

**ZONING ORDINANCE  
FOR THE  
TOWN OF HINSDALE, NEW HAMPSHIRE**

Two public hearings in accordance with RSA 675:3

First:	January 5, 1983	Town Hall
Second:	January 26, 1983	Town Hall
Approved	March 8, 1983	Town Mtg.
Amended	March 12, 1985	Town Mtg.
Amended	March 14, 1989	Town Mtg.
Amended	March 13, 1990	Town Mtg.
Amended	March 9, 1993	Town Mtg.
Amended	March 8, 1994	Town Mtg.
Amended	March 14, 1995	Town Mtg.
Amended	March 11, 1997	Town Mtg.
Amended	March 10, 1998	Town Mtg.
Amended	March 9, 1999	Town Mtg.
Amended	March 14, 2000	Town Mtg.
Amended	March 13, 2001	Town Mtg.
Amended	March 11, 2003	Town Mtg.
	1. NFPA 70 Electrical 2020	
	2. International Residential Code for One and Two-Family Dwellings 2018	
	3. International Fire Code 2021	
	4. International Property Maintenance Code 2018	
Amended	March 9, 2004	Town Mtg.
Amended	March 8, 2005	Town Mtg.
Amended	March 14, 2006	Town Mtg.
Amended	March 11, 2008	Town Mtg.
Amended	March 10, 2009	Town Mtg.
Amended	March 9, 2010	Town Mtg.
Amended	March 13, 2012	Town Mtg.
Amended	March 8, 2016	Town Mtg.
Amended	March 14, 2017	Town Mtg.
Amended	March 12, 2019	Town Mtg.
Amended	March 9, 2021	Town Mtg.
Amended	March 8, 2022	Town Mtg.
Amended	March 16, 2024	Town Mtg.

TABLE OF CONTENTS PAGE

ARTICLE I	PURPOSE AND AUTHORITY	4
ARTICLE II	ZONING DISTRICTS AND ZONING MAP	4
	Districts	4
	District Boundaries	4
ARTICLE III	DEFINITIONS	5
ARTICLE IV	GENERAL REGULATIONS	10
	Non-Conforming Uses	10
	Non-Conforming Lots	11
	Prohibited Uses	11
	Non-Conforming Structures	12
	Accessory Buildings and Uses	12
	Lots Lying in More than One District	12
	Off-Street Parking	13
ARTICLE V	USE REGULATIONS	14
	Rural Agricultural District	14
	Residential District	15
	Business District	17
	Roadside Commercial District A&B	17
	Commercial/Industrial District	19
	Industrial Use Conditions	20
ARTICLE VI	FLOOD PLAIN DISTRICT	20
	Item I. Definition of Terms	20
	Item II. Building Permit	24
	Item III. Flood Hazard Area	24
	Item IV. Sewer Systems	24
	Item V. Information to furnish	24
	Item VI. Granting Permits	25
	Item VII. Notice to Building Inspector	25
	Item VIII. 100-year flood elevation	26
	Item IX. Variances and appeals	27
ARTICLE VII	SPECIAL REGULATIONS	28
	Signs	28
	Non-conforming Signs	29
	Recreational campground or camping park	36
	Telecommunication facilities	37
	Adult-oriented businesses	40

Open Space Requirements of zoning districts	41
Development of Rear Lots	42
Conversion of Existing Buildings	42
Outdoor Wood Furnace Ordinance	41
Private Campsites and Construction Trailers/Offices	45
Hinsdale Wellhead/Aquifer Protection District	46
Addendum to Wellhead/Aquifer Protection District	52
ARTICLE VIII MANUFACTURED HOUSING PARKS	52
ARTICLE IX PLANNED UNIT DEVELOPMENT (PUD)	54
ARTICLE X ADMINISTRATION AND ENFORCEMENT	68
Interpretation of Regulations	68
Enforcement and Penalties	68
Certificate of Occupancy	69
Board of Adjustment	69
Validity of Regulations	70
Violation	70
Amendments	70

## **ZONING ORDINANCE FOR THE TOWN OF HINSDALE, NEW HAMPSHIRE**

An ordinance: to promote the health, safety, convenience and general welfare of the community by regulating the use of land in the Town of Hinsdale.

### **ARTICLE I PURPOSE AND AUTHORITY**

In pursuance of authority conferred by Chapter 31, Sections 60-89, New Hampshire Revised Statutes Annotated, 1955, (Also Known As RSA 674 Sections 1 thru 52 and RSA 675 Sections 1 thru 9 and RSA 676 Sections 1 thru 19 and RSA 677 Sections 1 thru 18) and for the purpose of promoting the health, safety and general welfare of the inhabitants of the incorporated Town of Hinsdale, to protect the value of property, to prevent the overcrowding of land, to avoid undue congestion in the streets, to avoid undue concentration of population, to provide adequate light and air, to facilitate the adequate provisions for transportation, water, sewage disposal, schools, child day care and other public requirements, the following ordinance is hereby enacted by the voters of the Town of Hinsdale, New Hampshire in official meeting convened on March 8, 1983.

### **ARTICLE II ZONING DISTRICTS AND ZONING MAP**

The Town of Hinsdale is hereby divided into the following zoning districts as shown on the "Zoning Map of the Town of Hinsdale, New Hampshire", as amended February 7, 1983, which, with all explanatory matter therein shall be considered a part hereof. The original map is filed in the office of the Hinsdale Town Clerk.

Districts	Rural Agricultural
	Residential
	Business
	Roadside Commercial Zone A & B
	Commercial/Industrial
	Flood Plain
	Wellhead/Aquifer Protection

#### District Boundaries

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

Property lines: If the district boundary is a property line, boundary shall follow such property line as described in the tax assessor's records on the effective date of these regulations.

Measure lines: Unless otherwise indicated, if a district boundary is stated by a measured distance from a street, such distance shall be measured perpendicularly from the boundary of such street which is on the same side as the district.

Streets, rivers, brooks: If opposite sides of a street, river or brook are in different districts, the center line of the street, river or brook shall be the district boundary.

Railroad line: Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the bed.

Rivers, lakes or other bodies of water: Where the boundary of a district follows a river, lake or other body of water, the boundary line shall be deemed to be at the limit of the jurisdiction of the Town of Hinsdale unless otherwise indicated. Where interpretation is required or in cases of uncertainty, the Hinsdale Planning Board shall determine the location of the district boundary.

### **ARTICLE III DEFINITIONS**

Except where specifically defined herein, all words in this ordinance shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular, the word "lot" includes the word "plot", the word "building" includes the word "structure" and the word "shall" be intended to be mandatory, "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied".

Accessory building - Any subordinate building or portions of the main building, the use of which is customarily incidental to that of the main building on the same lot or premises and which is used primarily by the occupants of the main building.

Accessory use - Any use customarily incidental, related, and clearly subordinate to a principal use established on the same lot or premises.

Adult-oriented businesses - means and includes any business that is characterized by depiction, description or display of, or use in connection with "sexual conduct" as defined in RSA 650:1. These include, but are not limited to, book and video stores, motion picture theaters and arcades, nude modeling studios, massage parlors and escort services. This definition will include reference to "adult use", and "sexually-oriented business".

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

Apartment/multifamily dwelling - A building which is used or designed as the residence of two or more families, living independently of each other.

Arts and crafts - Art objects, such as ceramics, sculptures, pottery, needlework, crocheting. Hobby type shops shall be excluded. Any other types of arts and crafts shall be at the discretion of the Board.

