, vernal pool, the 1st through 4th order streams as identified in Section 2.3.2 E, or their buffers, except as set forth in Section 2.3.3 D. (Amended March 2012, March 2015, March 2016)

G. No storage of yard waste, wood, or snow shall occur in any tidal or inland wetlands, areas of poorly or very poorly drained soils, vernal pools, or their buffers. (Amended March 2012, March 2015)

H. Construction Standards for the Tidal Wetland Conservation District - New Construction or substantial improvement of any structure including manufactured homes to be placed or substantially improved within the Tidal Wetland Conservation District shall comply with FEMA's Guidelines that the Town has adopted for the VE Special Flood Hazard Area (Section 2.4.11-C Coastal High Hazard Areas (Zone VE) –Construction Standards). The construction work shall have no adverse impacts on adjacent properties. (Adopted March 2019)

2.3.5 WETLANDS PERMITS: A use not otherwise permitted in the Wetlands Conservation District may be undertaken by Wetlands Permit by application to the Planning Board. Provided such use is in keeping with the intent and purposes set forth in this Ordinance as permitted in the underlying use district. (Amended March 1998, March 2015)

A. An application for wetlands permit for activities in the Wetlands Conservation District shall be filed with the Town Planner who shall forward one copy to the Hampton Conservation Commission for review and recommendation. The Commission may make field inspections and consult with experts and the applicant may be required to bear the cost of such consultation. The Conservation Commission shall report its recommendations to the Planning Board within 40 days of the date on which the application is mailed or otherwise conveyed to the Chairman. Said report shall be submitted in writing at a regular meeting. (Amended 1999 & 2002, March 2012, March 2015)

B. No wetlands permit shall be granted unless it is found to be consistent with the purposes set forth in Section 2.3.1 and the spirit of this Ordinance. The Planning Board as part of this application shall hold a Public Hearing and notify abutters as required under RSA 676:4. (Amended 1998, March 2015)

C. Any Wetlands Permit granted by the Board shall expire two years from the date of said grant. If the work approved by the issuance of a Wetlands Permit is not initiated during that time, the Wetlands Permit becomes null and void. If the work approved is initiated but not completed during that time, the owners may apply for a two-year extension. A request for such extension must be filed at least one month prior to the Wetlands Permit's expiration date. No more than two such extensions may be granted. (Amended March 2012, March 2015)

2.3.6 DISPUTED BOUNDARIES: In any instance where there is doubt as to the location of the Wetlands Conservation District boundary the burden of proof shall be on the applicant or property owner to show the proper location of the boundary.

A. Evidence shall be obtained by onsite investigation and analysis conducted by a New Hampshire Certified Soil Scientist or other New Hampshire certified wetlands scientist. (Amended March, 1998)

B. The Planning Board shall be responsible for making the final determination of the proper location of the boundary line.

1. Before making such determination the Planning Board shall review the evidence presented and shall consider the recommendation of the Conservation Commission. Where either the Planning Board or the Conservation Commission deems it necessary, they may consult an appropriate expert to review the studies submitted by the applicant to ascertain the proper location of the boundary. The applicant may be required to bear the cost of such consultation. The Planning Board shall notify the applicant of any such review and its probable cost before any consultant is hired.

2. The Planning Board shall render its decision in writing and set forth the evidence on which its conclusion is based.

3. A change to the wetland delineation, as a result of an appeal, made under this ordinance shall be recorded on a mylar with the Rockingham County Registry of Deeds. (Amended March 1998)

2.3.7 SPECIAL PROVISIONS

A. Where the Wetlands Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

B. Lands, which may have been wetlands but were legally filled prior to March 12, 1985 shall be judged according to the soils and flora existing at the site at the time application for building permit or subdivision is made. (Amended 1998)

C. For newly created lots and existing lots of record where the Wetland Conservation District is present, Criteria C-1 through C-4 shall apply to new created lots and Criteria C-2, C-3, and C-4 shall apply to existing lots of record. (Amended March 2012, March 2015, March 2019)

1. The minimum lot area required in the underlying zoning district or 30,000 square feet (whichever is less) shall be contiguous and outside of the Wetlands Conservation District. The proposed development within the contiguous area shall not result in any permanent adverse impacts to the Wetland Conservation District. (Amended March 2015, March 2016, March 2019)

2. For lots that will contain more than one dwelling unit, the minimum lot area per dwelling unit required in the underlying zoning district or 30,000 square feet per dwelling unit (whichever is less) shall be contiguous and outside of the Wetlands Conservation District. The proposed development within the contiguous area shall not result in any permanent adverse impacts to the Wetland Conservation District. (Amended March 2015, March 2016, March 2019)

3. Where on-site sewage disposal is required the 30,000 contiguous square feet minimum lot area outside of the Wetlands Conservation District shall apply, provided that the septic system location and design are approved by the NH Department of Environmental Services, Water Supply and Pollution Control Division or successor State agency. (Amended 1998, 2003, March 2012, March 2015)

4. In zones RAA, RA, RB, RCS, G, and I, a 12 ft. setback shall separate the dwelling structure(s) including attached garages from the Wetlands Conservation District. (also see Article IV, Section 4.9) (Amended March 2015, March 2020)

C-a. Deleted (Amended March 2015)

D. All land included in the Wetlands Conservation District shall be appraised for tax purposes either:

1. At its full and true value in money, based on its market value as undevelopable land required to remain in open space, or

2. At its value for current tax assessment purposes, provided that application is made for current use or discretionary easement as appropriate and the land is found eligible as provided in RSA 79-A and the regulations of the Current Use Advisory Board.

E. Enforcement of this Ordinance shall be the responsibility of the Selectmen and the Building Department, as provided in Article XXI of the Hampton Zoning Ordinance and in accordance with RSA 676:17 (Amended 1998), and additionally: (Amended March 2012)

1. Where the Wetlands Conservation District is suspected to have been illegally filled, since March 12, 1985, its condition shall be confirmed by digging through the fill by hand or backhoe and the presence of poorly or very poorly drained hydric soils beneath the fill shall be considered evidence of filling. The determination of the soil conditions shall be made by a New Hampshire certified soil or wetlands scientist, and paid by the applicant. (Amended 1998, 2003, March 2012)

2. Where a site's vegetation has been cleared, the presence of hydric soils shall be evidence of a wetland. (Amended 1998)

3. Ground and aerial photography may be consulted to examine the wetlands and buffers to confirm the possibility of violation. (Amended 1998)

4. Within 60 days of written notice of a confirmed violation, the property owner shall submit a written Restoration Plan to the Conservation Commission for approval. The property owner shall be financially responsible for the restoration of the violation. If the property owner does not restore the violated site as stated under the Conservation Commission recommendation, the property shall be ineligible for a Building Permit and/or a Certificate of Occupancy as cited in RSA 676:13 I. (Amended 1998)

F. If any provision of the Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect or invalidate any other provision of this Ordinance.

G. *This line left intentionally blank*

H. Mitigation may be required for projects with proposed impacts and/or disturbances in the WCD. Acceptable mitigation may include, but is not limited to, one or more of the following.

1. Enhancing existing wetland areas by increasing the size of the natural vegetated buffer

2. Replacing existing impervious surfaces with native vegetation

3. Permanently preserving land within the WCD or upland through land donation or conservation easement.

4. Creating or improving the property's ability to infiltrate and treat stormwater runoff on site.

The amount of mitigation offered shall be consistent with guidelines that are established by the Conservation Commission based on the type of disturbance within the WCD and the type of land (wetlands, buffer, or upland) being proposed as mitigation.

APPENDIX

Detailed descriptive materials and maps of wetlands and wetland soils and flora in the Town of Hampton are found in the following reports or their more recent revisions, which are incorporated herein by reference. (Amended 1998 AND March 2020)

1. SOILS INFORMATION FOR RESOURCE PLANNING, HAMPTON, NH, April 1982, U.S. Soil Conservation Service. Reference is made to the reports of Barry H. Keith submitted to the Hampton Conservation Commission in 1980 entitled THE WETLANDS OF HAMPTON, NEW HAMPSHIRE and RESULTS, HAMPTON, NH WETLANDS SURVEY.

2. STORM WATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL HANDBOOK FOR URBAN AND DEVELOPING AREAS IN NH, New Hampshire Department of Environmental Services, Rockingham County Conservation District, USDA Soil Conservation Service, August, 1992.

3. PRIME WETLAND INVENTORY REPORT TOWN-WIDE WETLANDS INVENTORY PHASE II HAMPTON AND HAMPTON FALLS, NH, Gove Environmental Services Inc. February 6, 2006. (Adopted March 2015)

4. IDENTIFICATION AND DOCUMENTATION OF VERNAL POOLS IN NEW HAMPSHIRE, New Hampshire Fish and Game, 2nd Ed., 2004 (Adopted March 2015)

5. QUANTITATIVE ANALYSIS OF WATERSHED GEOMORPHOLOGY, Strahler, A.N., American Geophysical Union Transactions 38:913-920. 1957. (Adopted March 2016)

Section 2.4 Floodplain Management Ordinance (Adopted March 2017)

(Special Flood Hazard Area was deleted in its entirety March 2017)

2.4.1 PURPOSE

Certain areas of the Town of Hampton, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Hampton, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.

2.4.2 DEFINITIONS

The following definitions shall apply only to this Floodplain Management Ordinance, and shall not be affected by the provisions of any other ordinance.

Accessory Structure means a small detached structure that is incidental and subordinate to the principal structure and is not intended for habitation as a dwelling unit. Accessory structures do not include Accessory Dwelling Units. Accessory Dwelling Units are subject to the same standards and requirements as any other residential structure.

Area of Shallow Flooding means a designated Zone AO on the Flood Insurance Rate Map (FIRM) with a one-percent or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet-flow.

Base Flood means the flood having a one-percent possibility of being equaled or exceeded in any given year.

Base Flood Elevation means the water surface elevation having a one-percent chance of being equaled or exceeded in any given year.

Basement means any area of a building having its floor subgrade on all sides.

Building - see "Structure".

Breakaway Wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.

Coastal High Hazard Area means the area subject to high velocity waters, including but not limited to, hurricane wave wash or tsunamis. The area is designated on a FIRM as Zone VE.

Crawl Space - An under-floor space that has its interior floor area (finished or not) no more than 5 feet below the top of the next-higher floor. Crawlspaces generally have solid foundation walls. See Diagram 8 in the Elevation Certificate Instructions.

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

FEMA means the Federal Emergency Management Agency.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

a. the overflow of inland or tidal waters, or
b. the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) means the official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.

Floodplain or Flood-prone Area means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

Floodway - see "Regulatory Floodway".

Freeboard - An additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 1 foot above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with state or community floodplain management regulations.

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

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

Historic Structure means any structure that is:

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

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

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes

park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

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

Mean Sea Level means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community's Flood Insurance Rate Maps are referenced.

National Flood Insurance Program - The program of flood insurance coverage and floodplain management administered under the Act and applicable federal regulations promulgated in Title 44 of the Code of Federal Regulations, Subchapter B.

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

Non-residential Structure - A commercial or mixed-use building where the primary use is commercial or non-habitational.

Recreational Vehicle is defined as:

a. built on a single chassis;
b. 400 square feet or less when measured at the largest horizontal projection;
c. designed to be self-propelled or permanently towable by a light duty truck; and
d. designed primarily **not** for use as a permanent dwelling but as temporary living quarters (less than 180 consecutive days) for recreational, camping, travel or seasonal use.

Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Residential Structure - A non-commercial building designed for habitation by one or more families or a mixed-use building that qualifies as a single-family, 2 - 4 family, or other residential building.

Special Flood Hazard Area is the land in the floodplain subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A, A0, AE, or VE.

Start of Construction includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

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

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

Substantial Improvement means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure. The market value of the structure should equal:

a. the appraised value prior to the start of the initial repair or improvement, or
b. in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under this ordinance is presumed to be in violation until such time as that documentation is provided.

2.4.3 AUTHORITY AND APPLICABILITY

A. **Authority.** This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Hampton Floodplain Management Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Hampton Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law.

B. **Applicability**. The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for Rockingham County, NH" dated May 17, 2005 or as amended, together with the associated Flood Insurance Rate Maps dated May 17, 2005 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

2.4.4 ADMINISTRATIVE PROVISIONS

A. **Greater Restriction**. If any provision of this ordinance differs or appears in conflict with any other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

B. **Severability**. Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

C. **Disclaimer of Liability**. The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

2.4.5 FLOODPLAIN ADMINISTRATOR

A. The Building Inspector, or his/her designee, is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

B. The Floodplain Administrator shall:

1. Review all permit applications to determine whether proposed development is located in a special flood hazard area. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require additional information to determine the development's location on the Flood Insurance Rate Map (FIRM).
2. Enforce and administer the provisions of this Ordinance in accordance with RSA 676.
3. Maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations, including the following:
    a. FIRMs;
    b. Documents from FEMA that amend or revise FIRMs;
    c. Records of issuance of permits and denial of permits;
    d. Determinations of whether proposed work constitutes substantial improvement or repair of substantial damage;
    e. Required certifications and documentation specified in this ordinance;
    f. Notifications to adjacent communities related to alterations of watercourses;
    g. Assurance that the flood carrying capacity of altered waterways will be maintained;
    h. Documentation related to variances, including justification for their issuance; and
    i. Records of variances and enforcement actions taken pursuant to this ordinance.

2.4.6 PERMITS

A. **Permitting Requirements.** All proposed development and substantial improvement to structures within a special flood hazard area shall require a building permit. Development includes any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operation or storage of equipment or materials.

Building Permit applications for structures in the floodplain shall include, but are not limited to:

1. Site plans drawn to scale showing:
    a. the nature, location, property lines, and topography of the lot or parcel;
    b. limit and extent of the special flood hazard area and floodway boundary, and base flood elevation(s);
    c. elevations of the existing, natural ground where structures are proposed, and within 25 feet or to the property boundary whichever is less;
    d. location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
2. Elevation(s) of the structure's lowest floor, including basement, for all new

construction and substantial improvements.

3. Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.

B. **Other Permits.** Prior to the issuance of a Building Permit, the applicant shall submit evidence that all necessary permits and approvals have been received from all government agencies from which approval is required by Federal or State law.

2.4.7 FLOODPLAIN DEVELOPMENT REQUIREMENTS

A. **General Requirements.** All development in a special flood hazard area shall:

1. Be reasonably safe from flooding and be designed and constructed with methods, practices and materials that minimize flood damage;
2. Be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic forces, including the effects of buoyancy;
3. Use flood damage-resistant materials for building components located below the base flood elevation; and
4. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. **Water Supply, Sanitary Sewage, and On-Site Waste Disposal Systems.** The following standards shall apply to all water supply, sanitary sewage, and on-site waste disposal systems located in a special flood hazard area:

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
2. New and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the systems and discharge from the system into flood waters; and
3. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

C. **Floodway Determinations and Requirements.** Prior to a permit being issued for new construction or substantial improvement of any structure or other development, including fill, the Floodplain Administrator shall receive the following applicable documentation:

1. In Zone A, the applicant shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources. If floodway data is available, the applicant shall meet the requirements of Section 2.4.7(C)(3) of this ordinance.
2. Within riverine special flood hazard areas where base flood elevations have been determined (Zone AE) but a regulatory floodway has not been designated, the

applicant must submit an engineering analysis prepared by a registered design professional that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point within the community.

3. Within a Regulatory Floodway, prior to a permit being issued for any development, including fill, new construction, substantial improvements and other development or land disturbing-activity, the applicant must submit certification prepared by a registered design professional, along with supporting technical data, that demonstrates that such development will not cause any increase in the base flood elevation.

D. **Alteration or Relocation of a Watercourse**. Prior to a permit being issued for any alteration or relocation of any watercourse, the applicant shall:

1. Notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Floodplain Administrator, in addition to the copies required by RSA 482-A: 3.
2. Submit copies of said notification to those adjacent communities as determined by the Floodplain Administrator, including notice of all scheduled hearings before the Wetlands Bureau.
3. Submit to the Floodplain Administrator, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

E. **Substantial Improvement and Substantial Damage Determinations.** For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage from any origin, and any other improvement of or work on such buildings and structures including within their existing footprint, the Floodplain Administrator, in coordination with any other applicable community official(s), shall be responsible for the following:

1. Review descriptions of proposed work submitted by the applicant to ensure that all requirements are addressed.
2. Decide the appropriate method to determine market value of the structure before the start of construction of the proposed work or in the case of repair, the market value before the damage occurred and before any repairs are made. Market value methods may include using the community's assessed value of the structure, a property appraisal from a professional appraiser obtained by the applicant, and an estimate of a structure's actual cash value including depreciation obtained by the applicant.
3. Review cost estimates of the proposed work including donated or discounted materials and owner and volunteer labor submitted by the applicant. Determine if the costs are reasonable for the proposed work, or use other acceptable methods, such as those prepared by licensed contractors or professional construction cost estimators and from building valuation tables, to estimate the

costs.

4. Determine if the work constitutes substantial improvement or repair of substantial damage based on the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the structure.
5. Notify the applicant in writing the result of the substantial improvement or damage determination. If the determination is that the work constitutes substantial improvement or substantial damage, the letter shall state that full compliance with the requirements of this ordinance is required.

Further guidance for meeting the above requirements can be found in the FEMA "Substantial Improvement/Substantial Damage Desk Reference (P-758)."

2.4.8 FLOOD ELEVATION DETERMINATION

A. **Zones AE and VE.** The Floodplain Administrator shall refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
B. **Zone A.** The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site plan approvals). In Zone A where a base flood elevation is not available or not known, the base flood elevation shall be at least 2 feet above the highest adjacent grade.
C. **Zone AO.** The flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM, or if no depth number is specified on the FIRM at least 2 feet above the highest adjacent grade.

2.4.9 STRUCTURE REQUIREMENTS

A. Standards for Structures. In all special flood hazard areas, except for Zone VE, the following requirements for new construction or substantial improvement of any structure must be met:

1. **Elevation Requirements.** The lowest floor of a structure, including the basement or crawlspace floor, shall be elevated at least one foot above the base flood elevation (as determined by the Floodplain Administrator in Section 2.4.8). If the elevation of the structure's lowest floor above base flood elevation results in the exceedance of the maximum height requirements (in feet) provided in Article IV, Section 4.4, then the maximum height requirements (in feet) shall be increased by the elevation amount (in feet) that exceeds the maximum height requirement, up to 3 feet. (Amended 2019)
2. **Certification.** The applicant shall provide the Floodplain Administrator a completed and certified copy of a FEMA "Elevation Certificate" indicating the as-built elevation of the lowest floor of the structure, including basement or crawlspace floor.

3. **Manufactured Homes:**
   a. Shall met the elevation requirements in Section 2.4.9(A)(1).
   b. Shall be placed on a permanent, reinforced foundation.
   c. Shall be installed using methods and practices which minimize flood damage. Manufactured homes shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring are authorized to include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
4. **Recreational Vehicles:**
   a. Shall be on a site for fewer than 180 consecutive days, and be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions, or
   b. Shall meet the requirements in Section 2.4.9(A) for manufactured homes.

B. Floodproofing of Non-Residential Structures and Certification. In all special flood hazard areas, except for Zone VE, the following requirements for new construction or substantial improvement of a non-residential structure that does not meet the elevation requirements stated in Section 2.4.9(A), shall meet the following requirements:

1. The structure, including the basement or crawlspace floor, shall be flood proofed or elevated at least one foot above the base flood elevation (as determined by the Floodplain Administrator in Section 2.4.8) so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water together with attendant utility and sanitary facilities. The structure shall have structural components are capable of resisting hydrostatic and hydrodynamic forces and the effects of buoyancy.
2. The applicant shall provide a completed and certified FEMA "Flood-proofing Certificate for Non-Residential Structures". Such certification shall be provided to the Floodplain Administrator before a Certificate of Occupancy is issued.

C. Drainage Paths for Structures in Zone AO. New construction of structures located on slopes in Zone AO, shall meet the following requirement:

1. Include adequate drainage paths to guide floodwaters around and away from the structure.

D. Enclosed Areas below the Lowest Floor. New construction or substantial improvement of any structure in a special flood hazard area, except for Zone VE, that has a fully enclosed area that is formed by foundation and other exterior walls which are located below the base flood elevation shall meet the following requirements:

1. Constructed with flood damage-resistant materials as described in the FEMA

"Technical Bulletin 2, Flood Damage-Resistant Materials Requirements;"

2. Used solely for the parking of vehicles, building access or storage;
3. Constructed with the elevation of the finished interior grade of the enclosure equal to or higher than the outside finished exterior grade on at least one side of the structure; and
4. Designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
   - **a.** A minimum of two openings on different sides of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
   - **b.** The bottom of all openings shall be no higher than one foot above either the interior or exterior grade, whichever is higher.

ii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

Further guidance for meeting the above requirements can be found in the FEMA "Technical Bulletin 1, Openings in Foundations Walls and Walls of Enclosures."

2.4.10 DETACHED ACCESSORY STRUCTURES

A. Accessory Dwelling Units. As defined by this ordinance, accessory structures do not include Accessory Dwelling Units. Accessory Dwelling Units are subject to the same standards and requirements as any other residential structure.

B. Standards. In a special flood hazard area, except Zone VE, new construction or substantial improvement of a detached accessory structure (i.e., garage, shed) do not have to meet the elevation or non-residential floodproofing requirements as detailed in Sections 2.4.8(A) if the following standards are met:

1. The structure has a structural footprint of less than 300 square feet.
2. The structure has unfinished interiors and must not be used for human habitation. An apartment, office or other finished space over a detached garage is considered human habitation and would require the structure to be elevated.
3. The structure is not in the floodway.
4. The structure is not used for storage of hazardous materials.
5. The structure is used solely for parking of vehicles and/or limited storage.
6. The structure is not already substantially improved.
7. The structure must be wet floodproofed and designed to allow for the automatic entry and exit of flood water as detailed in Section 2.4.9(D)(4).
8. The structure shall be firmly anchored to prevent flotation, collapse and lateral movement.
9. Service facilities such as electrical, mechanical and heating equipment must be elevated or floodproofed to or above the base flood elevation.

2.4.11 COASTAL HIGH HAZARD AREAS (ZONE VE)

A. **Applicability.** Zone VE standards apply to new construction or substantial improvements to any structure. Manufactured homes are permitted in existing manufactured home parks in Zone VE.

B. **Location Requirement**. New construction in Zone VE shall be located landward of the reach of mean high tide.

C. **Construction Standards.** New construction or substantial improvement of any structure including manufactured homes to be placed or substantially improved within Zone VE shall:

1. Be elevated on pilings and columns such that:
    a. the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated at least one foot above the base flood elevation;
    b. the pile or column foundation and structure attached thereto is anchored to resist floatation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and
    c. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
2. The space below the lowest floor shall be used solely for the parking of vehicles, building access, or storage and must either be:
    a. free of obstructions as described in the FEMA "Technical Bulletin 5, Free of Obstruction Requirements for Buildings Located in Coastal High Hazard Area in Accordance with the National Flood Insurance Program"; or
    b. constructed with open lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or
    c. constructed to enclose less than 300 square feet of area with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or no more than 20 pounds per square foot. Walls intended to break away shall have flood openings that meet the criteria in Section 2.4.9(D) – Enclosed Areas below the Lowest Floor. (Amended March 2020)

3. A registered professional engineer or architect shall:
    a. develop or review the structural design, specifications and plans for construction, which must meet or exceed the technical criteria contained in the FEMA "Coastal Construction Manual"; and
    b. certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.

D. **Certification Requirements.** The Floodplain Administrator shall verify the elevation of the structure's lowest floor member and the Base Flood Elevation prior to the start of framing. The applicant must submit to the Floodplain Administrator a completed and certified copy of the FEMA "Elevation Certificate," which shall indicate the as-built

elevation of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) of the structure. The Floodplain Administrator shall verify the accuracy and completeness of the Elevation Certificate before a Certificate of Occupancy is issued.

E. **Recreational Vehicles.** Recreational vehicles located in Zone VE shall meet either of the following requirements:
   1. Shall be on a site for fewer than 180 consecutive days, and shall be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions.

F. **Prohibited Uses.** The use of fill for the structural support of buildings, and man-made alterations of sand dunes which would increase potential flood damage is prohibited in Zone VE.

G. **Alterations of Sand Dunes.** If alteration of sand dunes is proposed, notification shall be given to the Wetlands Bureau of the New Hampshire Department of Environmental Services and copies of such notification shall be submitted to the Floodplain Administrator, in addition to the copies required by RSA 482-A: 3. Man-made alterations of sand dunes are prohibited unless it can be demonstrated that such alterations will not increase potential flood damage or compromise the structural integrity of the sand dune system on and adjacent to the property. Prior a permit being issued for any alteration of sand dunes in Zone VE, the applicant must submit an engineering analysis, prepared by a professional engineer, demonstrating that the proposed alteration will not increase the potential for flood damage or compromise the structural integrity of the sand dune system on and adjacent to the property.

2.4.12 VARIANCES AND APPEALS

A. Any order, requirement, decision or determination of the Floodplain Administrator made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

B. In evaluating a variance application, the Zoning Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of the article, and:
   1. The dangers that materials may be swept onto other lands to the injury of others or their property;
   2. The danger to life and property due to flooding or erosion damage;
   3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
   4. The importance of the services provided by the proposed facility to Hampton;
   5. Where applicable, the necessity of a waterfront location to the facility;
   6. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
   7. The compatibility of the proposed use with existing and anticipated development;
   8. The relationship of the proposed use to the Master Plan and flood plain management program of that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site; and,
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

C. If the applicant, upon appeal, requests a variance from any requirements of the Floodplain Ordinance, the applicant shall have the burden of showing in addition to the five variance standards under state law RSA 674:33, I (b) that the following standards are met.

1. The variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense or conflict with existing local laws or ordinances.
2. If the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
3. The variance is the minimum necessary, considering the flood hazard, to afford relief.

D. The Zoning Board of Adjustment shall notify the applicant in writing that:

1. The issuance of a variance to construct below the base flood elevation will result in increased premium rates for flood insurance; and
2. Such construction below the base flood level increases risks to life and property.
3. Such notification shall be maintained with a record of all variance actions.

E. The Building Inspector shall:

1. Maintain a record of all variance actions, including their justification for their issuance; and
2. Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

Section 2.5 Aquifer Protection District Ordinance

(Adopted 1989, Amended March 2016)

2.5.1 AUTHORITY AND PURPOSE

Pursuant to RSA 674:16-21, the Town of Hampton hereby adopts an Aquifer Protection District Ordinance and accompanying regulations in order to protect, preserve and maintain existing and potential groundwater supplies and related groundwater recharge areas within known aquifers.

In the interest of the public health, safety and general welfare of the citizens, the purpose of this Ordinance is to protect, preserve and maintain existing and potential groundwater supply and recharge areas within the known aquifer from adverse development, land use practices or depletions.

The future growth and development of the Town, in accordance with the Master Plan, must assure the future availability of unpolluted public and private water supplies and encourage safe uses that can be appropriately and safely located in aquifer recharge areas.

2.5.2 DEFINITIONS

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

A. Animal Feedlot: A commercial agricultural establishment consisting of confined feeding areas and related structures used for the raising of livestock for profit.

B. Aquifer: For the purpose of the Ordinance, aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for municipal or private water supplies.

C. Aquifer Protection District: The direct recharge area of designated aquifers. The Aquifer Protection District is shown on an overlay to the Official Zoning Map of the Town.

D. Direct Recharge Area: The land area immediately over lying the aquifer. The boundary of the direct recharge area is the contact between the stratified drift and adjacent till or bedrock.

E. Engineer: A person licensed by the State of New Hampshire in accordance with NH RSA Chapter 310-A, Sections 2 - 27, as amended.

F. Groundwater: Water in the subsurface zone at or below the water table in which all pore spaces are filled with water.

G. Groundwater Recharge: The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.

H. Impervious Surface: An impervious surface (otherwise referred to as “sealed surface” or “lot coverage”) is any modified surface that cannot effectively absorb or infiltrate water. Examples of impervious surfaces include, but are not limited to roofs and, unless designed to effectively absorb or infiltrate water, decks, patios, and paved, gravel, or crushed stone driveways, parking area, and walkways.

I. Induced Infiltration: The process by which water in a stream or lake moves into an aquifer because of a hydraulic gradient from the surface water body toward a pumping well or wells.

J. Leachable Wastes: Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.

K. Low Impact Development: A design practice which mimics natural hydrology by reducing impervious surfaces and stormwater runoff, and by increasing groundwater recharge and pollutant removal.

L. Mining of Land: The removal of geological materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone.

M. Sanitary Protective Radius: The 400-foot radius which exists around each of the public drinking water production wells in the Town of Hampton. As required by New Hampshire Department of Environmental Services Code of Administrative Rules Part Env-Dw 302, the area within the Sanitary Protective Radius shall be maintained in a natural state at all times.

N. Saturated Zone: The zone beneath the land surface in which all open spaces are filled with solid water.

O. Sludge: Residual materials produced by the sewage treatment process.

P. Solid Waste: Any discarded or abandoned materials including refuse, putrescible material, septage, or sludge, as defined by New Hampshire Solid Waste Rules He-P 1901.03. Solid waste includes solid, liquid, semi-solid or contain gaseous waste material resulting from residential, industrial, commercial, mining, and agricultural operations and from community activities.

Q. Stratified-Drift: Unconsolidated, sorted sediment composed of layers of sand and gravel deposited by meltwater from glaciers.

R. Stratified-Drift Aquifers: Stratified-drift deposits that are capable of yielding usable amounts of water.

S. Structure: Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground. For the purpose of this Ordinance, buildings are structures.

T. Toxic or Hazardous Materials: Any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic or hazardous materials include, without limitation, volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalies, and include products such as pesticides, herbicides, solvents and thinners, and such other substances as defined in New Hampshire Department of Environmental Services Ground Water Protection Rules Part Env-Ws 410.05; in New Hampshire Solid Waste Rules Env-Wm 100 to 300 and 2100 to 3700, and in the code of Federal Regulations 40 CFR 261, as amended. The more restrictive shall apply.

Wastes such as, but not limited to, toxic or poisonous types flammable, reactive solvents, oils, or corrosive oil generated by the following commercial activities are presumed to be toxic or hazardous, unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Planning Board:

- Airplane, boat and motor vehicle service and repair;

- Chemical and bacteriological laboratory operation;
- Dry cleaning;
- Electronic circuit manufacturing;
- Metal plating, finishing and polishing;
- Motor and machinery service and assembly;
- Painting, wood preserving and furniture stripping;
- Pesticide and herbicide application;
- Photograph processing;
- Printing

U. Unsaturated Zone: The subsurface zone above the water table. In this zone, open spaces are only partially filled with water.

2.5.3 AQUIFER PROTECTION DISTRICT BOUNDARIES

A. Locations*:* The Aquifer Protection Districts are defined as the areas shown on the overlay map entitled, "Aquifer Protection District", and is hereby adopted as part of the official Zoning Map of the Town of Hampton.

The Aquifer Protection District includes the areas delineated as direct recharge areas by Leggette, Brashears & Graham, Inc., consulting groundwater geologists for Aquarion Water Company of New Hampshire (formerly Hampton Water Works Co.) through a test well/boring program conducted during a period of 1901 to 1987. These areas have been further substantiated by the following sources: "Availability of Groundwater in the Piscataqua and other Coastal River Basins, Southeastern New Hampshire", John E. Cotton, USGS 1977. "Southeastern New Hampshire Water Resources Study - Groundwater Assessment Main Report", U.S. Army Corps of Engineers, New England Division, March 1981.

The Aquifer Protection District is a zoning overlay district which imposes additional requirements and restrictions to those of the underlying, base district zoning. In all cases the more restrictive requirements shall apply.

B. Recharge Areas: The district recharge area for the identified aquifer is considered to be co-terminus with the aquifer.

C. Incorrectly Designated Zones: When the actual boundary of the Aquifer Protection District is in dispute by any land owner or abutter actually affected by said boundary, the Planning Board, at the land owner/abutter's expense and request, may engage a professional geologist or hydrologist to prepare a report determining the proper location and extent of the aquifer and recharge area relative to the property in question. This report shall include but not be limited to:

1. A two foot interval topographic layout of the lot prepared by a registered land surveyor.

2. A high intensity soils map of the lot prepared by a soils scientist qualified in hydrologic studies including a written report of their on-site field inspection and test boring data.

3. The aquifer boundary as shown on the Aquifer Protection District Map shall be overlaid on the plat and the newly proposed boundary location shall be indicated on the same plat by a broken line.

4. Any additional mapping, hydrogeologic reports or information which becomes available as a result of recent or on-going scientific investigation of the locations and extent of aquifers, performed by the U.S. Geological Survey, NH State agencies or boards, the Town of Hampton, the Aquarion Water Company or its successor, or the agents of any of the above.