Average tree canopy height - The average height found by inventorying the height above ground level of all trees over 20 feet in height for a radius of 150 feet.

Building - Any structure having a roof and intended for the shelter, housing or enclosure of

persons, animals or materials. Any other structure, more than eight feet in height, shall be considered to be a building including a fence, wall, etc., but excluding a public utility pole, flagpole, windmill, silo, etc.

Building coverage - The percentage which the aggregate area of the first floor of all buildings on the lot bears to the area of the lot.

Building height - The vertical distance from the finished grade at any point under consideration to the ridge of the roof.

Building line - A line parallel to a street at a distance from the street line equal to the required front yard or at a greater distance when otherwise established by the Town of Hinsdale or when established by the owner and recorded in the records of the Cheshire County Registry of Deeds. The establishment of the building line shall exclude such appurtenances to the building front as entrance steps, ramps and chimney foundations.

Club (or lodge) - An organization of persons pursuant to the provisions of the membership corporation law or the benevolent orders law which is the owner, lessee or occupant of an establishment operated solely for a recreational, social, patriotic, political, benevolent or athletic purpose, but not for pecuniary gain, and includes the establishment so operated. A club shall cater only to its members, or quests accompanying them.

Child Day Care Agency (Defined in RSA 170-E: 2 IV (a-h))

Commercial Kennel - means any person, business, corporation, or other entity that transfers no more than five (5) litters but less than twenty-five (25) puppies in any 12-month period. Commercial Kennels are allowed in the Industrial District on land of two (2) acres or more, and are subject to Site Plan Approval with the Hinsdale Planning Board and shall apply annually and prior to expiration, in the case of an existing permitted kennel, for a Group License with the Town Clerk.

Dwelling - A building, or part of a building, which contains living and sleeping accommodations for permanent occupancy.

Dwelling unit - A building or part thereof designed to house a single person or a single family.

E-Commerce - A business conducted or carried out over the internet, and the supporting structures to carrying out said business.

Fall Zone - The area on the ground at the base of the personal wireless service facility that forms a circle, with a diameter equal to the height of the personal wireless service facility and all appurtenances.

Family - Any number of individuals related by blood, marriage or adoption, living together as a single housekeeping unit, provided that a group of more than six persons keeping house together,

but not necessarily related by blood or marriage, may not be considered a family.

Family Day Care Home (RSA 170-E:2 IV(a)) - An occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for up to 6 children from one or more unrelated families. The 6 children shall include any foster children residing in the home and all children who are related to the caregiver except children who are 10 years of age or older. In addition to the 6 children up to 3 children attending a full day school program may also be cared for up to 5 hours per day on school days and all-day during school holidays.

Garage, private - A detached accessory building or a portion of a main building generally intended for the parking and storage of automobiles.

Garage, public - A building or use, other than a private garage used for the maintenance, repair, painting, performing of body work and storage of automobiles.

Home occupation - Any use, which is customarily or may properly be carried out for compensation, entirely within a dwelling by the occupant thereof, which:

1. Is clearly secondary to the use of the dwelling for dwelling purposes.
2. Does not change the residential character of the dwelling in any visible manner.
3. Does not create objectionable noise, odor, vibrations, or unsightly conditions noticeable off the premises.
4. Does not create interference with radio or television reception in the vicinity, and
5. Does not create a health or safety hazard.

Home grown products and produce - Means and includes everything of an agricultural nature grown, produced, conditioned or otherwise carried on the property of the resident.

Hotel or inn - A building, or portion thereof, where lodging is offered to transient guests for compensation and in which there are more than five sleeping rooms with no cooking facilities in an individual room or apartment.

Lot - A plot or parcel of land occupied, or capable of being occupied, in conformity with these regulations by one principal building and the accessory buildings or uses customarily incident thereto, including such open spaces as are required by these regulations.

Lot area - The required lot area shall be deemed to be the product of multiplying the lot width by the lot depth, excluding any utility easements or rights of way located within the lot.

Lot, corner - A lot at the junction of and fronting on two or more intersecting streets having an interior angle of less than 120 degrees at the intersection of the two street lines.

Lot coverage - The percentage which the aggregate building area of all buildings on the lot bears to the area of the lot.

Lot depth - The main distance from the street line of the lot to its rear lot line measured in the general direction of the side lot lines.

Lot frontage - The distance between the lot side lines measured along the front street line. Frontage shall be on an approved street, i.e., Class I, II, III, IV, or V highway.

Lot, rear – A lot meeting all of the minimum open space dimensional requirements of the district in which it is located with the exception of frontage, situated to the rear of existing property. Development of such a lot is subject to the conditions set forth under Article VII, Special Regulations regarding “Development of Rear Lots.”

Mobile home - Any recreational vehicle or similar portable structure having no foundation other than wheels jacks, or skirting's, and so used, designed or constructed as to permit its being used as a conveyance and as a temporary dwelling or a sleeping place for one or more persons, and provided with lavatory, toilet, and bathtub, or shower, temporary utilities connections, foundations or other features attached to a fixed site.

Manufactured housing (RSA 674:31) - 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. Manufactured housing as defined in this section shall not include pre-site-built housing (RSA 674:31-A).

Manufactured housing park - A parcel of land containing at least ten acres which is used or intended for the purpose of supplying to the public parking spaces for two or more manufactured homes, whether or not a charge is made for such accommodations.

Motel - A building or a group of buildings providing lodging for persons generally having private outside entrances for each room or suite of rooms and for each of which rooms or suite of rooms automobile parking is provided on the premises.

Multi-use - Retail, Business, or professional uses co-existing with residential dwellings in the same building.

Personal Wireless Service Facility - A facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended.

Personal Wireless Services - Means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

Pre-site built housing (RSA 674:31-a) - Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed, or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or

assembly and installation, on the building site.

Private Kennel - means any person, business, corporation, or other entity that transfers no more than two (2) litters but less than ten (10) puppies in any 12-month period, may have no more than eight (8) adult dogs at one time. Private Kennels are allowed in the Rural-Agricultural District on land of two (2) acres or more, and are subject to Site Plan Approval with the Hinsdale Planning Board and shall apply annually and prior to expiration, in the case of an existing permitted kennel, for a Group License with the Town Clerk.

Professional - Of or pertaining to a calling requiring specialized knowledge and long and intensive preparation, such as doctors, lawyers, architects, engineers, accountants.

Recreational campground or camping park - Means a parcel of land on which 5 or more campsites are occupied or are intended for temporary occupancy for recreational dwelling purposes only, and not for permanent year-round residency, excluding recreation camps as defined in RSA 149:20, and excluding manufactured housing as defined in RSA 205-A:1.

Setback - The open space required between any building or structure and the street or property lines. The setback from a given line shall be interpreted to be the average distance, measured at right angles to that line, to the extreme corner of the nearest side of the building or structure.

Street - The public way, or way opened to public use, or other right-of-way giving access to the lot, but excluding an alley used for service access only. "Street" shall be deemed to include the entire width of the right-of-way. Street or public way is meant to include all ways that are maintained by the state or town as Class I, II, III, IV or V highways.

Structure - Anything constructed or erected which requires location on the ground, including signs, but not including fences, or walls used as fences, the maximum height of which is less than eight feet above the ground.

Temporary - For these regulations, temporary shall mean a period of time not to exceed 60 (sixty) days.

Tourist home - A building consisting of a room or group of rooms located on one premise, where transient accommodations for sleeping or living purposes for not more than six persons are provided for compensation.

Tower - Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.