5. A review by the Aquarion Water Company or its successor, with a recommendation to be provided to the Planning Board.

The Planning Board may, based upon the findings of Section 2.5.3C 1-5 above, adjust the boundary or area designation of the Aquifer Protection Districts or reduce or expand the area so designated so as to more correctly define the location and extent of the aquifer on a site-specific, case-by-case basis.

2.5.4 USE REGULATIONS (Amended 2019)

A. Minimum Lot Size: The minimum lot size and area per dwelling unit within the Aquifer Protection District shall be one third (1/3) greater than the minimum required for the underlying district by Article 4.1 and 4.1.1., up to a maximum of 40,000 square feet. Lots of record (see Article 1.6.19) as of the effective date of this Article shall not be nonconforming in terms of minimum lot size. (Amended 1991)

B. Maximum Lot Coverage: Within the Aquifer Protection District, no more than twenty-five percent (25%) of a lot used for residential purposes or sixty percent (60%) of a lot used for non-residential purposes, shall be rendered impervious to groundwater infiltration.

C. Site Drainage: All runoff from impervious surfaces shall be recharged on the site and diverted, to the extent possible, towards areas covered with vegetation for surface infiltration. This includes roof and foundation drains, if present. Low Impact Development practices, which are designed to mimic natural hydrology by reducing impervious surfaces and stormwater runoff and increasing groundwater recharge and pollutant removal, shall be used to the extent practicable unless the applicant can document infeasibility to the satisfaction of the Planning Board. Runoff shall be pretreated prior to infiltration. Pretreatment to the extent practicable shall be in accordance with Best Management Practices as recommended by NHDES. French drain designs, with or without overflow to Town storm drains, must be reviewed by the Public Works Department and approved by the Planning Board.

D. Use of Deicing Chemicals: There shall be minimal use of deicing chemicals on all public and private roads, and parking lots within this District, and those compounds used shall be free of sodium and chloride to the extent possible.

E. Prohibited Uses: The following uses shall not be permitted in the Aquifer Protection District:

1. Disposal of solid waste other than brush.

2. All on site handling, disposal, storage, processing or recycling of hazardous or toxic materials. Bulk storage or toxic materials for resale or distribution is also prohibited.

3. Disposal of liquid or leachable wastes, except from residential subsurface disposal systems, or State approved commercial or industrial systems which discharge human wastes only.

4. Subsurface storage of petroleum and other refined petroleum products. All pre-existing, non-conforming subsurface storage of these products shall be registered with the

Fire Department with proof of registration to be provided to the Building Department, the Conservation Commission, and the Aquarion Water Company or its successor. Where new residential storage tanks for petroleum or other refined petroleum products are permitted in basements, the tanks shall be lined. Additionally, interior floor drains shall not be connected unless such connection is permitted by the Department of Public Works with the lines extending to an approved drainage facility.

5. Industrial uses which discharge contact type process waters on site. Non-contact cooling water is permitted.

6. Outdoor unenclosed or uncovered storage of road salt and other deicing chemicals.

7. Dumping of snow containing deicing chemicals brought from outside the Aquifer Protection District.

8. Commercial animal feedlot where animals are kept.

9. Automotive service and repair shops unless operated in accordance with NH State statutes, rules and regulations approving such use. Junk and salvage yards as defined in RSA 236:112 are prohibited.

10. Injection wells that dispose of waste in the ground.

11. Any activity located within a 400-foot radius of a public drinking water production well, unless in conformance with the requirements of the New Hampshire Department of Environmental Services Code of Administrative Rules Part Env-Dw 302 regarding the Sanitary Protective Radius.

F. Conditional Uses: The following uses, if allowed in the underlying district, are permitted only after a Conditional Use Permit is granted by the Hampton Planning Board.

1. Industrial, manufacturing and commercial uses not otherwise prohibited in Section 2.5.4 E of this Article.

2. Multi-family residential development.

3. Residential subdivisions which create any additional building lots.

4. Sand and gravel excavation and other mining if not carried out within eight (8) vertical feet of the seasonal high water table and if all activities are conducted in compliance with RSA 155-E.

The Planning Board may grant a Conditional Use Permit for those uses listed above only after written findings of fact are made that all of the following are true: (Amended 2019)

1. The proposed use will not detrimentally affect 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.

2. The proposed use will not cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer.

3. The proposed use will discharge no waste water on site other than that typically discharged by domestic waste water disposal systems and will not involve on-site storage or disposal of toxic or hazardous wastes as herein defined.

4. The proposed use complies with all other applicable sections of this article.

5. The proposed use may include any reasonable conditions attached to such permit by the Planning Board regarding construction and operation.

6. The proposed use may necessitate that the applicant provide the Planning Board with data or reports prepared by a professional engineer qualified to assess any potential damage to the aquifer that may result from the proposed use. The Planning Board shall engage such professional assistance as it requires to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria. Costs for the above mentioned services shall be charged to the applicant.

7. The proposed use may necessitate the installation of upgradient and downgradient monitoring wells under the direction of a New Hampshire certified professional hydrogeologist if the Planning Board, with the recommendation of Aquarion Water Company, or its successor, determines such installation is necessary for groundwater protection. Installation shall be performed at the expense of the applicant.

G. Permitted Uses: The following uses are permitted provided they are conducted in accordance with the purposes and intent of this Ordinance:

1. Uses permitted in the underlying district per Article III of the Hampton Zoning Ordinance, except for uses listed as conditional uses in Section 2.5.4 F and uses prohibited in Section 2.5.4 E.

H. Non-Conforming Uses:

1. Any non-conforming use shall comply with Article 1.2 and 1.3 of the Hampton Zoning Ordinance, except that the time period for reestablishment after abandonment shall be limited to one year. However, when non-conforming uses involve a direct hazard to the aquifer or the introduction of foreign substances (such as oils, salts, chemicals, etc.) into the aquifer, these uses shall not continue and the Building Inspector shall issue an immediate cease and desist order to stop these offending activities or processes from continuing within the district.

2. Any non-conforming lot of record existing before the effective date of this article may be used in accordance with Section 2.5.4 B - G of this Article.

2.5.5 DESIGN AND OPERATIONS GUIDELINES

Except for single and two-family dwellings, the following design and operation guidelines shall be observed within the Aquifer protection Districts:

A. Safeguards. Provisions shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as spill control provisions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or dissolvable materials. For operations which allow the evaporation of toxic or hazardous materials into the interiors of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.

B. Inspection. All conditional use permits granted under Section 2.5.4 F of this Article shall be subject to twice-annual inspections by the Building Inspector or other agent designated by the Selectmen. The purpose of these inspections is to insure continued compliance with the conditions under which approvals were granted. A fee for inspection shall be charged to the owner according to a fee schedule determined by the Selectmen.

C. Location. Where the premises are partially outside of the Aquifer Protection District Overlay Zone, potential pollution sources such as on-site waste disposal systems shall be located outside the Zone to the extent feasible.

2.5.6 ADMINISTRATION

A. General. The provisions of the Aquifer Protection District shall be administered by the Planning Board. All development proposals, other than single or two-family residential construction not involving the subdivision of land, shall be subject to subdivision and/or site plan review and approval in accordance with Planning Board rules and regulations. Such review and approval shall precede the issuance of any building permit by the Town. All variance requests shall be considered by the Zoning Board of Adjustment in accordance with Section 1.4 of the Hampton Zoning Ordinance. (Amended 2017)

B. Additional Notification. The Planning Board or the Zoning Board of Adjustment, as applicable, shall notify the Aquarion Water Company of New Hampshire, or its successor of any application in the Aquifer Protection District requiring a public hearing in the same manner as it notifies abutters. The applicant shall provide the required notification fee for this purpose. (Amended 2017)

C. Enforcement. Consistent with Article XXI, the Board of Selectmen or the Building Inspector shall be responsible for the enforcement of the provisions and conditions of the Aquifer Protection District.

2.5.7 EFFECTIVE DATE

This article shall become effective upon the date of passage.

Section 2.7 Professional Office / Residential District

A. Purpose. The Professional Office / Residential District (POR) is intended to permit development and continuance of small-scale service and office uses, designed to serve residential neighborhoods and or the Town of Hampton as a whole. Combined commercial-residential (mixed-use) structures are appropriate in this district. Parking requirements in this district recognize the pedestrian and transit orientation of customer trips, and the shared use of both on-street and off-street parking. The district is intended to promote the mixed growth of dwellings and employment opportunities that compliment and support the high quality of life found in Hampton.

B. The District Boundaries are as displayed on the Town of Hampton Zoning Map.

C. Use regulations. In the POR District, no building or land shall be used, and no building shall be erected, altered or enlarged, which is arranged, intended or designed for other than one or a combination of the following uses:

(1) Principal uses. (Amended 2018)

a. Single family residential. (As defined under Article 3.1 of the Zoning Ordinance)
b. Banks, offices and professional establishments, such as insurance agencies, real estate offices, attorney offices, medical professionals and/or other similar businesses, providing direct services to consumers. (All new uses will require a use change and/or site plan review and approval by the Hampton Planning Board).
c. Two-family dwellings.
d. Multi-family dwellings (in accordance with Article VIII).
e. Churches, schools, libraries, and municipal uses.
f. The Planning Board may approve other uses which are permitted in the RA and/or RB Zoning Districts (in accordance with Article III) if similarity with surrounding residential uses is demonstrated by the applicant. (All new uses will require a use change and/or site plan review and approval by the Hampton Planning Board).

D. Height, setback and area regulations. The height of the buildings or structures, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows, provided that buildings erected exclusively for dwelling purposes shall comply with the front, side and rear setback requirements of the Town of Hampton Zoning Ordinance as it pertains to single family residences.

(1) Height. Buildings or structures shall not exceed two and one-half stories or 35 feet in height.

(2) Front setback. (Amended 2018)

a. Single-family residential dwelling structures shall comply with Article 4.5.1 for the RA Zone. All other residential dwelling structures shall conform to the requirements of subsection 2.b below.

b. Nonresidential or mixed-use structures shall maintain a twenty-foot front setback. Mixed-use structures shall be defined as structures containing both residential and nonresidential uses.

(3) Side setbacks. (Amended 2018)

a. Single family residential dwelling structure shall comply with Article 4.5.2 for the RA Zone. All other residential dwelling structures shall conform to the requirements of subsection 3.b below.

b. Nonresidential or mixed-use structures shall maintain a ten-foot side setback.

(4) Rear setbacks. (Amended 2018)

a. Single family residential dwelling structures shall comply with Article 4.5.3 for the RA Zone. All other residential dwelling structures shall conform to the requirements of subsection 4.b below.

b. Nonresidential or mixed-use structures shall maintain a ten-foot rear setback.

(5) Lot area.

The minimum lot area in the district is 10,000 square feet.

E. Parking and loading regulations. Loading regulations for all uses and parking for buildings erected exclusively for dwelling purposes shall be in accordance with the Town of Hampton Zoning Ordinance and the Town Code of Ordinances. There are no minimum non-residential parking requirements in this district. An individual non-residential use must provide parking deemed adequate during the site plan review process. Multiple tenants in a common structure, or structures sharing a common wall, shall be considered an individual use for purposes of this calculation. Provisions for off-street parking must be made and all parking areas must be screened as described in subsection (H) below.

F. Signs. Signs shall be governed by the provisions of Article V of the Town of Hampton Zoning Ordinance, except that permitted signs and size requirements shall be in accordance with Table 1 of this section. All signage locations must be approved during the individual site plan review process, if applicable. Signs must be in character with surrounding uses. Construction materials for signs shall be similar to those used in the construction of the buildings they serve. For purposes of this District, a licensed or unlicensed vehicle, boat or trailer displaying advertising copy is considered a sign and is prohibited. An operable vehicle used in the daily conduct of business is not subject to the requirements of this section. (Amended March 2015)

Table 1

(Adopted 2015, Amended 2018)

Sign Type	Jurisdiction (see "Notes" below)	Maximum Size (see "Notes" below)
Banner	Approval Not Required	50 sf
Building Sign	Planning Board	50 sf
Canopy Sign	Planning Board	32 sf
Commercial Sign	Planning Board	32 sf

Directory Sign	Planning Board	32 sf
Flag	Approval Not Required	50 sf
Freestanding Sign	Planning Board	50 sf
Incidental Sign	Approval Not Required	4 sf
Marquee Sign	Planning Board	32 sf
Political Sign or Poster	Approval Not Required	25 sf
Projecting Sign	Planning Board	32 sf
Real Estate Sign	Approval Not Required	16 sf
Residential Sign	Planning Board	6 sf
Roof Sign	Planning Board	32 sf
Roof Sign, Integral	Planning Board	64 sf
Sandwich Board/Menu Sign	Planning Board	6 sf
Suspended Sign	Planning Board	32 sf
Temporary Sign	Building Department	4 sf
Wall Sign	Planning Board	50 sf
Window Sign	Building Department	50% of the window area

Notes:

1. Any sign type not specifically listed in Table 1 above is deemed to be prohibited in this District.
2. The Planning Board, by majority vote, may require sign(s) to be less than the maximum size identified in Table 1 above if it determines such a reduction is necessary to maintain or enhance the character of the subject property and/or the surrounding uses in this District. This requirement only applies to sign types for which the Planning Board has jurisdiction.
3. Signs listed in Table 1 as requiring approval from the Planning Board shall also require a Sign Permit from the Building Department. (Amended 2018)

G. Maximum building size. No building in this district shall exceed 7,000 square feet in area for any single floor. "Building" for this purpose is defined as a separate structure or a building or tenant space sharing a common wall through which no access is allowed.

H. Architectural standards.

(1) Screening. Parking for non-residential or mixed-use structures must be screened from residential abutters by a wall, fence, landscaping or berm between 18 inches and 42 inches in height.

Roof-mounted mechanical equipment must be screened from the view of the street and adjacent property.

Dumpsters and other waste receptacles must be enclosed by a solid wall or fence at least as high as the receptacles.

(2) Lighting. Floodlights or lights which illuminate open areas in connection with any of the uses listed in this section, shall be so arranged as to reflect the light away from any adjoining residential property, and the intensity shall not exceed two lux measured at any property line. (Amended March 2007)

(3) All structures, other than single-family residential dwellings, shall be subject to the provisions of the Site Plan Review Regulations regarding Architectural Design. (Amended 2018)

Section 2.8 Town Center District

(Adopted March 2014)

A. Purpose

The Purpose of this district is to encourage the development and re-development of Hampton town center in keeping with its historic development pattern, including the size and spacing of structures and open spaces. Such development shall:

- Be designed for residents'/guests' enjoyment, safety and adequate accessibility;
- Provide a mix of uses;
- Encourage amenities including options for pedestrians and bicyclists, including safe crosswalks, sidewalks, attractive alleyways and lighting, and landscaping;
- Retain existing buildings with historical features or architectural features that enhance the visual character of the community; and
- Provide a safe and aesthetic environment for vehicular travel.

The provisions that follow will be used in conjunction with other zoning regulations adopted by the Town and the site plan review and subdivision regulations adopted by the Planning Board to encourage appropriate and consistent patterns of town center development.

B. Applicability

The standards within this section are applicable within the Town Center District whose location is consistent with the Vision and Goals of the Hampton Master Plan. This district is generally consistent with the current Business District along Lafayette Road extending generally from the NH Route 101 interchange to Ann's Lane. The specific boundary can be determined from the Town of Hampton Zoning Map, April 1, 2009 as amended by the mapping of the Town Center Zoning District dated January 29, 2014, which repeals those portions of the B, I, POR and RA zoning districts lying within the Town Center District and reassigns same to the Town Center-South District (TC-S), Town Center-Historic District (TC-H) and Town Center-North District (TC-N).

<u>Town Center District</u>

Within the Town Center District there are three districts:

- The Town Center-South District (TC-S), which includes the area generally along Lafayette Road from NH Route 101 to just north of the Winnacunnet Road intersection.
- The Town Center-Historic District (TC-H), which includes the area generally along Lafayette Road from just north of the Winnacunnet Road intersection to the Rice Terrace intersection.
- The Town Center-North District (TC-N), which includes the area generally along Lafayette Road from Rice Terrace to the Ann's Lane intersection.

C. Permitted Uses in Town Center-Historic District

(Amended 2015, 2018)

The following uses are permitted in the Town Center-Historic District.