Variance - An act of the Board of Adjustment which allows a variance from the terms of these regulations as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the regulations will result in unnecessary hardship, and so that the spirit of the regulations shall be observed and substantial justice be done.

Yard - A space not occupied by a building or buildings, open to the sky, on the same lot as the principal building.

Yard, front - A yard extending across the full width of the lot and lying between the front line of the lot (the street line) and a parallel line at a distance there from as specified in these regulations.

Yard, rear - Width of the lot and lying between the rear lot line of the lot and a line at a distance therefrom as specified by these regulations.

Yard, side - A yard between the side lot line of the lot and a line at a distance therefrom as specified in these regulations.

## **ARTICLE IV GENERAL REGULATIONS**

Application of regulations

Except as hereinafter provided:

1. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered, and no building permit shall be issued except in conformity the regulations herein specified for the district in which it is located.
2. No building shall hereafter be erected or altered
  - a. to exceed the height, or
  - b. to accommodate or house a greater number of families, or
  - c. to occupy a greater percentage of lot area, or
  - d. to have narrower or smaller yards than is specified herein for the district in which such building is located.
3. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space similarly required for another building.
4. A. No owner or occupant of property in any district shall permit fire ruins or other ruins to remain on property. Ruins must be secured immediately and removed from property within sixty (60) days. "Ruin" is defined as total destruction or disintegration; a condition of total collapse; the remains of something destroyed, disintegrated, or decayed beyond repair.

Any structure damaged by fire or other casualty, in whole or in part, must be secured immediately, and removed or repaired within one year. Replacement of conforming structures may occur at any time.

B. Any abandoned well must be filled or permanently and securely sealed by property owner.

## NON-CONFORMING USES

Any non-conforming use of land or buildings lawfully existing at the effective date of these regulations, or any pertinent amendment thereto, may be continued, except as specified in four below. In addition, any building so existing which was designed, intended for, arranged, or is devoted to a non-conforming use, may be structurally altered and the non-conforming use therein continued, all subject to the following requirements:

1. A non-conforming use may be changed to a conforming use, but shall not then be changed back to a non-conforming use.
2. A non-conforming use which had been discontinued for a period of one year shall not thereafter be resumed.
3. A non-conforming use may not be enlarged or extended.
4. No junk yard may continue for more than one year after the effective date of these regulations, except that a junk yard may continue as a non-conforming use if it complies with state regulations.

## NON-CONFORMING LOTS

Provided that safe and adequate disposal of sewage and a safe water supply can be provided without endangering the health and safety of adjoining residents, nothing in these regulations shall prevent the construction of a permitted building or the establishment of a permitted use on a lot containing less than the prescribed area or width at the effective date of these regulations, or any pertinent amendment thereto, if it was:

1. Owned separately from any adjoining lot and recorded in the land records of the Cheshire County Registry of Deeds, or
2. Shown on a plan or subdivision approved by the Hinsdale Planning Board and recorded in the land records of the Cheshire County Registry of Deeds.

## PROHIBITED USES

In all districts, uses are not permitted which exceed the following standards measured at the individual property line:

1. Emit any smoke, in excess of EPA standards.
2. Emit any noxious gases, dust, materials and odors which endanger the health, comfort, safety or welfare of any person, or which have a tendency to cause injury or damage to property, business or vegetation.
3. Lighting or signs which create glare, which could impair the vision of a driver of any motor vehicle.

4. Causes a fire, explosion or safety hazard.
5. Cause harmful wastes to be discharged into the sewer system, streams or other bodies of water. Effluent disposal shall comply with the local and state health standards. In the event that the entity charged with enforcement of this ordinance determines that a violation exists, the burden shall be on the violator to come forth with scientific evidence to refute such a finding.

#### NON-CONFORMING STRUCTURES

Any non-conforming structure lawfully existing at the effective date of these regulations, or any pertinent amendment thereto, may be continued. General maintenance and repair shall be allowed. Strengthening or restoration to a safe or lawful condition of any part of the structure which has been declared unsafe by any duly authorized official shall be allowed.

No owner or occupant of any non-conforming structure shall permit fire ruins or other ruins to remain on property. Ruins must be secured immediately and removed from property within sixty (60) days. "Ruin" is defined as total destruction or disintegration; a condition of total collapse; the remains of something destroyed, disintegrated, or decayed beyond repair.

Any non-conforming structure damaged by fire or other casualty, in whole or in part, must be secured immediately, and removed, repaired, or replaced within one year. Such replacement shall not exceed in cubic contents that of the original structure.

A non-conforming structure may be enlarged provided that the enlargement does not encroach any more into the non-conforming direction; enlargement in a conforming direction is allowed.

Open decks and porches may encroach into a setback area provided the structure comes no closer than ten feet from the property lines.

#### ACCESSORY BUILDINGS AND USES

Any non-occupancy accessory use or any accessory building which is customarily incidental to the principal use or building and located on the same lot with the principal use or building shall be permitted in all districts, subject to the Zoning Regulations and setbacks.

Accessory dwelling units are permitted with the following restrictions and conditions: The additional dwelling unit must be attached to the principal dwelling unit by an interior wall and an interior door connecting the units; one of the units must be occupied by the owner of the property; the accessory dwelling unit shall have no more than two (2) bedrooms; the accessory dwelling unit cannot exceed 1000 sq. ft.; only one accessory dwelling unit is permitted per lot. Detached accessory dwelling units are not permitted.

#### LOTS LYING IN MORE THAN ONE DISTRICT

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet

into the more restricted portion provided the lot has frontage on a street in the less restricted district.

#### OFF-STREET PARKING

Off-street parking, at 200 square feet per space, shall be provided as follows:

- |                                                          |                                                                                                                                           |
|----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Dwelling                                              | One space per unit.                                                                                                                       |
| 2. Religious institution, auditorium                     | One space per four seats.                                                                                                                 |
| 3. Motel, inn, boarding house, hotel, tourist home, etc. | One space per each guest sleeping room.                                                                                                   |
| 4. Restaurant, eating place                              | One space per four seats.                                                                                                                 |
| 5. Financial institutions, offices                       | One space per 100 square feet of floor area                                                                                               |
| 6. Hospital, sanitarium, clinic or nursing home          | One space per staff member on largest shift plus one for every other bed                                                                  |
| 7. Industrial uses                                       | One space for each three employees on the largest shift                                                                                   |
| 8. Multiple dwelling building                            | One- and one-half spaces for every dwelling unit                                                                                          |
| 9. Retail stores and shops                               | One space per 200 square feet of gross floor area devoted to sales. One space per 600 square feet of gross floor area devoted to storage. |

## **ARTICLE V USE REGULATIONS**

Uses other than those specified here shall not be permitted.

### **RURAL AGRICULTURAL DISTRICT**

This district is designed to accommodate residential uses in what is commonly recognized as being a rural environment. The property included within this district will not have sewer available. Agriculture and other low density uses shall also be permitted. This district is considered to be a future growth area for the Town and new uses are to be carefully controlled.