1. Apartments up to two units per building above non-residential use;
2. Convenience stores;
3. Pharmacies;
4. Cafés (including cyber-cafés);
5. Art galleries;
6. Grocery or neighborhood convenience stores, excluding the sale of motor vehicle fuels;
7. Business and professional offices;
8. Retail sales and services (see Note 4);
9. Banks;
10. Personal services establishments (as defined in Section 1.6);
11. Restaurants, except the use of drive-up windows;
12. Bed & Breakfasts establishments;
13. Hotels;
14. Outdoor seating associated with restaurants or cafés subject to applicable licensing/ permitting requirements;
15. Artist's residential and/or work space establishment;
16. Day care establishments for no more than three children; and
17. Conditional uses as set forth below.

Notes:

1. Any use not specifically enumerated above is deemed to be prohibited in this District.
2. Permitted uses may require Site Plan and/or Subdivision approval by the Hampton Planning Board in accordance with Section 1.5 of the Zoning Ordinance.
3. All changes of building occupancy involving any use of a non-residential nature in this District shall require Use Change approval by the Hampton Planning Board in accordance with Section 1.5 of the Zoning Ordinance.
4. The following retail uses are prohibited in this District:

   a. Martial Arts Weapons, as defined in Section 3.46

   b. Firearms and ammunition sales

   c. A business selling accessories intended for tobacco use, where more than 15% of the total display, shelf, rack, table, stand, or floor area is devoted to such accessories.

D. Conditional Uses in the Town Center-Historic District

The following uses are classified as conditional uses and shall adhere to the dimensional and design standards of this Section. These uses may be permitted by the Planning Board if they comply with the Conditional Use Standards of Subsection E.

1. Multi-family dwellings above non-residential use;
2. Family day care; and
3. Group day care.

E. Conditional Use Standards

The Planning Board may issue a conditional use permit approving uses in Subsection D provided the Planning Board determines the following conditions are met.

1. The use is specifically authorized in this ordinance as a conditional use;
2. If completed as proposed by the applicant, the development in its proposed location will comply with all requirements of this Article, and with the specific conditions or standards established in this ordinance for the particular use;
3. The use will not materially endanger the public health, safety, or welfare;
4. The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located;
5. Architecture and landscape design shall further the purposes set forth in Subsection A above and comply with the Design Standards in the Town of Hampton Subdivision and Site Plan Review Regulations;
6. The use will provide an environment to ensure both vehicular and pedestrian safety;
7. The use will be compatible with the natural, environmental, and historic resources of the town; and
8. The use will be adequately serviced by necessary public utilities and by community facilities and services of a sufficient capacity to ensure the proper operation of the proposed use, and will not necessitate excessive public expenditures to provide facilities and services with sufficient additional capacity.

F. Permitted Uses in the Town Center-South and Town Center-North Districts

(Amended 2015, 2018, 2020)

The following uses are permitted in Town Center-North and Town Center-South Districts:

1. Two-family dwellings
2. Bed & Breakfast establishments
3. Retail Sales
4. Lodging houses
5. Multi-family dwellings
6. Private schools
7. Outdoor recreation facilities
8. Farm buildings
9. Public Utility Buildings
10. Accessory Uses
11. Banks
12. Professional Offices
13. Theaters
14. Health Clubs
15. Personal services establishments (as defined in Section 1.6)
16. Restaurants
17. Warehouses
18. Domestic pet grooming shops
19. Motor vehicle repair & filling stations
20. Parking facilities
21. Manufacturing incidental to a business
22. Health care facilities
23. Day care for 3 or less children
24. Dwelling unit with business
25. Family and Group day care
26. Auto Dealers

Notes:

1. Any use not specifically enumerated above is deemed to be prohibited in this District.
2. Permitted uses may require Site Plan and/or Subdivision approval by the Hampton Planning Board in accordance with Section 1.5 of the Zoning Ordinance.

G. Dimensional Standards

(Amended March 2015)

Table 1

	Type	Town Center Historic[4]	Town Center South	Town Center North
G.1.1	Minimum lot area	5,000 sf	7,500 sf	7,500 sf
G.1.2	Minimum frontage	50 ft	100 ft	100 ft
	Minimum setbacks			
G.1.3	Front	10 ft	10 ft	10 ft
G.1.4	Side[1]	5 ft	7 ft	7 ft
G.1.5	Rear[1]	5 ft	7 ft	7 ft
G.1.6	Maximum number of stories/feet[2]	3 stories-35 ft	3 stories-35 ft	3 stories-35 ft
G.1.7	Maximum amount of sealed surface per lot, including but not limited to driveways, parking lots, and roofs[3]	75%	75%	75%
G.1.7a	Maximum amount of sealed surface per lot in the Aquifer Protection Zone[3]	N/A	N/A	60%
G.1.8	Minimum lot area per dwelling unit	None	5,000 sf	5,000 sf
G.1.9	Minimum square footage per dwelling unit	400 sf	400 sf	400 sf
G.1.10	Maximum number of dwelling units per structure	8	8	8

Notes:

1. When lot abuts a Residential Zone, Side and Rear Setbacks shall be 25 feet.
2. Building Height shall be measured in accordance with Article I, Section 1.6 of this Zoning Ordinance. Also see Article IV, Footnote 27.
3. Exceptions to the sealed surface percentage allowed in accordance with Article IV, Footnotes 30 and 31 of this Zoning Ordinance.
4. The Planning Board may issue a Conditional Use Permit for any applicant proposing a development or redevelopment on any lot greater than one acre in the Town Center-Historic District with multiple buildings. Such proposal must meet all of the following requirements:
   a. the building footprint of any one building does not exceed 7,500 sf;
   b. there is adequate space to meet parking and landscape requirements and all other dimensional requirements in Table 1 are satisfied;
   c. there is adequate space for a private access road; and
   d. all other applicable building design standards and site plan review standards are met.

Furthermore, any applicant proposing a development involving multiple buildings shall first present to the Planning Board a Conceptual Site Plan in sufficient detail to allow the Board to make a preliminary judgment as to the plan's compatibility with the Town's land use regulations.

H. Parking

1. New construction resulting in additional square footage or an increase in residential units must comply with the parking standards as per in accordance with Article VI-Parking of the Hampton Zoning Ordinance. In addition, parking spaces provided on-site must be:
    a. Located to the side or rear of the subject building lot;
    b. Screened from the street and adjacent properties; and
    c. In compliance with the Landscape Standards in the Town of Hampton Site Plan Review Regulations.
2. In order to facilitate village-like uses on smaller lots in the Town Center District, exemptions from the off-street requirements may be granted through the obtaining of a conditional use permit as referenced in Subsection E above from the Planning Board provided that the owner/applicant documents that available non-public parking spaces are located off-site and secured as approved by the Planning Board. (Amended March 2015)

I. Building Standards

Any development or redevelopment within the Town Center District will be consistent with the purposes set forth in Subsection A above and will be subject to the design standards in the Town of Hampton Subdivision and Site Plan Review Regulations adopted by the Planning Board.

J. Signs

Signs within the Town Center District shall be governed by the provisions of Article V of the Zoning Ordinance and adhere to the requirements for the Business (B) District in Tables 1 and II of said Article V, and comply with the design standards in the Town of Hampton Subdivision and Site Plan Review Regulations adopted by the Planning Board.

ARTICLE III - USE REGULATIONS

Any use not specifically enumerated or defined in the following code is prohibited:

CODE

P – Permitted (Refer to Section 1.5. Permitted uses may require Site Plan, Subdivision, and/or Use Change approval by the Hampton Planning Board.)

X - Prohibited

S - Requires Special Exception from Hampton Zoning Board of Adjustment and Site Plan Review by the Hampton Planning Board (Amended 1985)

R - Permitted with Site Plan/Subdivision Review by Planning Board

B - Permitted by Building Inspector

NOTES (Adopted March 2015, Amended March 2016)

(1) The Use Regulations set forth hereinafter for the BS Zoning District shall also apply to the BS1 Zoning District.

(2) See Article II, Sections 2.3.3 and 2.3.4 for the Wetlands Conservation District Use Regulations.

(3) See Article II, Section 2.5.4 for the Aquifer Protection District Use Regulations.

(4) See Article II, Section 2.7C for the Professional Office / Residential District Use Regulations.

(5) See Article II, Sections 2.8C, D, and E for the Town Center-Historic District Use Regulations.

(6) See Article II, Section 2.8F for the Town Center-South District and Town Center-North District Use Regulations.

(7) See Article XIX, Section 19.3 for the Transportation Corridor Overlay District Use Regulations.

3.1 One single- family dwelling with private garage having only one accessory building and one accessory dwelling unit. (See Articles III-A, VI, VII, XI and XII)*

RAA	RA	RB	RCS	B	BS	I	G
P	P	P	P	X	P	X	P

*(Amended 2017)

3.2 (Deleted 1991)

3.3 Two-family dwellings.*

RAA	RA	RB	RCS	B	BS	I*	G
X	X	P	P	P	P	X	P

*(Amended 1991)

3.4 Bed and Breakfasts.*

RAA	RA	RB	RCS	B	BS	I	G
S*	S*	S*	S*	P	P	X*	P

*(Amended 1991)

3.5 Retail Sales (as defined in Section 1.6 - Definitions**)***

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	P	P

*(Amended 1996, 2007)

3.6 Lodging Houses (as defined in Section 1.6 – Definitions)*

RAA	RA	RB	RCS	B	BS	I	G
X	X	S*	X*	P*	P*	X	X

*(Amended 1991, 2007)

3.7 A swimming pool for the use of occupants and their guests.

RAA	RA	RB	RCS	B	BS	I	G
P	P	P	P	P	P	P	P

3.8 Multi-family dwellings. (See Article 8)

RAA	RA	RB	RCS	B	BS	I	G
X	X	R	X	R	R	X	R

3.9 Tourists cabins, motels, and hotels including retail business conducted only for the convenience of the guests.*

RAA	RA	RB	RCS	B	BS	I	G
X	X	P	X	P	P	P	X*

*(Amended 1991)

3.10 Trailers, trailer camps, manufactured homes or manufactured home subdivisions. (See Article 9)

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	X	X	X	R

3.11 Dressing room facilities for public use, providing such facilities shall be totally enclosed within an existing residence, lodging house, hotel or motel, apartment house, provided that such facilities be operated only by the owner or lessee of such residence, lodging house, apartment house or motel.

RAA	RA	RB	RCS	B	BS	I	G
X	X	P	X	P	P	P	P

3.12 Churches, public schools, libraries, municipal uses.*

RAA	RA	RB	RCS	B	BS	I	G
P	P	P	X	P	P	P	P

*(Amended 1991)

3.12.1 Private Schools.*

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	P	P

*(Amended 1991)

3.13 General outdoor recreation of a non-commercial nature. In the RAA, RA, RB, and RCS Districts, if such use is the only use of the lot, the activity shall be limited to the hours between 8 A. M. and 11 P. M. * **

RAA	RA	RB	RCS	B	BS	I	G
P	P	P	P	P	P	P	P

* (Amended 1976) ** (Amended 1991)

3.14 Race tracks, roller-skating rinks**,** mechanical amusement rides or similar commercial amusements, either indoor or outdoor. *

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	X	X	X	X

*(Amended 1985, 2007)

The establishment of Penny Arcades or the expansion of a Penny Arcade.*

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	X	P	X	X

(Amended 1985, *Amended 1993)

3.15 (Deleted 1991)

3.16 The dead storage (not to be inhabited) of travel trailers, boat trailers, and utility trailers of less than 24 feet.

RAA	RA	RB	RCS	B	BS	I	G
B	B	B	B	B	B	B	B

3.17 Farm buildings necessary to the operation of a farm including road side stands for the sale of farm products principally produced, grown, raised or manufactured on the premises.

RAA	RA	RB	RCS	B	BS	I	G
P	P	P	X	P	P	P	P

3.18 Bathhouse or boathouse for private use.

RAA	RA	RB	RCS	B	BS	I	G
S	S	S	X	S	S	S	S

3.19 Cemeteries.

RAA	RA	RB	RCS	B	BS	I	G
S	S	S	X	S	S	S	S

3.20 Public utility building or public utility use necessary for public welfare.

RAA	RA	RB	RCS	B	BS	I	G
S	S	S	X	S	S	S	S

3.21 Any accessory use customarily incidental to uses 3.18, 3.19 and 3.20.

RAA	RA	RB	RCS	B	BS	I	G
S	S	S	X	S	S	S	S

3.22 Banks, offices and professional establishments, such as insurance agencies, real estate offices, attorney offices, medical professionals and/or other similar businesses, providing direct services to consumers.*

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	P	P

*(Amended 2007)

3.23 Theaters and halls devoted to showing motion pictures or for drama, dance, musical or other live performances.*

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	P	P

*(Amended 2007)

3.24 Health/Athletic Clubs, service clubs or fraternal organizations, and their premises catering to members and their guests, or to the public, for social, intellectual or recreational purposes.*

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P*	P	P

*(Amended 1991, 2007)

3.25a Personal services establishments including beauty and barber shops, nail salons, cosmetologists, spas, skin care therapies, tanning salons, massage therapists, and other like beauty-health service facilities as may be regulated by the State of New Hampshire (RSA 313-A)*

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	P	P

* (Amended 2003, 2007, 2018)

3.25b Restaurants. (Amended 2003)

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	P	P

3.25c Warehouses. (Amended 2003)

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	P	P

3.25d Domestic pet grooming shops. No boarding of animals is allowed. All facilities must comply with the Town of Hampton Animal Control Ordinance and other applicable regulations. (Amended 2003)

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	P	P

3.25e Dog day care center. Hours are limited to 6 AM - 8 PM and no overnight boarding is allowed. All facilities must comply with the Town of Hampton Animal Control Ordinance and other applicable regulations.*

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	X	X	R	X

*(Adopted 2018)

3.26 Motor vehicle repair and service shop and filling stations. A filling station is defined as an area of land with structures thereon that is used for the sale of gasoline, diesel oil, electricity or other alternative fuel for motor vehicles, fuel, oil, and other lubricating materials. * **

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	P	X**

* (Amended 1987) ** (Amended 1990, 2012)

3.26a Parking Lots

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	R	R	R	R	X

(Amended 2012, 2017)

3.27 Proposed conversion condominiums and the use thereof will require review by the Planning Board.*

RAA	RA	RB	RCS	B	BS	I	G
R	R	R	R	R	R	R	R

(Meaning and intending to require that any and all condominium conversions come under Planning Board Jurisdiction.) *(Amended 1986, 2003)

3.28 Storage and/or sales yards for coal, cordwood, building materials and landscape materials.*

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	P	P

*(Amended 2007)

3.29 Manufacturing clearly incidental to the business lawfully conducted on the premises.

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	P	P

3.30 Light manufacturing, machine shops.

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	X	X	P	P

3.31 Heavy manufacturing provided the Board of Adjustment shall rule that such is not obnoxious or injurious by reason of the production or emission of odor, dust, smoke, refuse, matter, fumes, noise, vibrations or similar conditions, and is not dangerous to the comfort, peace, enjoyment, health or safety of the community or lending to its disturbance or annoyance.

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	X	X	P	X

3.32 A quarry, gravel pit, sand pit or any similar use, or for the removal of loam, permit to be issued for an initial period of not more than two years and to be subject to renewal upon application to and at the option of the Board for successive periods of not more than one year each, and said permit or any renewal thereof may specify the depth to which the gravel or other material may be removed.

RAA	RA	RB	RCS	B	BS	I	G
S	S	S	S	S	S	S	S

3.33 Junkyards, dumps, storage of waste material or the outdoor storage of inoperative, unregistered motor vehicles or the parts of said vehicles.

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	X	X	X	X

*Licensed automotive dealers, excavation contractors, service stations, or repair shops and working farms are allowed to store those vehicles which are being used in connection with their business. (Amended 1985)

3.34 Health Care facilities.

RAA	RA	RB	RCS	B	BS	I	G
X	X	P	X	P	P	P	P

3.35 The conducting of garage, barn or lawn sales:

3.35.1 Conducted on two or fewer occasions within a calendar year, provided that such occasions be at least sixty days apart and of not more than two days duration.

RAA	RA	RB	RCS	B	BS	I	G
B	B	B	B	P	P	P	P

*(Amended 1992)

3.35.2 Conducted on more than two occasions within a calendar year, or on such occasions less than sixty days apart, or on occasions of more than two days duration.

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	P	P

3.36 Taking care of three-or-less children during times when the parents of such children are otherwise occupied.

RAA	RA	RB	RCS	B	BS	I	G
P	P	P	P	P	P	P	P

3.37 Dwelling units used as a principal place of residence of the owner or proprietor and from which a business is not otherwise prohibited is conducted by the owner or proprietor.*

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	X**	P

*(Amended 1981) ** (Amended 1996)

3.37.1 In the B District, only one single-family residence/business arrangement as described in 3.37 shall be permitted per lot of record.

3.38 The manufacturing, storage, processing of, sale of and use of materials classified or deemed hazardous.*

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	S	X	S	X**

*(Amended 1985) ** (Amended 1987)

3.39 Amateur Radio Tower*

RAA	RA	RB	RCS	B	BS	I	G
P	P	P	P	P	P	P	P

*(Amended 1999)

3.40 Family Day Care, meaning taking care of up to six preschool children on a full-time basis and three school age children on a part-time basis as an accessory use to the principal use of the property. A license from the Bureau of Child Care Standards & Licensing, Division of Public Health Services of the NH Department of Health & Welfare is required. Conditions for a special exception include, minimal impact on the neighborhood, no adverse traffic impact, safe off-street drop-off and pickup area, and a safe outdoor play area. No Planning Board approval is required.*

RAA	RA	RB	RCS	B	BS	I	G
S	S	S	S	P	P	P	S

*(Amended 1990)

3.41 Group day Care, meaning a child care facility taking care of more than six children on a full-time basis by at least two caregivers that is licensed by the Bureau of Child Care Standards and Licensing, Division of Public Health Services of the NH Department of Health and Welfare.*

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	R	R	R	R

*(Amended 1990)

3.42 Nightclubs*

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	X	X

*(Amended 1991)

3.43* Dealer (as defined in Section 1.6 – Definitions)**

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	R	X	X	X

*(Amended 1997)**(Amended 2007)

3.44 Within the BS zoning district along Ocean Boulevard only from the northerly portion of Ocean Boulevard where it intersects with Ashworth Avenue south to the northerly side of N Street, the first twenty-five (25) feet of depth measured from the front of the structure of the ground floor of any building, excluding driveways and parking areas, shall consist entirely of the following uses:

a. Nonresidential principal uses permitted in the BS District.

Entries, lobbies, stairs, and elevators providing pedestrian access to permitted upper-floor residential uses, not exceeding twenty percent (20%) of the ground floor area shall also be permitted. (Amended March 2010)

3.44.1 Within the BS1 District, the first twenty-five (25) feet of depth measured from the front of the structure of the ground floor of any building, excluding driveways and parking areas, shall consist entirely of the following uses:

a. Professional – Commercial - Retail.

Entries, lobbies, stairs, and elevators providing pedestrian access to permitted upper-floor residential uses, not exceeding twenty percent (20%) of the ground floor area shall also be permitted. (Amended March 2014)

3.45 Establishments for games of chance as defined under RSA 287-D:1, II as worded as of January 5, 2011, by or in behalf of charitable organizations as regulated under RSA Chapter 287-D.*****

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	X	S	X	X

*(Amended March 2011)

3.46 Martial Arts Weapons

The sale of martial arts weapons, including but not limited to throwing stars, throwing darts, numchaku, blow guns, or other objects designed for use in martial arts that are capable of being used as lethal or dangerous weapons, are subject to the zone restrictions as listed below, and in addition the selling of these weapons is prohibited within 2,000 feet of public, private, or parochial schools, public or private parks, recreation areas, sports facilities, and beaches. The sale of these weapons shall also be restricted to an area at the back of the store, enclosed by a wall creating a separation from the rest of the store, and all weapons shall be kept in locked cases not accessible to the general public.*

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	P	X	X

(Amended March 2011; March 2014)

3.47 Firearms and Ammunition Sales

The sale of firearms (including but not limited to pistols, revolvers, rifles, and shotguns), firearms components, firearms supplies, ammunition, or other objects designed for use in sport shooting activities or firearms self-defense that are capable of being used as lethal or dangerous weapons are subject to the zone restrictions as listed below. There shall be no window display of any objects regulated in this section. Further, firearms and ammunition shall be locked in separate sales displays and/or other separate locked cases. Firearms may be removed from locked displays or cases for supervised customer viewing prior to purchase provided that the corresponding ammunition remains locked. *

RAA	RA	RB	RCS	B	BS	I	G
X	X	X	X	P	X	P	P

*(Adopted March 2015)

2.47.1 In the Business (B), General (G), Town Center-North (TC-N) and Town Center-South (TC-S) Districts, the use described in 3.47 is only permitted on lots with frontage along Lafayette Road (Route 1). (Adopted March 2015)

3.48 Elderly Housing, which includes Group Shared Residences, Supportive Agency-Sponsored Group Shared Residences, Congregate Housing, and Lifecare or Continuing Care Retirement Communities (as they are each defined in Section 1.6 – Definitions), or other elderly housing proposals that the Planning Board considers appropriate, after Public Hearing. (See Article XV for Elderly Housing Standards)

RAA	RA	RB	RCS	B	BS	I	G
X	X	R	R	R	R	X	R

ARTICLE III-A – ACCESSORY DWELLING UNITS TO SINGLE-FAMILY DWELLINGS (Adopted March 2017)

3-A.1 Location and Quantity

Accessory dwelling units, as defined in Section 1.6. Definitions, may be located only in those zones where single-family dwellings are permitted as set forth in Section 3.1, and only one accessory dwelling unit shall be permitted to accompany any single-family dwelling. Only lots with single-family dwellings used exclusively for residential purposes shall be permitted to have an accessory dwelling unit. No lot with more than one single-family dwelling or manufactured housing located upon it shall be eligible for an accessory dwelling unit.

3-A.2 Permits Required

a) No accessory dwelling unit may be constructed within or added to any single-family dwelling (whether attached or detached) without a Conditional Use Permit having first been applied for and obtained from the Hampton Planning Board pursuant to RSA 674:21 and until a Building Permit therefor has been applied for and obtained under Article XI of the Hampton Zoning Ordinance and in compliance with the applicable provisions of Article XI of the Hampton Zoning Ordinance.

b) An applicant proposing an accessory dwelling unit shall submit to the Hampton Planning Board a plan drawn to scale showing the proposed accessory dwelling unit, distances from the property lines, and required parking spaces. The applicant shall also submit exterior elevations and floor plans drawn to scale which show the interior layout of the proposed accessory dwelling unit.

3-A.3 Provisions for Living Facilities

An accessory dwelling unit must provide independent living facilities for one to four persons including provisions for sleeping, eating, cooking (stove, refrigerator and sink), and sanitation (shower/tub, toilet and sink) on the same parcel of land as the principal dwelling unit it accompanies. An accessory dwelling unit shall contain no more than two bedrooms, of which no bedroom shall be less than 7 feet x 10 feet in dimension per the State Building Code and in no case shall any such bedroom be more than 200 square feet in size.

3-A.4 Occupancy Requirements

a) Owner occupancy of either the single-family dwelling unit or the accessory dwelling unit shall be required. The owner shall demonstrate, to the satisfaction of the Planning Board, that one of the units is his or her principal place of residence.
b) No more than two persons may occupy each bedroom in the accessory dwelling unit.
c) This ordinance is intended to offer additional permanent rental housing opportunities in the Town of Hampton without negatively impacting neighborhoods. In furtherance of these ends, an accessory dwelling unit or principal dwelling unit having an accessory dwelling unit shall not be rented out for less than six (6) months at a time.
d) A Certificate of Rental Occupancy shall be required and kept current for the rental unit.
e) Any use of the principal dwelling unit or the accessory dwelling unit for a home occupation or other business purpose is prohibited.

3-A.5 Site Location and Size

a) Accessory dwellings must be attached to or contained within the principal, single dwelling unit (except as provided in Section 3-A.5c) with the attachment between them being an enclosed living space, but there shall be an interior door between the accessory dwelling unit and the principal dwelling unit.
b) Where a dwelling structure of 3 or more stories in height is proposed to include an accessory dwelling unit above the second story, additional means of egress which do not require access to the primary dwelling unit shall be provided in accordance with the current Building Code. If an exterior staircase is constructed as a means of egress, it shall also meet the required setbacks from property lines for the zoning district in which it is located.
c) Detached accessory dwelling units may only be permitted under Section 3-A.2 when they are to be located within a structure that predates the enactment of Article III-A and that is already detached from the principal dwelling unit.
d) For detached accessory dwelling units, the existing foundation shall establish the footprint that meets the criteria outlined in Section 3-A.5c.
e) Any accessory dwelling unit shall be no more than 800 square feet in size.
f) An accessory dwelling unit shall be subject to all applicable provisions of the Wetlands Conservation District Ordinance, including but not limited to Section 2.3.7C regarding special minimum lot area, minimum lot area per dwelling unit, and setback requirements.

3-A.6 Provisions for Water Supply and Sewage Disposal

a) An accessory dwelling unit shall be connected to the Town of Hampton Sewer System or to the private system that the principal dwelling unit utilizes legally. Construction of an accessory dwelling unit or its inclusion within an existing dwelling shall provide the proper design/construction of sewer services that are protected from freezing during the applicable months. All sewer connection and construction shall follow the Town of Hampton Sewer Ordinance and the wastewater development charge be paid prior to the issuance of a Building Permit. If the accessory dwelling unit is to be connected to a legal private system, it must be demonstrated to the Building Inspector that said private sewer system is rated and permitted with the Town or State of New Hampshire to handle the combined maximum occupancy load that will be generated by the principal dwelling and

the accessory dwelling unit. If neither the existing sewer service nor the private sewer system can handle and/or if either is not permitted under the requirements of the Town and the State of New Hampshire to handle, the additional flow, then the sewer service/private system shall first be permitted through the Town or the State of New Hampshire and then be reconstructed or upgraded at the expense of the lot owner to accommodate the sewage that would be generated by the combined maximum occupancy load. The Department of Public Works shall be notified of all accessory dwelling unit applications.

b) The water source utilized by the principal dwelling unit shall also be utilized by the accessory dwelling unit and if the Aquarion Water Company of New Hampshire, Inc. (Aquarion) its successors and assigns, is the provider of water for the primary dwelling unit, then Aquarion shall be notified in advance of the addition of the accessory dwelling unit or its inclusion within the principal dwelling unit of the accessory dwelling unit and Aquarion's metering and connection requirements shall govern. Construction of an accessory dwelling unit or its inclusion within an existing dwelling shall provide the proper design/construction of water services that are protected from freezing during the applicable months.

c) If the principal dwelling unit is served by a private drinking water well, it must be demonstrated to the Building Inspector that said private well is capable of providing sufficient water for the maximum occupancy loads for both the principal dwelling unit and the accessory dwelling unit, or a new well must be installed that will provide such sufficient water before the accessory dwelling unit is allowed to be added or incorporated into the principal dwelling. Construction of an accessory dwelling unit or its inclusion within an existing dwelling shall provide the proper design/construction of water services that are protected from freezing during the applicable months.

3-A.7 Dimensional Requirements

The addition of an accessory dwelling unit shall be governed by the Dimensional Requirements set forth in Article IV of the Hampton Zoning Ordinance. For the purposes of the applicability of the footnotes to Article IV, any lot in the RA or RAA zone on which an accessory dwelling unit is proposed to be added shall not be considered a pre-existing lot of record for the purposes of Article III-A if said accessory dwelling unit expands the footprint of the principal dwelling.

3-A.8 Sprinkler Systems

Any accessory dwelling unit that is attached to a principal dwelling unit of 3 or more stories in height shall require both units to be furnished with a sprinkler system in accordance with Article XI, Section 11.4.a.

3-A.9 Condominium Conversion

By virtue of its being an accessory to the principal dwelling, the accessory dwelling unit and the principal dwelling shall remain under the same ownership as the lot owner and shall not be converted to condominium form of ownership.

3-A.10 Impact Fees

Each accessory dwelling unit shall be subject to the payment of an impact fee, which shall be submitted to the Building Department in an amount equal to the current fee per unit for a two-unit structure. Accessory dwelling units shall not be eligible for a full or partial waiver of the required impact fee.

3-A.11 Removal of an Accessory Dwelling Unit

a) Prior to issuance of a Certificate of Occupancy for an accessory dwelling unit, a Declaration of Covenants, Conditions and Restrictions in an approved form shall be recorded at the Rockingham County Registry of Deeds which states that the property must revert to single-family use (with only one dwelling unit) if the current or future owner no longer occupies either the principal dwelling unit or the accessory dwelling unit as his or her principal place of residence. This requirement shall only apply to lots located in the RA or RAA zoning district. (Amended March 2019)

b) An accessory dwelling unit legally established under this ordinance may be removed only following approval of a Use Change by the Planning Board and with the required Building Permit issued by the Building Department.

ARTICLE IV - DIMENSIONAL REQUIREMENTS

See Attachment A. ARTICLE IV Dimensional Requirements Table II and Footnotes

ARTICLE V - SIGNS

Section 5.1 Purpose

The purpose of this article is to encourage the effective use of signs as a means of communication in the Town while maintaining and enhancing the aesthetic environment and the Town's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety and to enable the fair and consistent enforcement of these sign ordinances.

Section 5.2 Definitions

These definitions apply only to this article.

Air Dancer: Moving, wavy fan-driven or inflatable device, often tubular and depicting a character, used to attract attention to a business or other location. (Adopted March 2019)

Animated sign: Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Banner: Any sign of lightweight fabric or similar material that is mounted to a pole or a building at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

Building Sign: Any sign attached to any part of a building, as contrasted to a freestanding sign.

Canopy Sign: Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Changeable copy and Electronic Signage: A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged manually or electronically without altering the face or the surface of the sign. (Amended March 2013)

Commercial message: Any sign, wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Directory sign: Any sign containing the name of a commercial building, commercial complex or industrial development that contains the names of the businesses located in those buildings, complexes, or developments. Advertisements for lease, rent or purchase shall not be allowed on directory signs.

Feather, Sail, or Teardrop Sign: A freestanding flag not used as a symbol of a government or political subdivision, and not attached to any building, which is in a shape similar to that of a feather, a sail, or a teardrop. (Adopted March 2019)

Flag: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision or other entity.

Freestanding sign: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

Incidental sign: A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking", "entrance", "towing zone", "loading zone", and other similar directives.

Marquee: Any permanent roof-like structure projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather.

Marquee sign: Any sign attached to, in any manner, or made a part of a marquee.

Non-conforming sign: Any sign that does not conform to the requirements of this ordinance.

Pennant: Any lightweight plastic, fabric, or other material whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Political sign: Any sign or poster advertising a person's or political party's intent to run for any free election.

Portable sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported by means of wheels; balloons used as signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business. (Amended March 2012)

Projecting sign: Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

Real Estate sign: Any sign advertising the sale, lease or rental of any property, having the name, address and telephone number of any legal Real Estate Office.

Residential sign: Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services, legally offered on the premises where the sign is located, if the offering of such goods and services conforms with all requirements of the zoning ordinance.

Roof sign: Any sign erected and constructed wholly on or over the roof of a building, supported by the roof structure, and extending vertically.

Roof sign, integral: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

Sandwich Board/Menu signs: A removable “A” or “T” frame sign used for on premises advertising. (Amended March 2012)

Sign: Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

Suspended sign: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Temporary sign: Any sign that is used only temporarily and is not permanently mounted.

Wall sign: Any sign attached parallel to, but within six inches of, a wall, painted on a wall surface of, or erected and confined within the limits of an outside wall of structure, which is supported by such wall, and which displays only one sign surface.

Window sign: Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Section 5.3 Size, Design, Construction and Maintenance

5.3.1 The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself (see Table II).

5.3.2 The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point.

5.3.3 All signs shall be designed, constructed, and maintained in accordance with the following standards:

a) All signs shall comply with the latest approved version of the State Building Code and the National Electric Code and shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this ordinance at all times.

b) Except for flags, temporary signs, and window signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame or structure.

Section 5.4 Prohibited, Permitted and Non-Conforming Signs

5.4.1 The following signs are expressly prohibited in all zones.

a) Animated signs.

b) Beacons.

d) Portable signs.

Signs which imitate, and may be confused with, an official traffic control sign or signal, or an emergency or road equipment vehicle.

e) Signs which bear or contain statements, words or pictures of obscene, pornographic or immoral character or which contain advertising matter which is untruthful, or as otherwise prohibited by State law.

f) Off premises signs except for directory or political signs.

g) No advertisement shall be affixed, attached, or displayed upon any object of nature, utility pole, telephone booth, or highway sign per RSA 236:75.

h) Air dancers. (Adopted March 2019)

5.4.2 Permitted signs for all zones are indicated in Table I with the following restrictions:

a) Freestanding signs

1) Where a lot or building fronts on more than one public street, the provisions of this ordinance shall apply to each frontage. (Amended March 2013)

2) Where more than one freestanding sign is permitted the minimum distance between the signs shall be 300 feet, per frontage. (Amended March 2013)

b) Roof signs

1) All roof signs must be set back a distance of at least 4 feet from all the outside walls of the building on or over which they are located.

c) Projecting signs

1) Where a lot or building fronts on more than one public street, the provisions of this ordinance shall apply to each frontage. (Amended March 2013)

d) Directory signs

1) The development identification shall be at the top and shall have a maximum display area of 8 square feet.