Permitted uses in the Rural Agricultural (RA) District are as follows:

1. One-family residence including manufactured housing.
2. Two-family residence.
3. Multi-family residence.
4. Tourist homes.
5. Convalescent home, nursing home.
6. Educational, religious institution, club or lodge when primary function is indoors.
7. Veterinarian, kennel or stable.
8. General farming including the tilling of soil and the growing and harvesting of crops and horticultural commodities, dairying, livestock, and the raising of poultry/fowl and other agricultural enterprises or uses. Livestock shall be kept in a secure enclosure and poultry/fowl shall be kept in a coop within a secure enclosure at all times. The secure enclosure and coop shall be maintained in a humane and sanitary manner.
9. Gift shop, antique shop or craft shop.
10. Roadside stands for the sale of home-grown products provided that they are so located on the lot as to not create roadside hazards or undue congestion.
11. Customary home occupations including professional office, family day care home, hairdressing, dressmaking, and the manufacture of craft products for sale and the processing of food products, provided only the owner or residential tenant are engaged in the home occupation.
12. Recreational campground or camping park.
13. Accessory uses which are clearly incidental to the uses permitted herein.

14. Excavation of natural materials is permitted in this district in accordance with RSA 155E, New Hampshire State Statutes and with the approval of the Hinsdale Planning Board.

15. Personal Wireless Service Facilities (PWSF).

## RESIDENTIAL DISTRICT

The Residential District encompasses the more highly developed sections of town, and provides the transitional area between the outlying Rural Agricultural District and the more densely developed Business and Industrial Districts. The Residential District areas are characterized by smaller lots, less open space and more concentrated and diversified land uses than in the Rural Agricultural District.

Permitted uses in the Residential (R) District are as follows:

1. One-family residence, including manufactured housing.
2. Two-family residence.
3. Multi-family residence.
4. Tourist home.
5. Educational, religious institution, club or lodge where primary function is indoors.
6. Customary agricultural uses such as gardens, nurseries and greenhouses, and the tilling of soil and the growing and harvesting of crops and horticultural commodities, but not including general farming such as dairying, livestock, and poultry raising and other agricultural enterprises or uses. Roosters are not allowed in the Residential District. Poultry/fowl may be allowed 6 per parcel. All poultry/fowl shall be kept in a coop within a secure enclosure at all times. The secure enclosure and coop shall be maintained in a humane and sanitary manner.
7. Roadside stands for the sale of home grown produce provided that they are so located on the lot as to not create roadside hazards or undue congestion.
8. Customary home occupation including professional offices, family day care home, hairdressing, dressmaking, and the manufacture of craft products for sale and the processing of food products, provided that only the owner or residential tenant be engaged in the home occupation.
9. Accessory uses which are clearly incidental to the uses permitted herein.
10. Personal Wireless Service Facilities (PWSF).

## BUSINESS DISTRICT

The Business District is intended to provide compact areas within which the commercial and business uses necessary to service the needs of the community may function. In addition, provision is made for areas to allow the controlled development of business uses oriented to the road and highway network.

Permitted uses in the Business (B) District are as follows:

1. Any use permitted in the Residential District, except manufactured housing.
2. Hotel, inn, tourist court, motel, including such retail business within these permitted uses as are conducted for the convenience of the residents thereof.
3. Retail business establishment.
4. Business and professional office.
5. Restaurant, cafeteria, bakery and confectionery shop.
6. Bank or financial institution.
7. Personal service shop or service establishment.
8. Indoor theatre and private club.
9. Gasoline service station, commercial parking lot.
10. Motorized vehicle sales, repair or storage.
11. Commercial recreational facility.
12. Indoor or outdoor recreational facility, private or public.
13. Clinic, hospital.
14. Convalescent home/nursing home.
15. Medical/dental complex.
16. Funeral establishment, mortuary.
17. Printing, publishing establishment.
18. Research, design & testing labs.

19. Processing/packaging.
20. Storage facility.
21. Light manufacturing, fabrication.
22. Child Day Care Agency.
23. Accessory uses which are clearly incidental to the uses permitted herein.
24. Other uses upon findings by the HPB that are of the same general character as those permitted.
25. Town or State facility.
26. The tilling of soil and the growing and harvesting of crops and horticultural commodities, but not including general farming such as dairying, livestock, and poultry raising and other agricultural enterprises or uses.
27. Multi-use, E-Commerce

#### ROADSIDE COMMERCIAL DISTRICT – Zone A

The Roadside Commercial District is designed to recognize the distinction between the type of business uses that are generally located in a central Business District, and those that serve the automobile oriented public. The Roadside Commercial District must have access to a good highway network in order to serve its primary market, the traveling public. This district also provides a location for those uses which require larger land areas or generate greater traffic than can be accommodated in the Business District.

Permitted uses in the Roadside Commercial (RC) District are as follows:

1. Commercial greenhouse or nursery.
2. Building trade.
3. Drive-in restaurant.
4. Veterinary hospital.
5. Lumber yard.
6. Office/business complex.
7. Parking Lot.
8. Storage facility.
9. Shopping Center.
10. Accessory uses that are clearly incidental to the uses permitted herein.
11. Excavation of natural materials is permitted in this district in accordance with
12. RSA 155E, New Hampshire State Statutes and with the approval of the Hinsdale
13. Planning Board.
14. Adult-oriented businesses.
15. The tilling of soil and the growing and harvesting of crops and horticultural

16. commodities, but not including general farming such as dairying, livestock, and
17. poultry raising and other agricultural enterprises or uses.
18. Hotel, inn, tourist court, motel, including such retail business within these permitted uses as are conducted for the convenience of the residents thereof.
19. Retail business establishment.
20. Business and professional office.
21. Restaurant, cafeteria, bakery and confectionery shop.
22. Bank or financial institution.
23. Personal service shop or service establishment.
24. Indoor theatre and private club.
25. Gasoline service station.
26. Motorized vehicle sales, repair or storage.
27. Commercial recreational facility.
28. Indoor or outdoor recreational facility, private or public.
29. Clinic, hospital.
30. Convalescent home/nursing home.
31. Medical/dental complex.
32. Funeral establishment, mortuary.
33. Printing, publishing establishment.
34. Research, design & testing labs.
35. Processing/packaging.
36. Storage facility.
37. Child Day Care Agency.
38. Other uses upon findings by the HPB that are of the same general character as those permitted.
39. Town or State facility.
40. Educational, religious institution, club or lodge where the primary function is indoors.
41. Roadside stand for the sale of home grown produce provided that they are so located on the lot as to not create roadside hazards or undue congestion.
42. Customary home occupation including professional offices, family day care home, hairdressing, dressmaking, and the manufacture of craft products for sale and the processing of food products, provided that only the owner or residential tenant be engaged in the home occupation.
43. Personal Wireless Service Facilities (PWSF).

#### ROADSIDE COMMERCIAL DISTRICT – Zone B

1. All permitted uses defined in Roadside Commercial – Zone A.
2. Light manufacturing, fabrication.
3. Processing/packaging.
4. Manufacture, production, fabrication, packaging, processing, assembly, and/or repair of goods.
5. Warehouse, wholesale, distribution and/or service.
6. Machinery and transportation equipment, farm implement and contractor's equipment sales, service and repair.
7. Public utility.

8. Freight or trucking terminal.
9. Contractor's yard.
10. Public garage.
11. Car wash.
12. Other uses, upon the findings by the Hinsdale Planning Board, that such use is of the same general character as those permitted and which will not be detrimental to the other uses within the district or the adjoining land area.

Industrial Use Conditions: A site plan shall be submitted to the Hinsdale Planning Board, indicating general site development features, internal circulation patterns, points of access and egress, parking and loading facilities and landscaping and screening provisions adequate to protect abutting properties, and such other information as may be required to determine the compatibility of the use within the area in which it is proposed to be located.

#### COMMERCIAL / INDUSTRIAL DISTRICT

This district is intended to provide compact areas within which the industrial community may function.