2) The sign shall be freestanding and shall not exceed 12 feet in overall height.

e) Banners

1) Banners in the residential zones are limited to thirty days.

f) Flags

1) Flags shall not exceed 3 per lot and 50 square feet per flag.

g) Window Signs

1) Window signs shall not exceed fifty percent (50%) of the total window area of the business which they advertise.

h) Sandwich Board/Menu signs

1) No more than 6 square feet per face; no more than one such sign per each establishment on any property; shall be located on premises only and shall not be located on public roads, public walkways, public right-of-way, or other public property. (Amended March 2012)

i) Changeable Copy and Electronic Signage (Amended March 2013)

1) A changeable copy or electronic sign is prohibited from having a strobe that pulses.

2) A changeable copy or electronic sign on which the message changes more than once a minute shall be considered an animated sign and is prohibited.

j) Feather/Sail/Teardrop Signs (Adopted March 2019)

1) Shall be used for commercial and retail establishments only.

2) Shall be located on the premises only.

3) Shall be measured horizontally from the widest point and vertically from grade, including the full length of the supporting pole.

4) Shall be displayed during operating business hours only, and must be stored indoors or removed from the premises when the business is closed.

5) There shall be no more than one sign per twenty-five (25) feet of frontage, and no more than 3 signs per property.

6) A permit is required from the Building Department.

5.4.3 Non-conforming signs are signs that were legally in place and not in violation of any previous sign ordinance prior to the enactment of this ordinance and shall immediately lose its legal non-conforming status when:

a) The sign is altered in any way such that its effect is more intensive and/or obtrusive.

b) The sign is relocated.

c) The sign has not been repaired or properly maintained within 30 days after written notice to that effect has been given by a Building Official.

Section 5.5 Sign Permits and Fees

5.5.1 Applications: All applications for sign permits of any kind shall be submitted to the Building Inspector on an application form.

5.5.2 Drawings: All applications for new signs or modified signs shall be accompanied by a detailed drawing to show the dimensions, design, structure, color, and location of each particular sign. One application and permit may include multiple signs on the same lot.

5.5.3 Fees: Each application for a sign permit shall be accompanied by the applicable fees per Table III.

5.5.4 Action: Upon receipt of a complete application, the Building Department shall, within seven working days, either:

a) Issue the sign permit; or

b) Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform with the requirements of this ordinance. In case of a rejection, the Building Inspector shall specify in the rejection the section or sections of the ordinance with which the sign(s) is inconsistent.

c) Any rejected permit can be resubmitted after being made to comply with the appropriate section(s) or the applicant can seek relief with the Zoning Board of Adjustment.

5.5.5 Inspection: The Building Inspector shall schedule an inspection of the lot for which each permit for a new sign or for modification of an existing sign at such time as the owner has installed or modified the sign. If the construction is complete and in full compliance with this ordinance and the building and electrical codes, the Building Inspector shall approve the sign. If the sign is found to be not in compliance with this ordinance or the building or electrical codes, the Building Inspector shall give the owner or applicant notice of the deficiencies and shall allow an additional 10 days for the deficiencies to be corrected. If the deficiencies are not corrected within the 10 day period, the sign permit shall become void.

5.5.6 Temporary Sign Permits: Temporary signs shall be allowed only upon the issuance of a Temporary Sign Permit, subject to the following:

a) A temporary sign permit shall allow the use of a temporary sign for a specified 30-day period.

b) Only two temporary sign permits shall be issued to any one lot in any calendar year.

c) A temporary sign shall be allowed only in accordance with Table I of this ordinance.

5.5.7 Political Signs: Political signs are allowed in all zones subject to the following: (Amended 2002)

For State primaries and elections:

a) Placement and Removal shall conform with RSA 664:17.

b) The earliest date on which political advertising may be posted or displayed shall be the last Friday in July prior to a state primary.

c) All political advertising shall be removed by the candidate no later than the second Friday following the election unless the election is a primary and the advertising concerns a candidate who is a winner in the primary.

For all other elections:

d) Political signs shall not be erected sooner than 15 days prior to the election for which they pertain.

e) All signs shall be removed within 24 hours following the election.

TABLE I - Permitted Signs per Zone

B Permitted by the Building Department
P Permitted
PB Permitted with Planning Board Approval
X Not Permitted
ZBA Permitted with special exception from the Zoning Board of Adjustment

Note: The Sign Regulations below that are applicable to the BS Zoning District shall also apply to the BS1 Zoning District. (Adopted March 2015)

	RAA	RA	RB	RCS	B	BS	I	G
Air Dancer (Amended 2019)	X	X	X	X	X	X	X	X
Animated Sign	X	X	X	X	X	X	X	X
Animated Sign	X	X	X	X	X	X	X	X
Banner	P	P	P	P	P	P	P	P
Beacon	X	X	X	X	X	X	X	X
Building Sign	X	X	X	X	P	P	P	P
Canopy Sign	X	X	X	X	P	P	P	P
Changeable Copy and Electronic Signage (Amended March 2013)	X	X	X	X	P	P	P	P
Commercial Sign	X	X	X	X	P	P	P	P
Feather/Sail/Teardrop Sign (Amended 2019)	X	X	X	X	P	P	P	P
Flag	P	P	P	P	P	P	P	P
Freestanding Sign	X	X	X	X	P	P	P	P
Incidental Sign	P	P	P	P	P	P	P	P
Marquee Sign	X	X	X	X	P	P	P	P
Pennant	X	X	X	X	P	P	P	P
Political Sign	P	P	P	P	P	P	P	P
Portable Sign	X	X	X	X	X	X	X	X
Projecting Sign	X	X	X	X	P	P	P	P
Real Estate Sign	P	P	P	P	P	P	P	P
Residential Sign	ZBA	ZBA	ZBA	ZBA	X	X	X	X
Roof Sign	X	X	X	X	PB	PB	PB	PB
Roof Sign, Integral	X	X	X	X	PB	PB	PB	PB
Sandwich Board/Menu Sign (Amended 2012)	X	X	X	X	P	P	P	P
Suspended Sign	X	X	X	X	P	P	P	P
Temporary Sign	B	B	B	B	P	P	P	P
Wall Sign	X	X	X	X	P	P	P	P
Window Sign	B	B	B	B	B	B	B	B

TABLE II - Size Chart

(In Square Feet)

Note: The size requirements below that are applicable to the BS Zoning District shall also apply to the BS1 Zoning District. (Adopted March 2015)

% = fifty percent (50%) of the window area

	RAA	RA	RB	RCS	B	BS	I	G
Air Dancer (Amended March 2019)	-	-	-	-	-	-	-	-
Animated Sign	-	-	-	-	-	-	-	-
Banner	50	50	50	50	50	50	50	50
Beacon	-	-	-	-	-	-	-	-
Building Sign	-	-	-	-	50	50	50	50
Canopy Sign	-	-	-	-	32	32	32	32
Changeable Copy and Electronic Signage (Amended March 2013)	-	-	-	-	32	32	32	32
Commercial Sign	-	-	-	-	32	32	32	32
Feather/Sail/Teardrop Sign (Amended 2019)	-	-	-	-	32	32	32	32
Directory Sign	32	32	32	32	32	32	32	32
Flag	50	50	50	50	50	50	50	50
Freestanding Sign	-	-	-	-	50	50	50	50
Incidental Sign	4	4	4	4	4	4	4	4
Marquee Sign	-	-	-	-	32	32	32	32
Pennant	-	-	-	-	4	4	4	4
Political Sign or Poster	6	6	6	6	50	50	50	50
Portable Sign	-	-	-	-	-	-	-	-
Projecting Sign	-	-	-	-	32	32	32	32
Real Estate Sign	6	6	6	6	32	32	32	32
Residential Sign	6	6	6	6	-	-	-	-
Roof Sign	-	-	-	-	32	32	32	32
Roof Sign, Integral	-	-	-	-	64	64	64	64
Sandwich Board/Menu Sign (Amended 2012)	-	-	-	-	6	6	6	6
Suspended Sign	-	-	-	-	32	32	32	32
Temporary Sign	4	4	4	4	4	4	4	4
Wall Sign	-	-	-	-	50	50	50	50
Window Sign	%	%	%	%	%	%	%	%

TABLE III - Sign Fees

All incidental signs, Pennants, Political Signs, Real Estate Signs and window signs: No Fee

All other signs: Initial application & inspection $25.00

ARTICLE VI - PARKING

(Amended 1982, 1998, 2006, 2017, 2019)

Section 6.1

No building shall be erected or altered, or use change allowed, unless off-street parking facilities are provided in accordance with the minimum requirements set forth. No building permit will be issued until an off-street parking plan is approved by the appropriate authority. Certificates of Occupancy are prohibited until required parking facilities are completed. No off-street parking lots shall be allowed without Planning Board approval. Approval shall be recorded with the Rockingham County Registry of Deeds. The Applicant shall submit a written application and fees as determined by the Planning Board. (Amended March, 1998)

6.1.1 No off-street parking shall be required for any commercial building in the Business-Seasonal District south of 1st Street not providing sleeping quarters. For the Business-Seasonal District north of 19th Street, off-street parking shall be required for all buildings. (Amended 1991)

Section 6.2

Any construction, alteration or change of use which results in additional dwelling or rental units or intensification of use of a piece of property must provide off-street parking for all units and uses, including both existing and additional ones. In the case of mixed uses, the parking requirements shall be the sum of the individual uses, so that the parking for one use shall not be considered as providing the parking for any other use.

Section 6.3 Parking Requirements

6.3.1 Dwelling units (single, double, multi-family): Two spaces per dwelling unit and per each accessory dwelling unit plus one guest space per eight units.* (Amended March 2017)

*Dwelling units with an area of 330 square feet to 400 square feet will require 1 ½ spaces per unit, plus one guest space per eight units.

6.3.2 Hotels/Motels shall provide one parking space for the first 330 square feet of sleeping room space. One additional space shall be provided for hotel sleeping rooms greater than 330 square feet. One additional parking space must be provided by hotels/motels for each sixteen (16) units as guest parking. Sleeping rooms in rooming houses: One space per sleeping room plus one guest space per sixteen units. (Amended 2007)

6.3.3 Professional, general office or service use: At least one space per 200 square feet. At site plan review or Use Change request, Planning Board may require more spaces, up to one per 50 square feet. (Amended 1987)

6.3.4 Retail business: One space per 300 square feet.

6.3.5 Clubs, restaurants, churches, or places of assembly: One space per three person capacity. For take-out restaurants with no seating for customers: three spaces plus one space per 200 square feet of building area. (Amended 1983; 1989)

6.3.6 Industrial uses: One space per third employee per shift.

6.3.7 (Deleted 1983)

6.3.8 Where a use is not specifically included in the above schedule, it is intended that the regulation for the most nearly comparable specified use shall apply, to the end that adequate space shall be provided to accommodate the vehicles of all persons likely to be gathered at the premises at any one time.

6.3.9 All parking must be on site, except as provided in Section 2.8H.2 for the Town Center District. (Amended 1983, Amended 2007, Amended March 2015)

6.3.10 Condominium Conversions of Pre-existing Non-conforming Uses: At least one (1) assigned 9'x 18' parking space per unit must be provided on-site. (Amended 2006, 2019)

6.3.11 On any lot containing one or more residential dwelling units, stacked parking shall constitute one parking space regardless of the number of parking spaces in the stack. (Adopted March 2019)

Section 6.4 Parking Lots

(Amended 1997 & March 2017)

6.4.1 Parking Lots shall conform to all Zoning Regulations.

6.4.2 Parking Lots shall have a minimum 9' x 18' space for each vehicle permitted plus approved ingress and egress.

6.4.3 If applicable each Parking Lot shall comply with the Americans with Disabilities Act (ADA).

6.4.4 At the entrance, each Parking Lot shall post a laminated copy of approval, arrangement and capacity for public inspection.

6.4.5 Any Parking Lot plan, with a capacity of 25 (twenty-five) or more parking spaces, shall be presented to the Planning Board with a certified plan.

6.4.6 Any Parking Lots established prior to April 8, 1997 shall not be required to come into the Planning Board for use approval.

6.4.7 **Penalty** Any Parking Lot in violation of the number of approved vehicles or the arrangement is subject to a penalty.

6.4.7.a Any Parking Lot in violation of Article 6.4.2, 6.4.4 and 6.4.6 shall be penalized $25.00 per day per violation.

6.4.7.b Any Parking Lot having more than two (2) violations in any 6 month period (of 6.4.2, 6.4.4 and 6.4.6) shall be issued a Cease and Desist Order.

ARTICLE VII - EXTERIOR DESIGN

Regulations for Exterior Design Appearance of Single, Double, or Multi-Family Dwelling erected in any housing development, including accessory dwelling units attached to single-family dwellings. (Amended March 2017)

Section 7.1

The Town of Hampton hereby finds that uniformity in the exterior design appearance of dwellings erected in the same residential neighborhood tend to adversely affect the desirability of the immediate and neighboring areas for residential purposes and impairs existing residential property in such areas; tends to impair the value of both improved and unimproved real property in such areas with attendant deterioration of conditions affecting the health, safety and morals of the inhabitants thereof and the community at large; and tends to deprive the municipality of tax revenue and destroys a proper balance between taxable value of real property in such areas and the cost of municipal services provided therefor.

It is the purpose of this section to prevent these and other harmful effects in the design and appearance of dwellings, either single, double, multi-family, or accessory dwelling units attached to single-family dwellings erected in any housing development in the same residential neighborhood and thus promote and protect the health, safety, morals and general welfare of the community. (Amended March 2017)

Section 7.2

Except as provided in this section, not more than one building permit shall hereafter be issued for any dwelling to be erected in a housing development consisting of two or more houses if it is substantially alike in exterior design and appearance with any neighboring dwelling situated on the same or opposite sides of the street within two hundred (200) feet of a dwelling then in existence of for which a building permit has been issued or impending. The distance herein specified shall be construed to mean the distance between the street property lines of the respective properties. Provided, however, that the uniformity in exterior design requirements of this article shall not apply to buildings containing more than five (5) dwelling or rental units. (Amended 1976)

Section 7.3

Houses within such specified distance from each other shall be considered uniform in exterior design and appearance if they have any of the following characteristics:

7.3.1 The same basic dimensions and floor plans are used without substantial differentiation of one or more exterior elevations, or

7.3.2 The same basic dimensions and floor plans are used without substantial change in orientation of the houses on the lots, or

7.3.3 The height and design of the roofs are without substantial change in design and appearance, or

7.3.4 The size, type and location of windows and doors in the front elevation are without substantial differentiation.

Section 7.4

In addition to the requirements specified above, there shall be not less than three (3) separate basic house designs in every housing development consisting of eight (8) or more houses, and not less than five (5) basic house designs where there are fifteen (15) or more houses.

Section 7.5

To insure conformity with the provisions of the section, no building permit shall hereafter be issued for more than one dwelling in any housing development, except as provided in subsection 7.6, until an engineer's survey or architect's drawing of the entire tract, or part to be developed, has been submitted to the Building Inspector showing thereon or on a schedule attached thereto, the model number, type and design of each house, with the proper street and lot numbers for each house. The survey or drawing shall show the dimensions of each house, its exact location on the lot with setbacks and width or depth of all yard spaces. In the event of subsequent desired changes in basic design, size or location of a house in such a tract, including the addition of an accessory dwelling unit attached to a single-family dwelling a revised plan and application therefor shall be filed and approved before such work is started. (Amended March 2017)

Section 7.6

To insure further conformity with the provisions of this section, in respect to new subdivisions for the purpose of a housing development, the Planning Board of the Town of Hampton may, at its discretion, require a performance bond, and an affidavit or a performance guarantee, that the subdivision will be developed as a whole so that the intent and purpose of this section will be satisfied.

Section 7.7

All site plans for Commercial, Multi-Family and Industrial buildings shall be accompanied by an architect's rendering or facsimile. The Planning Board may reject the proposed site plan if in the opinion of the Planning Board the exterior design is not in keeping with the character of the neighborhood or the town or, if in the Board's opinion, the proposed design will be injurious to the neighborhood or town.