Permitted uses in the Commercial / Industrial (CI) District are as follows:

1. Any uses allowed in the Roadside Commercial District
2. Warehouse, wholesale, distribution and/or service.
3. Machinery and transportation equipment, farm implement and contractor's equipment sales, service and repair.
4. Public utility.
5. Manufacture, production, fabrication, packaging, processing, assembly and/or repair of goods.
6. Freight or trucking terminal.
7. Contractor's yard.
8. Public garage.
9. Car wash.
10. Parking lot.
11. Other uses, upon the findings by the Hinsdale Planning Board, that such use is of the

same general character as those permitted and which will not be detrimental to the other uses within the district or the adjoining land area.

12. Personal Wireless Service Facilities (PWSF).
13. The tilling of soil and the growing and harvesting of crops and horticultural commodities, but not including general farming such as dairying, livestock, and poultry raising and other agricultural enterprises or uses.

#### Industrial Use Conditions

A site plan shall be submitted to the Hinsdale Planning Board, indicating general site development features, internal circulation patterns, points of access and egress, parking and loading facilities and landscaping and screening provisions adequate to protect abutting properties, and such other information as may be required to determine the compatibility of the use within the area in which it is proposed to be located.

### **ARTICLE VI FLOOD PLAIN DISTRICT**

This article, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Hinsdale, N.H. Floodplain Development article.

The regulations in this article shall overlay and supplement the regulations in the Town of Hinsdale, N.H., zoning article, and shall be considered part of the zoning article for purposes of administration and appeals under state law. If any provision of this article differs or appears to conflict with any provision of the zoning article or other article or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

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 the County of Cheshire, N.H." to be dated as of or about May 23, 2006 or as amended, together with the associated Flood Insurance Rate Maps to be dated as of or about May 23, 2006 or as amended which are declared to be part of this ordinance and are hereby incorporated by reference.

#### Item I Definition of Terms

The following definitions shall apply only to this Floodplain Development article, and shall not be affected by, the provisions of any other article of the Town of Hinsdale, N.H.

"Area of Special Flood Hazard" is the land in the flood plain within the Town of Hinsdale, N.H. subject to a one-percent or greater chance of flooding in any given year. The area is designated as Zone A and AE on the Flood Insurance Rate Map.

"Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in

any given year.

"Basement" means any area of a building having its floor sub grade on all sides.

"Building" - see "structure".

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

"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:

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

"Flood Elevation 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.

"Flood Insurance Rate Map" (FIRM) means an official map incorporated with this article, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Hinsdale, N.H.

"Flood Insurance Study" - see "Flood elevation study".

"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 which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking 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:
  - 1) By an approved state program as determined by the Secretary of the Interior, or
  - 2) Directly by the Secretary of the Interior in states without approved programs.

"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 article.

"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 attached 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 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"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.

"100-year flood" - see "base flood"

"Recreational Vehicle" means a vehicle which is (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 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.

"Special flood hazard area" – see “area of special flood hazard”.

"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.

"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 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.

"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 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 percent of the market value of the structure. The market value of the structure should equal:

- (1) the appraised value prior to the start of the initial repair or improvement, or
- (2) in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

This term includes structures which 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 in 44CFR § 60.3(b) (5), (c) (4), (c) (10), (d) (3), (e) (2), (e) (4), or (e) (5) is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

## Item II Building Permit

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

## Item III Flood Hazard Area

The building inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.

If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- (i) be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- (ii) be constructed with materials resistant to flood damage,
- (iii) be constructed by methods and practices that minimize flood damages,
- (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

## Item IV Sewer Systems

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

#### Item V Information to furnish

For all new or substantially improved structures located in Zone AE, the applicant shall furnish the following information to the building inspector:

- a) the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- (b) if the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed.
- (c) any certification of flood proofing.

The building inspector shall maintain for public inspection, and shall furnish such information upon request.

#### Item VI Granting permits

The building inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.

#### Item VII Notice to Building Inspector

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the wetlands board of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 482:A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the building inspector, including notice of all scheduled hearings before the wetlands board.
2. The applicant shall submit to the building inspector certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.
4. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone

A meet the following floodway requirement:

“No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.”

Item VIII 100-year flood elevation

1. In special flood hazard areas the building inspector shall determine the 100-year flood elevation in the following order of precedence according to the data available:

- a. In Zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
- b. In Zone A the building inspector shall obtain, review, and reasonably utilize any 100-year flood elevation and floodway data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e., subdivisions, site approvals).

2. The building inspector's 100-year flood elevation determination will be used as criteria for requiring in Zone AE, and A that:

- a. all new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation;
- b. that all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
  - (i) be flood proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
  - (iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;
- c. all manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
- d. Recreational vehicles placed on sites within Zone AE, shall either:
  - (i) be on the site for fewer than 180 consecutive days,
  - (ii) be fully licensed and ready for highway use, or

- (iii) meet all standards of section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in paragraph (c) (6) of section 60.3.

e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: (1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of 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 minimum of two openings 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

#### Item IX Variances and Appeals

1. Any order, requirement, decision or determination of the building inspector made under this article may be appealed to the zoning board of adjustment as set forth in RSA 676:5.

2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:

- (a) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
- (b) that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
- (c) that the variance is the minimum necessary, considering the flood hazard, to afford relief.

3. The zoning board of adjustment shall notify the applicant in writing that:

- (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and
- (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

4. The community shall:

- (i) maintain a record of all variance actions, including their justification for their issuance, and;
- (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

## ARTICLE VII SPECIAL REGULATIONS

### SIGNS

#### 1. Purpose

To enhance the aesthetics of the Town by encouraging the use of signs that are harmonious in color and maintain and promote the rural, agricultural and historical nature of Hinsdale. Signs that are legible, clear, and are maintained in good repair to protect the safety of the public.

#### 2. General Regulations

##### a. Permits

No sign shall be constructed, altered (enlarged and/or relocated), replaced or repaired in any way without a permit issued by the Town, with the exception of those noted below. Applications for a sign permit shall be made on the permit application form and no permit will be issued unless the sign conforms to this ordinance.

##### b. Exceptions to permit requirements

The following signs do not require a permit:

Transportation directional signs

Street signs (placed by a jurisdiction)

Fuel pump signs that do not exceed one-foot square

Temporary signs not to exceed three feet square

Commercial Property Real Estate signs, not to exceed 16 sq. ft.

##### c. Permit application

Before any sign permit is issued for an onsite (lot) sign a completed permit application must be filed with the building inspector along with the required fee.

##### d. Design safety

No sign permit will be issued for any sign that:

Impairs public safety

Impairs site vision from any street or sidewalk

Impairs free access to doors, windows, fire escapes

Might be confused as a traffic sign or signal

Will not withstand wind pressure of 30 pounds per square foot

Is taller than 20 feet

##### e. Illuminated signs

Signs may be electrically illuminated and must be installed by a licensed electrician. No red or green illumination within 200 feet of traffic signal. No sign shall be illuminated

between the hours of 9 pm and 6 am, except signs that remain illuminated during the hours that the premises is open to the public per site plan.

f. Maintenance

All signs and supporting materials shall be maintained in a safe and well-kept condition.

g. Change in use or termination of activity

When a property has a change in use, any sign associated with the prior use shall be removed within seven days of the change. Sign removal shall include all frames, rods and support material as well as the sign itself. Failure to comply with this requirement will act as permission for removal of all sign material by the Town.

h. Legally Pre-Existing Signs

Any sign located within the Town of Hinsdale on the date of the adoption of the ordinance, which does not conform to the provisions of this ordinance, is eligible for characterization as a “legally pre-existing” sign and is permitted, provided it also meets the following requirements:

The sign was covered by a sign permit or variance on the date of the adoption of the ordinance if one was required under applicable law and the sign, as constructed and operated, complies with the ordinance in effect when the sign was erected or became operational and continues to so comply; or,

If sign permit was required under applicable law for the sign in question, the sign was in all respects in compliance with the applicable zoning law on the date of the adoption of this ordinance and was in compliance with all other applicable Town ordinances or requirements.

I. Loss of Legal Non-Conforming Status

A legally pre-existing sign shall immediately lose its legal pre-existing status designation if:

- a. The sign is altered in any way in structure (except for normal maintenance).
- b. The sign is relocated; or
- c. The sign is replaced, other than replacing the sign in its exact original condition and statements; or
- d. The sign shall have been abandoned as a result of discontinuance by either a discontinuance of the sign uses for one year, or of the principal use of the property for one year.
- e. The sign advertises or calls attention to products, businesses or activity which is no longer carried or sold, whether generally or at the particular premises; or
- f. The sign shall not have been repaired or properly maintained within 60 days after written notice to that effect has been given by the building inspector; or

- g. On the happening of any of A – F the sign shall immediately be brought into compliance with this ordinance with a new permit obtained for the sign or shall be removed.

j. Removal of sign(s) by Town

The Town shall, at the expense of the owner, cause to be removed any sign that violates the provisions of this ordinance. In carrying out this enforcement, the Town shall follow the enforcement requirements as set forth in the Hinsdale Zoning Ordinance.

k. Installation of signs

No sign permit will be issued more than three weeks prior to occupancy of the building for which the sign is designated.

l. Location

All signs shall be located on immediate property (land described in deed) held by the property owner, including buildings.

3. Definitions

A-Frame or Sandwich Board signs – A sign that is no larger than nine sq. ft., to be displayed directly in front of area of use only during business hours and placed to allow wheelchair accessibility on the sidewalk. A-Frame signs are only allowed in the Business and Commercial Districts.

Awning sign - An awning canopy or similar device used for sign purposes shall be counted as a wall sign.

Closed sign - A sign that has 50 percent of the entire area solid or tightly covered.

Flashing sign – A sign that flashes an intermittent light or includes the illusion of intermittent light by means of animation, scrolling, creates the effect of movement or brightens and dims or has an externally mounted intermittent light source. Flashing signs are prohibited in all zoning districts in the town.

Ground sign - A sign supported by uprights or braces in or upon the ground. No advertising sign shall be attached to a living tree.

Illuminating sign – A sign which emanates a constant flow of light either by means of exposed tubing, electrical bulbs, fluorescent lights, or by means of illumination transmitted through the sign faces.

Marquee sign - A sign attached to or hung from a marquee, canopy or other covered structure that projects from, and is supported by, the building, and extends beyond the building wall shall be counted as a projecting sign.

Off Premise Signage – Signage on a lot which is not owed by the signs primary use.

Open sign - A sign that has 50 percent of the area uncovered or open for transmission of wind.

Oscillating sign - A sign that swings or moves to and fro or fluctuates. Oscillating signs are prohibited in all zoning districts in the town.

Overhanging sign - A sign that hangs over a sidewalk or over any public way.

Projecting sign - A sign which is attached directly to a building wall that does not extend more than 15 inches from the face of the wall, is at least seven ft. from grade and is perpendicular to the building not to exceed six square feet in area.

Revolving sign – A sign which scrolls or occurs in a round or cycle. Revolving signs are prohibited in all zoning districts in the town.

Roof sign - A sign which is erected above the roof of the building.

Sign - Any fabricated sign or outdoor display structure, including its structure, consisting of any letter, figure, character, mark, point, plane, marquee sign, design, poster, pictorial, picture, trademark, reading matter or illuminating device, which is constructed, attached, erected, fastened or manufactured in any manner so that the same shall be used for the attraction of the public to any place, subject, person, firm , corporation, public performance, article, machine or merchandise, and displayed in any manner out of doors for recognized advertising purposes, but not to include lettering painted on a motor vehicle.

Shopping Center signs – Any commercial development comprised of three or more units, tenants or businesses is considered a shopping center and the proposed signage or any change in the location or increase in the size of the signage is subject to site plan review with the Planning Board.

Temporary sign - A sign without a structural frame intended for a limited period of display not to exceed 60 days during one calendar year, including a portable sign not securely anchored to the ground or a building. Not to exceed three ft. sq.

Temporary Off-Premise Signs – A permit issued by the building inspector or community development coordinator shall be required for the placement of each off-premise sign. The fee for each permit shall be determined by the Selectmen.

- Lawn sign must not exceed three feet square
- Off-premise signs are allowed for 1 full day, a 24-hour period
- No more than one off-premise sign shall be placed on any parcel of land and no permit holder may have more than two temporary signs at any one time
- Each sign is allowed on an off-site parcel no more than 4 times in one calendar year

Wall sign - A sign which is painted on or attached directly to a fence or the surface of a building wall.

#### 4. Prohibited Signs

Roof signs

Overhanging signs

Sign mounted on wheels, trailers or motor vehicles if those wheeled signs, trailers or motor vehicles are regularly located in the same place to be used for the fixed display of a sign.

Flashing, oscillating and revolving signs

Off-premises signs, without permit, which are located on property other than where the actual use for the sign is located.

#### 5. Electronically Activated, Changeable Copy Signs shall meet the following performance standards, and are subject to Planning Board approval:

A. The message shall be displayed without change of any kind for a minimum of three minutes.

B. Time and Temperature signs shall display that message without change of any kind for a minimum of four seconds.

C. The message shall not flash, scroll, create the effect of movement, and /or brighten and dim.

D. The message shall be replaced with a new image without flashing, scrolling, creating the effect of movement, and/or fading.

E. The brightness of the message shall not flood a public way.

F. The message shall not create confusion with, or unduly distract a driver's attention from, official highway signs or signals.

G. Signs must be installed by a licensed electrician. No red or green illumination within 200 feet of traffic signal. No sign shall be illuminated between the hours of 9 pm and 6 am, except signs that remain illuminated during the hours that the premises is open to the public, per site plan.

#### 6. Signs by district

The following signs are permitted by districts according to the requirements set forth below. Signs may be of either closed or open type where applicable. Temporary signs are also allowed in all districts.

Rural Agricultural District: Two signs from the following list (not to be duplicated) shall be located on the immediate property.

Ground sign - Not to exceed six square feet in area. Shall be set back 15 feet from the right of way and 10 feet from all other lines.

Projecting sign - Not to exceed six square feet in area.

Wall sign - Not to exceed 16 square feet in area.

Residential District: Two signs from the following list (not to be duplicated) shall be located on the immediate property.

Ground sign - Not to exceed six square feet in area. Shall be set back 20 feet from the edge of the road and 10 feet from all other lines.

Projecting sign - Not to exceed four square feet in area.

Wall sign – Not to exceed six square feet in area.

Business District: Two signs from the following list (not to be duplicated) shall be located on the immediate property.

Ground sign - Not to exceed four square feet for each use located in the building with a maximum area of 12 square feet. There shall be no setback requirements.

Projecting sign - Each use may have a first-floor projecting sign not to exceed six square feet in area.

Wall sign - Not to exceed one square foot per linear ft. of the area occupied for that use, with a maximum area of 96 sq. ft.