Section 7.8 (Adopted March 2017)

The addition of an accessory dwelling unit to a single-family dwelling (or the inclusion of an accessory dwelling within a single-family dwelling) shall be constructed in such a way that the look and feel of a single-family home are retained through the following:

a. The accessory dwelling unit shall be constructed so the combination of the two units shall retain the same exterior design appearance as before the addition;
b. The roof line of the principal dwelling unit shall be mirrored by the accessory dwelling unit;
c. No additional curb cut for a driveway shall be constructed as a result of the addition of an accessory dwelling unit, and the accessory dwelling unit and the principal dwelling unit shall share the same driveway whose size may only be expanded to accommodate parking after first receiving a further driveway permit in accordance with the driveway regulations of the Hampton Planning Board and provided that such expansion does not result in violation of the sealed surface limitations set forth in Article IV.

ARTICLE VIII - MULTI-FAMILY DWELLINGS

Section 8.1

Multi-family dwellings are subject to the approval of a site plan by the Planning Board and must be in conformity with the following standards in all zones.

8.1.1 Deleted (March 2001).

8.1.2 Multi-family dwellings are subject to being serviced by public water and sewer.

8.1.3 Basement apartments, including any apartments with any portion of the living space below grade level, are prohibited.

Section 8.2

Multi-family dwellings must be in conformity with the following standards in all zones, except that these standards, with the exception of 8.2.5, shall not apply to development within either the Business-Seasonal Zoning District or the Business-Seasonal 1 Zoning District (BS1). (Amended 1985, Amended March 2014)

8.2.1 Multi-family dwellings shall provide a minimum of 400 square feet of recreation area per dwelling unit. (Amended 2007, March 2014)

8.2.2 A minimum of 100 feet frontage shall be required on any multi-family use.

8.2.3 No multi-family dwelling shall be closer than forty (40) feet to any part of any other building or to any lot line.

8.2.4 Driveways and parking lots shall be located at least twenty-five (25) feet from the front of any building and at least ten (10) feet away from the side or rear of any building. Distance requirements shall not apply to those driveways providing access to structures with enclosed garages or car ports.

8.2.5 All driveways and parking areas shall conform to construction specifications for new town subdivision streets. Night lighting shall be designed so as not to cast a glare on neighborhood property.

8.2.6 An open space buffer of at least twenty (20) feet shall be preserved along all boundaries of the site. Retained natural woodland shall be the preferred landscaping where approved by the Planning Board. Grass and mounds shall be approved buffer material provided suitable indigenous shrubs and other plant material are used for screening. All buildings shall be located at least twenty (20) feet from the interior edge of the buffer zone. Buffers adjacent to roads may be reduced when the surrounding area has been previously developed provided the existing character of the neighborhood is maintained. This may be permitted only upon written recommendation of the Planning Board.

Section 8.3 (Deleted 1986)

ARTICLE IX - MANUFACTURED HOME PARKS

Section 9.1

The owners or agents of any tract of land proposed for manufactured home park development shall submit to the Planning Board a site plan for the use and development of all or part of the tract as a manufactured home park. The Planning Board shall review the plan in accordance with procedures prescribed and thereafter shall prepare a report stating reasons for approval or disapproval. If approved, specific evidence and facts shall be shown that the plan of use and development of all, or part, of the tract as a manufactured home park meets the conditions set forth below.

9.1.1 That the manufactured home park and the buildings and appurtenant facilities shall be in a single ownership, or under management or supervision of a responsible lessee, or subject to such other supervisory lease or ownership control as may be necessary to carry out the provisions of the Ordinance relating to manufactured home parks.

9.1.2 That the plan clearly defines the manufactured home spaces and the traffic pattern for vehicular parking and circulation.

9.1.3 That all manufactured home spaces abut upon a driveway of not less than thirty (30) feet in width, which has unobstructed access to a public street.

9.1.4 That driveways and walkways within the manufactured home park shall have a permanent dust-free surface.

9.1.5 That service buildings to house toilet, bathing, and other sanitation facilities and utilities be provided as required by the State Board of Health.

9.1.6 That the manufactured home park shall have not less than twenty (20) manufactured home spaces available for occupancy before any certificate of occupancy is issued.

9.1.7 That the plan be consistent with the intent and purposes of this Ordinance to promote public health, safety and general welfare.

9.1.8 An open space buffer of at least twenty (20) feet shall be preserved along all boundaries of the site. Retained natural wood land shall be the preferred landscaping where approved by the Planning Board. Grass and mounds shall be approved buffer material provided suitable indigenous shrubs and other plant material are used for screening. All structures shall be located at least twenty (20) feet from the interior edge of the buffer zone. Buffers adjacent to roads may be reduced when the surrounding area has been previously developed provided the existing character of the neighborhood is maintained. This may be permitted only upon written recommendation of the Planning Board.

Section 9.2

Before approving such plan under this section, the Planning Board shall determine that the proposed use will not adversely affect the present or future character of the surrounding property and prescribe such additional conditions as may be necessary to secure the objectives of this Ordinance.

ARTICLE X - BUILDING PERMITS AND INSPECTION

Section 10.1

No person shall undertake any excavation, construction or alteration in connection with any of the provisions of this Ordinance until a written permit for such construction or alteration has been secured from the Building Inspector. A permit shall not be required in the case of repairs unless such repairs include alteration or new construction in excess of five hundred dollars ($500.00). (Amended 3/96)

10.1.1 A detailed plan of the proposed work shall be submitted with the application. Plans to include architectural elevations of proposed work, floor plans and a plot plan. (Amended 3/96)

10.1.1.1 Before a building permit is issued for a new dwelling unit the Town's street number shall be clearly displayed. (2) An approved commercial chemical toilet shall be in place. Where there are several building lots in close proximity, an approved commercial chemical toilet may be shared jointly. (3) Front corner boundaries markers must be in and clearly identified. (Amended April 1997).

10.1.2 An accurate plot plan, showing to scale the size, location, and setbacks of all proposed structures, all existing structures, including all structures to be demolished, if any, and parking spaces, shall be drawn in accordance with a certified boundary survey. This will not normally be required in the case of an addition which is less than ten percent (10%) of the existing building area. (Amended 1995)

10.1.3 Where plot plans, elevation plans or special details are called for by the General Plans and Specifications, and whenever necessary for a complete delineation of the work to be performed, they may be required in duplicate by the Building Inspector. No changes in the approved plans, or other changes, shall be made without the approval of the Building Inspector. The Building Inspector may withhold approval of changes until plans indicating the proposed changes are submitted for approval.

10.1.4 The Building Inspector, at the time of the issuing of a permit, shall collect from the applicant a fee based on the fee schedule available in the Building Department. (Amended 2017)

In any case where, in the opinion of the Building Inspector, the total cost of the alteration or new construction shall amount to less than $500, the Building Inspector shall waive the inspection and fee. The Building Inspector shall collect and deposit to the Town each month the total sum collected. Selectmen may waive the building permit fees for non-profit organizations at the recommendation of the Building Inspector. (Amended 1986, 1994, 1996, 2003)

10.1.4.a (Relocated to section 11.5.a March, 2003)

10.1.4.1 Pursuant to RSA 674:51 III (d), the Board of Selectmen shall have the authority to establish new fees or amend any existing fee schedule for building permits, inspections, or certificates of occupancy. (Amended 2003)

Section 10.2

The Building Inspector shall inspect all buildings during construction or alteration to see that the provisions of this Ordinance are complied with, and he shall be responsible for enforcement of the construction provisions of this Ordinance and whenever, in his opinion, the provisions of this Ordinance are not complied with, he shall order work in violation to be stopped until the violation has been remedied and shall forthwith report such violation to the Selectmen for appropriate action.

Section 10.3

A statement of all permits issued hereunder shall be filed within five days of the date of issuance with the Town Clerk and said permits shall be available for public inspection at the Town office.

Section 10.4

Any person who commences work on the erection or alteration of any building or structure without first obtaining a building permit in accordance with the preceding section shall be subject to the penalties as provided in this Ordinance; however, the Building Inspector may, in his discretion, allow the late filing of a building permit application in accordance with the preceding section and a double permit fee shall be paid upon approval of said building permit application.

Section 10.5

A Building Inspector shall be hired with the status of a Department Head and under the direct supervision of the Town Manager, and in the event of the disability, absence, or disqualification of the Building Inspector, the Town Manager shall appoint an Inspector to act in his stead. (Amended March 2000)

Section 10.6 - Growth Management Ordinance (Amended March 1996; April 1997, 1998) Entire Section repealed, March 12, 2002.

ARTICLE XI - CONSTRUCTION PROVISIONS

(Amended 1986, 1993)

Section 11.1 Construction

No building shall be erected or altered for any purpose which does not conform to the safe standards as herein defined.

Section 11.2

Section 11.2 was replaced by Section 11.2-b in its entirety on September 14, 2003.

Section 11.2-b (Amended 2003)

In compliance with RSA 155-A:2, commencing on or after September 14, 2003, the construction, design, structure, maintenance, and use of all buildings or structures to be erected and the alteration, renovation, rehabilitation, repair, maintenance, removal, or demolition of all buildings and structures previously erected shall comply with the provisions of Section 11.2-b, as follows:

11.2-b.1 The New Hampshire State Building Code and State Fire Code as same may be amended.

11.2-b.2 Standards, including definitions, established by the most recent edition of the Life Safety Code, NFPA Doc. No. 101, shall take precedence over all standards in State Building Code relative to means of egress.

11.2-b.3 For all new buildings, the requirements of the State Fire Code adopted pursuant to RSA 153:5 and to the extent that there is any conflict between the State Building Code and the State Fire Code, the State Fire Code shall take precedence unless otherwise determined by the State Building Code Review Board under RSA 155-A:2, III and RSA 155-A:10.

11.2-b.4 (Deleted 2009)

11.2-b.5 (Deleted 2009)

11.2-b.6 The enforcement mechanism for the State Building Code shall be that which is already in place for enforcement of the Town Building Code, with the Building Inspector administrating and enforcing same; and the Zoning Board of Adjustment shall act as the Building Code Board of Appeals. (Amended March 2009)

Section 11.3 Sewage

All dwellings and commercial, public, or industrial buildings shall be connected to the public sewers, where available. Where a public sewer is not available, a private system is required. The type, size, and construction of all septic tanks and drainage field shall be approved by the New Hampshire Water Supply and Pollution Control Commission. In all districts where public sewers are not available, the minimum area requirement per lot shall be at least 40,000 square feet, notwithstanding other provisions of the Zoning Ordinance.

Section 11.4 Sprinkler Systems (Amended 1988)

a) No building used or designed for permanent or temporary human residence, other than single family dwellings shall be permitted to be constructed after the date of enactment of this section, of three or more stories or six or more attached wood frame living units being two stories in height, unless furnished with a sprinkler system installed in accordance with standards set forth in the State Building Code/National Fire Prevention Code, most recent edition and NFPA Standard 13, 13D or here applicable, 13R residential sprinkler systems. (Amended 2007)

b) Sprinkler systems installed meeting NFPA Standard 13 shall be connected to the UL listed central station monitoring company. Installation shall conform to the minimum requirements of the Hampton Fire Department. (Amended 2007)

c) For the purpose of this section, "construction" shall refer to either the erection of new buildings or the re-erection of existing buildings that have been destroyed or damaged to such an extent as to be unsuitable or unsafe for human residence, or elevating, relocation or remodeling or existing buildings.

d) Living unit shall mean the accommodations designed for use by a single family.

Section 11.5

All establishments which dispense food and drink will be on a permanent foundations, contain kitchen and sanitary facilities, and meet all applicable codes.

11.5.a All businesses shall be located in a building with a permanent foundation, four walls and a permanent roof. (Amended March 1998)

*(**Section 11.6 Floodplain Development Regulations** was deleted in its entirety March 2017)*

ARTICLE XII - CERTIFICATES OF OCCUPANCY

(Amended March 1998)

Section 12. New Construction

All residential and commercial units will require a Certificate of Occupancy to be issued by the Building Department prior to any person occupying a new structure.

Section 12.1 Existing Units

No home, apartment, tenement, dwelling unit, hotel/motel unit, or other residential premises shall be let, rented, leased or otherwise occupied for residential purposes unless a Certificate of Rental Occupancy per 12.1.1 has been issued by the Hampton Building Department to the owner of record of that property. All residential units without a year round Certificate of Rental Occupancy may be used on a year round basis only by the owner of record, meaning to be that person or entity who is the title holder as recorded by the Rockingham County Registry of Deeds.

12.1.1 Certificate of Rental Occupancy, Year Round or Seasonal: The Certificate of Rental Occupancy will be designated "Year Round" or "Seasonal". All residential units leased between the dates of October 15 and May 15 will be designated "Year Round" and subject to all requirements of the State of New Hampshire Energy Code. All structures leased only between the dates of May 15 to October 15 will be designated "Seasonal" and not subject to the New Hampshire Energy Code.

Section 12.2 Criteria

In considering and approving applications for Certificates of Rental Occupancy by the Building Department and the Fire Department, the primary concern of the Town of Hampton is to preserve the public health, safety and welfare of the owner and occupants. To this end, the approval of any application shall include appropriate conditions and safeguards with regard to the following:

12.2.1 Adequate construction to provide a safe structure and protection from the elements.

12.2.2 Adequate habitable living area to meet minimum Housing Standards.

12.2.3 Safe and adequate ingress and egress.

12.2.4 Proper installation and operation of the heating, plumbing, mechanical and electrical systems in accordance with the New Hampshire Energy Code and in accordance with the Town of Hampton's Building and Life Safety Codes.

Section 12.3 Application

The owner of record of a property may request a Certificate of Rental Occupancy by filing applications on a joint form provided by the Building Department.

After an on-site inspection by the Building Department and the Fire Department, to insure that the premises conform to the required standards, the Certificate will be issued. This Certificate will

have a life of ten years. To continue the Certificate of Rental Occupancy for a subsequent ten-year term, a new inspection must be performed and new Certificate issued. Certificates in force on the date of enactment of this ordinance will expire ten years from the date the Certificate was issued. In order to continue the Certificate of Rental Occupancy, an inspection must be performed and a new Certificate issued by the Building Department.

Section 12.4 Revocation

The Building Department may revoke any Certificate of Rental Occupancy should the premises no longer conform to the requirements of the Ordinance, or to any State or Town health regulations. The notice of revocation must be mailed to the owner of record of the property by Certified Mail and posted at the front entrance of the premises. When the violation is abated the applicable Certificate will be reissued, to expire on its original expiration date.

Section 12.5 Fees

No fees will be levied to obtain the aforementioned Certificates unless more than three (3) visits are necessitated. If a fourth or further visit is necessary, then a $50.00 fee per visit will be charged.

ARTICLE XIII - MOTOR VEHICLE SALES ZONING REQUIREMENTS

1. State of New Hampshire Dealer's License requirements may be imposed on the Dealer.
2. All dealerships shall conform to the following requirements:
3. Each lot shall be approved for only one (1) dealer.
4. Each dealer shall have a minimum one half acre (21,780 square feet) lot.
5. Each dealer shall have one structure that shall have a minimum of 1,200 square feet and must conform to all current zoning regulations.
6. Each dealer shall conform to a minimum side lot and back lot landscaped buffer strip.
7. No dealer shall be permitted from the south side of Rice Terrace south to the north side of Park Ave. on either side of Route 1 (Lafayette Road).

(Adopted April 1997)

ARTICLE XIV - REGULATION OF ADULT ENTERTAINMENT

Purpose

It is the purpose and intent of this ordinance to protect the public health, safety, welfare and morals of the community, to promote the stability of property values, and impose restrictions upon those activities which pander to gross sexuality in a manner that would detract from the neighborhood, reputation of Hampton, increase crime and violence, and be contrary to the morals of the community. It is the intent of this ordinance 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 ordinance have neither the purpose nor the effect of imposing limitation or restriction on the content of any communicative materials, including sexually oriented materials; 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 oriented entertainment to their intended market; and neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

Section 14.1 Definitions of Sexually Oriented Businesses

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

A. **Adult Bookstore or Adult Video Store -** A business that devotes more than 15% of the total display, shelf, rack, table, stand, or floor area, utilized for the display and sale of the following:

   1. Books, magazines, periodicals, or other printed material, or photographs, films, motion pictures, video cassettes, slides, tapes, records, CD-ROMs, or other forms of visual or audio representations which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1; or,

   2. Instruments, devices, or paraphernalia which are designed for use in connection with "sexual conduct" as defined in RSA 571-B:1, other than birth control devices.