Roadside Commercial District, Zone A & Zone B: Two signs from the following list (not to be duplicated) shall be located on the immediate property.

Ground sign - Not to exceed 32 square feet for each use located in the building with a maximum area of 96 square feet. Shall be set back 10 feet from the right of way and 10 feet from all other lines.

Projecting sign - Each use may have a first-floor projecting sign not to exceed six square feet in area.

Wall sign - Not to exceed one square foot per linear ft. of the area occupied for that use, with a maximum area of 96 sq. ft.

Commercial/Industrial District: Two signs from the following list (not to be duplicated) may be located on the immediate property.

Ground sign - Not to exceed 32 square feet. Shall be set back 10 feet from the right of way and ten feet from all other lines.

Projecting sign – Each use may have a first-floor projecting sign not to exceed 12 square feet in area.

Wall sign - Not to exceed one square foot per linear ft. of the area occupied for that use, with a maximum area of 96 sq. ft.

Shopping Center: May have one primary entrance ground, one ground sign for each additional use of the shopping area, and one wall sign for each permitted use.

Primary Ground sign - Not to exceed 24 square feet. Shall be set back 10 feet from the edge of the road and 10 feet from all other lines

Secondary Ground signs – Not to exceed four square feet. Shall attach to primary sign. Shall be set back 10 feet from the edge of the road and 10 feet from all other lines.

Wall sign - Not to exceed one square foot per linear feet of the building that is occupied for that use. With maximum area of 96 sq. ft.

Industrial parks may have ground signs as directory signs within the park as follows:

One sign not to exceed 64 square feet in area at the entrance to the park, or if more than one entrance, one sign at each entrance not to exceed a total of 64 square feet in all.

## 6. Signs by district

The following signs are permitted by districts according to the requirements set forth below. Signs may be of either closed or open type where applicable. Temporary signs are also allowed in all districts.

Rural Agricultural District: Two signs from the following list (not to be duplicated) shall be located on the immediate property.

Ground sign - Not to exceed six square feet in area. Shall be set back 15 feet from the right of way and 10 feet from all other lines.

Projecting sign - Not to exceed six square feet in area.

Wall sign - Not to exceed 16 square feet in area.

Residential District: Two signs from the following list (not to be duplicated) shall be located on the immediate property.

Ground sign - Not to exceed six square feet in area. Shall be set back 20 feet from the edge of the road and 10 feet from all other lines.

Projecting sign - Not to exceed four square feet in area.

Wall sign – Not to exceed six square feet in area.

Business District: Two signs from the following list (not to be duplicated) shall be located on the immediate property.

Ground sign - Not to exceed four square feet for each use located in the building with a maximum area of 12 square feet. There shall be no setback requirements.

Projecting sign - Each use may have a first-floor projecting sign not to exceed six square feet in area.

Wall sign - Not to exceed one square foot per linear ft. of the area occupied for that use, with a maximum area of 96 sq. ft.

Roadside Commercial District: Two signs from the following list (not to be duplicated) shall be located on the immediate property.

Ground sign - Not to exceed 32 square feet for each use located in the building with a maximum area of 96 square feet. Shall be set back 10 feet from the right of way and 10 feet from all other lines.

Projecting sign - Each use may have a first-floor projecting sign not to exceed six square feet in area.

Wall sign - Not to exceed one square foot per linear ft. of the area occupied for that use, with a maximum area of 96 sq. ft.

Commercial/Industrial District: Two signs from the following list (not to be duplicated) may be located on the immediate property.

Ground sign - Not to exceed 32 square feet. Shall be set back 10 feet from the right of way and ten feet from all other lines.

Projecting sign – Each use may have a first-floor projecting sign not to exceed 12 square feet in area.

Wall sign - Not to exceed one square foot per linear ft. of the area occupied for that use, with a maximum area of 96 sq. ft.

Shopping Center: May have one primary entrance ground, one ground sign for each additional use of the shopping area, and one wall sign for each permitted use.

Primary Ground sign - Not to exceed 24 square feet. Shall be set back 10 feet from the edge of the road and 10 feet from all other lines

Secondary Ground signs – Not to exceed four square feet. Shall attach to primary sign. Shall be set back 10 feet from the edge of the road and 10 feet from all other lines.

Wall sign - Not to exceed one square foot per linear feet of the building that is occupied for that use. With maximum area of 96 sq. ft.

Industrial parks may have ground signs as directory signs within the park as follows:

One sign not to exceed 64 square feet in area at the entrance to the park, or if more than one entrance, one sign at each entrance not to exceed a total of 64 square feet in all.

## RECREATIONAL CAMPGROUND OR CAMPING PARK

A site plan review application must be presented for a recreational campground or camping park. In addition to the site plan regulation requirements, the following will also apply:

### Density

Minimum 5-acre parcel.

Minimum 600 square feet shall be provided for each tent site.

Minimum 1,000 square feet shall be provided for each recreational vehicle campsite.

Minimum perimeter buffer zone of 50' containing sufficient plantings or fencing to provide privacy for abutting property owners.

### Water supply

An accessible, adequate, safe and potable supply of water shall be provided. If municipal water is available, connection shall be made. If a private water supply system is needed it shall be approved by the State of NH Department of Environmental Services.

### Disposal system

An approved disposal system shall be provided in accordance with the State of NH Department of Environmental Services rules.

Septage or waste water shall be discharged from recreational vehicles or portable recreational toilets into portable sanitary service vehicles, individual sewage disposal system connections or sanitary stations.

Flush toilets or other approved toilet facilities shall be provided.

Shower facilities shall be provided.

The storage, collection and disposal of refuse shall be conducted in a manner that will prevent health hazards, rodent harborage, insect breeding, and accident or fire hazards.

A sanitary station shall be provided for disposal of waste from recreational vehicle holding tanks, portable recreational toilets and portable sanitary service vehicles. This requirement will not apply if there are individual sewage connections to every campsite.

#### Parking

Each campsite shall have a minimum of 400 square feet for passenger vehicle parking.

An additional parking area shall be designated for guest parking, with the requirement being one 200 square foot parking space for every five campsites.

#### Fireplaces and fires

All fireplaces shall be on an area at least 8 feet across, and there shall be at least 6 inches of sand or gravel under the fire area. All burnable material within 10 feet above the fireplace shall be removed. All recreational campground/camping park owners, operators or their agents shall obtain a fire permit as required pursuant to RSA 227-L.

#### Campground rules

All proposed campground rules shall be submitted with the site plan application and should address such subjects as, but not limited to, the following:

- Registration policy
- Arrival/departure times
- Quiet hours
- Alcoholic beverage policy
- Visitor policy
- Playground area and swimming pool rules
- Fireplace and picnic table rules
- Damage to property rules
- Eviction policy

Upon approval of a completed site plan application, a zoning permit will be issued to the owner. An annual renewal of the permit will be required.

## TELECOMMUNICATIONS FACILITIES

#### Purpose and intent

The purpose of this regulation is to permit carriers to locate personal wireless service facilities within the town of Hinsdale, consistent with appropriate land use regulations, and to ensure compatibility with the visual and environmental features of the Town. The

regulation will enable the review and siting of personal wireless service facilities by the town, so as to eliminate or mitigate the visual and environmental impacts of personal wireless service facilities. The town wishes to encourage the siting of personal wireless service facilities on existing buildings and structures whenever possible, and co-locate facilities whenever possible.