B. **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.

C. **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 images-producing devices are maintained to show images to five or fewer persons per machine at any one time, in which a 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.

D. **Adult Drive-In Theater** - An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration to persons in 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.

E. **Adult Cabaret** - A nightclub, bar, restaurant, or similar establishment which during a 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 portion of the presentation time of which is devoted to showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B1.

F. **Adult Motel** - A motel or similar establishment offering public accommodations for 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 upon the depiction or description of materials which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

G. **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 are distinguished 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.

H. **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 intimate parts of the female genitals and is observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration or such display is 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.

I. **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 the activities in (A) or (B) is 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.

Section 14.2 Allowed Location and Location Restrictions of Sexually Oriented Businesses

Sexually Oriented Businesses, as defined above shall be permitted only in the Industrial Zone (I) by Special Permit and Site Plan Review and 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 1000 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 district; and,

No sexually oriented business shall be permitted within 1000 feet of any church; place of worship; parish house; convent; public, parochial, or private school; kindergarten; state approved day care center; elderly housing or public sports/recreation parks; and, no sexually oriented business shall be established within 750 feet of the Town boundaries; 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 A through I above and,

No sexually oriented business shall be permitted within 750 feet of Exeter Road, Rte. 101, Rte. 1 and Rte. 1A which are considered to be the gateway roads into the Town of Hampton.

Section 14.3 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 of each business.

Section 14.4 Additional Regulations

The Planning Board is empowered hereunder to review and approve permit applications for sexually oriented businesses and impose reasonable 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 site plan review.

(Adopted April 1997)

ARTICLE XV - ELDERLY HOUSING STANDARDS

Section 15. ELDERLY HOUSING: Where permitted per Article III, Section 3.48 of this Ordinance, elderly housing is subject to Site Plan Review and approval by the Planning Board and must conform, but not be limited to the following standards.

1. No Elderly Housing shall exceed the height requirement for the District in which it is proposed.
2. The required land area per dwelling unit shall equal that of the underlying district.
3. Any multi-storied building shall be subject to elevators. Elevator shafts shall be exempt from height requirements of the underlying zone.
4. Basement apartments/including any apartments with any portion of living space below grade level are prohibited.
5. Elderly housing shall comply with all Town and State Codes. In addition, State Building Code, NFPA (National Fire Protection Association) Life Safety Codes shall be followed as determined by the Town of Hampton Building Department and Fire Prevention Bureau.
6. Elderly housing shall provide a minimum indoor gathering area of twenty (20) square feet per dwelling unit, not to be less than four hundred (400) square feet per building. This area shall not include dining facilities.
7. Driveways and parking areas shall be located at least twenty-five (25) feet from the front of any building and at least ten (10) feet from the side or rear of any building.
8. All driveways, lighting and landscaping associated with such areas shall conform to construction specifications for new subdivision streets.
9. Parking configuration shall be as determined by the Planning Board. This determination shall take into consideration the type of Elderly Housing being presented.
10. A minimum open buffer zone of at least twenty-five (25) feet shall be preserved along all boundaries of the site. Natural woodlands shall be the preferred landscaping. In locations of no natural woodlands, the Planning Board shall approve the landscaping.
11. All building shall be located twenty (20) feet from the interior edge of the buffer zone.
12. Types of elderly housing permitted are: Group Shared Residence, Supportive Agency-Sponsored Group Shared Residence, Congregate Housing and Lifecare or Continuing Care Retirement Communities or other elderly housing proposals that the Planning Board considers appropriate, after Public Hearing.

(Adopted March 1998, Amended March 2016)

ARTICLE XVI - TELECOMMUNICATIONS FACILITY ORDINANCE

Section 16.1 Purpose and Goal

The general purpose of this ordinance is to preserve the authority of the Town of Hampton to regulate and provide for reasonable opportunity for the siting of telecommunication facilities. Any such facilities shall not exceed 100 feet in height.

Section 16.2

Any telecommunication facilities shall be located within the Telecommunications District. The District shall consist of an extension in an easterly and westerly direction of 350 feet from the centerline of Route 95. The Zoning Board of Adjustment may grant a Special Exception for Towers on property owned, leased or controlled by the Town, or for retrofitting on an existing structure greater than 80 feet.

Section 16.3

The Planning Board shall adopt site plan regulations which shall include but not be limited to: aesthetics and lighting; construction, building and safety standards; security and space requirements; landscaping; and financial security for maintenance and/or removal of any facilities.

Section 16.4

Additional Requirements for Telecommunications Facilities

a) To the extent possible, co-location must be provided by applicants to competitors at a reasonable cost, and all new support structures must be capable of handling multiple facilities.

b) Setbacks and Separation

   (i) Towers must be set back a distance equal to 125% of the height of the tower from any lot line.
   (ii) Tower, guys, and accessory facilities must satisfy the minimum zoning district setback requirements.
   (iii) Towers over 90 feet in height shall not be located within one-quarter mile of any existing tower that is over 90 feet in height.

(Adopted March 1999)

ARTICLE XVII – SMALL WIND ENERGY SYSTEMS ORDINANCE

Section 17.1 Purpose

This small wind energy systems ordinance is enacted in accordance with RSA 674:62-66 and its definitions and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to allow the building inspector to grant building permits for small wind energy systems and their associated towers in appropriate locations, while protecting the public's health, safety and welfare.

17.2 Standards

The building inspector shall evaluate the building permit application for compliance with the following standards:

1. Only one small wind energy system or tower shall be allowed per lot.
2. GENERATING CAPACITY: The system shall not produce in excess of 100Kw of electricity.
3. HEIGHT: System height (ground to blade tip) shall be limited to a maximum of 125 feet but no more than 35 feet taller than the surrounding tree canopy, whichever is less. Turbine blades must have a clearance of at least 20 feet from the blade tip to the ground or nearest structure.
4. SETBACKS: The minimum required setback distance, measured from the closest point of the tower base to property line, shall be system height plus 15 ft.
5. NOISE LIMIT: The sound from the system shall not exceed 50 decibels using the A scale (dBA) measured at the nearest property line.
6. SIGN: At least one sign posted at five feet warning of electrical shock or high voltage and harm there from.
7. OTHER REQUIREMENTS: Towers shall be constructed as a tilt-down or provide one of the following means of access control, or other appropriate method of access:
    a. Tower-climbing apparatus located no closer than 12 feet from the ground.
    b. A locked anti-climb device installed on the tower.
    c. A locked, protective fence at least six feet in height that encloses the base.

(Adopted March 2009)

ARTICLE XVIII – SOLAR PANELS ORDINANCE

1. Solar panels exceeding two (2) square feet in area are not permitted in any front yard, on any face of a building or structure facing a street unless integrated with the ordinary construction of said building or structure, or in view of any adjacent street, except roof-mounted solar panels as set forth below.
2. Ground-mounted solar panels shall:
    a. Be located in a side or rear yard only.
    b. Not exceed eight (8) feet in height above the ground.
    c. Be fully screened from adjacent properties by fencing or a combination of evergreen and deciduous plantings.
3. Roof-mounted solar panels:
    a. Permitted roof-mounted solar panels shall include integrated solar panels as the surface layer of the roof structure with no additional apparent change in relief or projection (the preferred installation), or separate flush-mounted solar panels attached to the roof surface.
    b. Separate flush-mounted solar panels installed on a building or structure with a sloped roof surface shall not project vertically above the peak of the roof to which it is attached, or project vertically more than five (5) feet above a flat roof installation.

(Adopted March 2009, Amended March 2010)

ARTICLE XIX - TRANSPORTATION CORRIDOR OVERLAY DISTRICT

Section 19.1 Purposes

This overlay district is created for the purposes of a) providing opportunities for future transportation uses and facilities and utility line uses and facilities; b) allowing for recreational trail use, and c) restricting land uses from being established in the transportation corridor that conflict with these uses.

Section 19.2 Boundary

The District shall consist of the B&M Hampton Branch rail line property, regardless of ownership, running from the North Hampton town line to the Hampton Falls town line as shown on Tax Maps 43, 56, 71, 90, 108, 125, 143, 160, 175, 189, 203, 215, 227, 237, 247, 258 and 257.

Section 19.3 Permitted Uses and Facilities

1. Railroad uses and facilities.
2. Public highways.
3. Utility lines, including but not limited to water, sewer, drainage, natural gas, electric and fiber optic.
4. Recreational trails.

(Adopted March 2012)

ARTICLE XX - AMENDMENTS

This Ordinance and the boundaries of districts shown on the Zoning Map may be amended at any annual or special Town Meeting in accordance with the provisions of the State Zoning Enabling Act, Chapter 31, of the Revised Laws, 1955, or any amendments thereto.

ARTICLE XXI - VIOLATIONS

Any person violating any of the provisions of this Ordinance shall be subject to a fine as provided in RSA 676:17, as amended. The Board of Selectmen, or the Building Inspector, are hereby designated as the proper local authorities of the Town to institute appropriate action under the provisions of RSA 676:17. (Amended 1986)

ARTICLE XXII - VALIDITY

If any section or part of section or paragraph of this Ordinance is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this Ordinance.

IMPACT FEE ORDINANCE

Section 1. Purpose

1.1 This ordinance is enacted pursuant to RSA 674:16 and 674:21, and in order to:

Promote public health, safety, convenience, welfare, and prosperity;

Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Hampton;

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;

Provide for the harmonious development of the municipality and its environs;

Ensure the proper arrangement and coordination of streets; and,

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

Section 2. Authority

2.1 Impact fees may be assessed in any manner consistent with the terms of this ordinance and, in addition, the Planning Board may, as a condition of approval of any subdivision or site plan, and when consistent with applicable Board regulations, require an applicant to pay an impact fee for the applicant's fair share of off-site improvements to public facilities affected by the development.

2.2 Nothing in this section shall be construed to limit the existing authority of the Planning Board to disapprove proposed development which is scattered or premature or which would otherwise violate applicable ordinances and regulations. The adoption of this ordinance shall expressly authorize the Planning Board to require off-site work to be performed by the applicant in lieu of or in addition to paying an impact fee and nothing in this section shall limit the Board's authority to impose other types of conditions of approval. Nothing in this section shall be construed to affect types of fees governed by other statutes, town ordinances or regulations.

Section 3. Findings

In review of the impact of growth relative to the existing and planned capital facility capacity available to the Town of Hampton for its municipal and school needs, the Town of Hampton hereby finds that:

3.1 Recent and anticipated growth rates in public enrollment with associated improvements and costs, and recent increases in the demand and costs for public services has required an excessive expenditure of public funds in order to maintain adequate municipal and school facility standards and to promote and protect the public health, safety and welfare.

3.2 The imposition of impact fees is one of the methods available to ensure that new development will bear a proportionate share of the capital costs necessary to accommodate such development.

3.3 The impact fee methodology shall be reasonable, rational and proportional method for the assessment of growth-related facility costs to new development.

3.4 An impact fee ordinance for public capital facilities is consistent with the goals and objectives of the Master Plan and Capital Improvements Program for the Town of Hampton.

Section 4. Assessment Methodology and Collection

4.1 The amount of the 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.

4.2 Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

4.3 An impact fee assessment schedule may be calculated and adopted by the Planning Board after a public hearing. The Impact Fee Assessment Schedule shall be reviewed periodically by the Planning Board. Such review may result in recommended adjustments in one or more of the fees based on the most recent data as may be available including, but not limited to, current construction cost information or capital improvement plans or programs, property assessment data, demographic data, US Census information, and other sources. Based on its review, the Board may consider the adoption of an updated or amended impact fee methodology, or may modify the schedule to correct errors or inconsistencies identified in the review process. No change in the methodology or in the impact fee schedules shall become effective until it shall have be the subject of a public hearing before the Planning Board, noticed in accordance with RSA 675:7.

4.4 Impact fees may be assessed to new development to compensate the Town of Hampton for the proportional share of capital facilities generated by new development in the Town of Hampton, including capital facilities to be constructed, or which were constructed in anticipation of new development by the Town of Hampton, the Hampton School District, or the Winnacunnet Cooperative School District.

4.5 All impact fees imposed pursuant to this section shall be assessed at the time of Planning Board approval of a subdivision plat or site plan. When no Planning Board approval is required, or has been made prior to the adoption or amendment of this Ordinance, 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.

Section 5. Administration

5.1 **Accounting:** In accord with RSA 673:16, II and RSA 674:21, V(c), impact fees shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the Board of Selectmen, 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 which the fee was collected to meet.

5.2 **Assessment:** All impact fees imposed pursuant to this section shall be assessed at the time of Planning Board approval of a subdivision plat or site plan. When no Planning

Board approval is required, or has been made prior to the adoption or amendment of this Ordinance, 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.

5.3 **Security:** In the interim between assessment and collection, the Planning Board may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of assessed impact fees.

5.4 **Collection:** Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use. Nothing in this subparagraph shall prevent the municipality and the assessed party from establishing an alternate, mutually acceptable schedule of payment of impact fees.

5.5 **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 capital facilities for which impact fees are normally assessed.

a. A person may request a full or partial waiver of school facility impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over or to households with at least one person age 55 and over as applicable, in a development that is 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 age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy for a period of at least 20 years.

b. 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 Board of Selectmen 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. Full or partial waivers may not be based on the value of exactions for on-site or off-site improvements required by the Planning Board as a result of subdivision or site plan review, and which would be required of the developer regardless of the impact fee assessments authorized by this Section.

c. The Planning Board may waive an impact fee assessment for a particular capital facility where it finds that the subject property has previously been assessed for its proportionate share of public capital facility impacts, or has contributed or constructed capital facility capacity improvements equivalent in value to the dollar amount of the fee(s) waived.

d. The Planning Board may waive an impact fee assessment where it finds that, due to conditions specific to a development agreement, or other written conditions or lawful restrictions applicable to the subject property, the development will not increase the demand on the capacity of the capital facility or system for which the impact fee is being assessed.

e. A person may request a full or partial waiver of the amount of the impact fee for a particular development based on the results of an independent study of the demand on capital facility capacity and related costs attributable to that development. In support of such request, the feepayer shall prepare and submit to the Planning Board an independent fee calculation or other relevant study and supporting documentation of the capital facility impact of the proposed development. The independent calculation or study shall set forth the specific reasons for departing from the methodologies and schedules adopted by the Town. The Planning Board shall review such study and render its decision. All costs incurred by the Town for the review of such study, including consultant and counsel fees, shall be paid by the feepayer.

f. A person may request a full or partial waiver of impact fees for construction within a plat or site plan approved by the Planning Board prior to the effective date of this Section, and the Planning Board shall grant such waiver to the extent that the development (or a phase of it) is entitled to statutory or common law vesting protection. This waiver may not be applicable to phases of a phased development project where active and substantial development, building and construction has not yet occurred in the phase in which construction is proposed.

5.6 **Refund:** Any portion of an impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected, shall be refunded, with any accrued interest, to the property owner of record at the time the refund is made. Note, however, this does not preclude assessed parties from entering into any agreement with successors in interest concerning the disbursement of any refunds of impact fees. An impact fee shall be refunded:

a. When the subdivision or site plan approval expires under the respective rules of the Planning Board, or under the terms of the decision, without having become vested under RSA 674:39, and without any extension being granted by the Planning Board; OR

b. When such approval is revoked under RSA 676:4-a; OR

c. Six years after its collection, or, if any extension of approval is granted by the Planning Board, six years after such extension is granted; OR

d. Six years after its collection, whenever the calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the Town, the Hampton School District, or the Winnacunnet Cooperative School District, and the Legislative Body of the Town and/or the responsible School Board has failed to appropriate their share of the capital improvement costs.

Section 6. Appeals

In accord with RSA 676:5, III, appeals of the decision of the Planning Board in administering this ordinance may be made to Superior Court, as provided in RSA 677:15.

Section 7. Definitions

IMPACT FEE: 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 that 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 library facilities; and public recreational facilities not including public open space.

NEW DEVELOPMENT: An activity which results in:

a. The subdivision of land that creates additional building lots; or

b. The creation of a new dwelling unit or units; or

c. The conversion of a lawfully existing use which would result in a net increase in the number of dwelling units; or

d. The creation of or an increase in the number of bedrooms within an existing dwelling unit; or

e. A non-residential development or conversion of property that results in a net increase in the gross floor area of a non-residential use.

Section 8. Effective Date

This ordinance was adopted by the Legislative Body of the Town of Hampton, acting at its duly warned annual meeting on March 12, 2002 and amended March 11, 2003.