#### Site Plan Review

All applications for a personal wireless service facility shall be subject to site plan review by the Hinsdale Planning Board, whether on private, town owned or state-owned property. A signed letter of approval from the owner of the property indicating his full knowledge that a site plan application is being presented for his property, shall be submitted with the application. The planning board will have, at its' discretion, the right to hire outside technical assistance to help with the review process. The fee for this service will be paid by the applicant. A site plan review hearing for a PWSF requires notification of the public hearing to towns within 20 miles of the proposed location. The applicant will be required to provide the names and addresses of the towns to the planning board.

#### District regulations

Personal wireless service facilities will be allowed in all districts. Existing structures shall be used for location of the facility when at all feasible. It will be the responsibility of the applicant to prove to the planning board that there are no existing structures located within the town that would be suitable for the location of a personal wireless service facility. The board may request written proof from the applicant that an effort has been made to contact people with existing structures, (silos, existing antennas, water towers, electric transmission towers, etc.), and an acceptable location was not found.

#### Principal or secondary use

PSWF may be considered either principal or secondary uses. Having an existing permitted use on site shall not preclude the addition of a facility as a secondary use. A different existing use, or an existing structure on the same lot shall not preclude the installation of a facility on the lot. Facilities that are installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a non-conforming use or structure.

#### Dimensional Requirement

The maximum height for the personal wireless service facility shall be one hundred fifty feet (150'), or twenty feet (20') above the average tree canopy height, whichever is less, or twenty feet (20') above an existing structure that will be used for locating the facility. The height restriction includes any antenna that will be located on the structure. All set backs for the district where the facility will be located shall be met. During the site plan hearing process, the planning board may waive the twenty feet (20') above tree line requirement, if the applicant can show in good faith why the additional height is needed. The planning board shall not grant a waiver of the height requirement if it will cause a visual impact on the surrounding neighborhood and/or community in general.

A fall zone shall be the maximum height of the structure and all appurtenances, and shall encompass the ground area of the structure. Within the fall zone there shall not be a public road, a structure, or a public recreational area. If the fall zone will cross property lines, proof of an easement over the abutting properties for a fall zone shall be recorded at the Cheshire County Registry of Deeds. If the facility is located on an existing structure, a fall zone shall not apply.

#### Performance and design standards

Every effort should be made to:

1. Camouflage the facility, and paint it so that it will blend in with the surrounding landscape.
2. Preserve existing vegetation and tree growth.
3. Preserve the existing vista.
4. Use existing driveways to access the facility.

All buildings that service the facility shall be built according to local building codes. Proper security barriers shall be constructed, and applicable warning signs shall be posted. No hazardous waste shall be discharged on the site.

#### Construction performance requirements

Federal requirements: All facilities must meet or exceed current standards and regulations of the F.A.A., F.C.C., and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, the owners of facilities governed by this ordinance shall bring these into compliance within six (6) months of the effective date of the changes, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring facilities into compliance with any changes shall constitute grounds for the removal of the tower at the owner's expense as indicated in the following section.

#### Maintenance and abandonment/discontinuation of use

The facility shall be maintained and inspected on a regular basis in a manner that will be acceptable to the town, and the provisions will be so indicated during the site plan review process. An inspection of the facility will take place annually by the town's representative(s).

Security will be posted for the removal of the facility in the amount based on removal cost plus fifteen percent (15%), and the amount of security will be revised every five (5) years. The amount of security shall be determined by a certified professional civil engineer licensed in New Hampshire, and presented to the planning board by the applicant.

Notification of abandonment or discontinuation of use shall be sent to the town by certified/return receipt U.S. mail, at least sixty (60) days prior to discontinuation of the facility.

If the owner of the facility does not remove the facility upon the order of the town, the town shall hold a public hearing and issue a declaration of abandonment. The owner of the facility shall dismantle the facility within ninety (90) days of receipt of the declaration of abandonment from the town. If the owner fails to do this, the town shall execute the security to pay for the removal of the facility.

## ADULT-ORIENTED BUSINESSES

### I. Purpose and Intent

It is the purpose of this regulation to establish reasonable and uniform provisions to regulate the secondary effects of sexually-oriented businesses within the Town of Hinsdale, in the interest of public health, safety, and welfare, including, but not limited to: protection of property values, separation of incompatible land use, location of such uses relative to public facilities, and the prevention of blight and crime.

It is the intent of this regulation to prevent problems that are commonly associated with sexually-oriented businesses. Further, the provisions of this regulation have neither the purpose nor the effect of imposing limitations or restrictions on the content of any communicative materials, including sexually-oriented materials, and it is not the intent nor effect of this regulation to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. It is neither the intent nor effect of this regulation to condone or legitimize the distribution of obscene material.

### II. Location and regulations of adult-oriented businesses

Adult-oriented business will be allowed in the Roadside Commercial District only, and the following stipulations will apply:

No such use shall be permitted within 1,000 feet of the property line of a church, cemetery, school, day care center or town owned building.

No such use shall be permitted within 300 feet of a residential dwelling.

No such use shall be permitted within 1,000 feet of the property line of another such use, or within a building in which such a use already exists.

No sexually explicit materials or advertising shall be visible from outside the building.

No private viewing room(s) or booth(s) shall be constructed unless one side is always open to a public area.

No one under the age of 18 shall be permitted on the property.

### III. Site Plan Review

All applications for an adult-oriented business shall be subject to site plan review procedure by the Hinsdale Planning Board to ensure compliance with the regulations set forth in section II.

### OPEN SPACE REQUIREMENTS OF ZONING DISTRICTS

	<u>RA</u>	<u>RES</u>	<u>BUS</u>	<u>RC</u>	<u>COMM/IND</u>
Maximum stories (buildings)	2 1/2	2 1/2	2 1/2	2 1/2	3
Maximum height in feet (buildings)	35	35	35	35	50
Minimum lot frontage feet	200	100	41	100	100
Minimum lot area, acres or square feet	1 43,560	1/2 21,780	5,000	1 43,560	1 43,560
Minimum setback from edge of street (feet)	35	35	0	35	35
Minimum setback from other lines (feet)	20	10	party walls	15	20
Building coverage (Maximum percent)	10%	60%	100%	30%	40%

(Open decks and porches may encroach into a setback area provided the structure comes no closer than ten feet from the property lines.)

Note: Comm/Ind. District utilizing Monument Road as frontage shall have a minimum setback from edge of street of 75'.

Dumpsters used for residential refuse must meet setback requirements of the district.

### DEVELOPMENT OF REAR LOTS

Rear lots of record existing in the Rural Agricultural District and Residential District as of March 8, 2005, meeting the lot area and all other requirements of the district in which they are located, and having an average minimum width equal to the frontage for the applicable district, may be developed, provided each such lot has minimum frontage of fifty (50) feet on a Class V or better road. No such lots may be created as part of a new subdivision or on any newly proposed streets or roadways.

Rear lots, meeting the lot area and all other requirements of the Roadside Commercial District and the Commercial/Industrial District in which they are located, and having an average minimum width equal to the frontage for the applicable district, may be created and/or developed, provided each such lot has minimum frontage of fifty (50) feet on a Class V or better road.

## CONVERSION OF EXISTING BUILDINGS

Any dwelling which has been in existence as such for more than ten years may be converted to contain more dwelling units than is permitted in the district in which it is located provided that the following requirements are met:

1. Fire escapes and outside stairways, if required, shall be located on the rear of the building where practicable and shall not be located on any building wall facing a street.
2. After conversion of the dwelling, it shall retain substantially its original appearance as a one family dwelling.

## OUTDOOR WOOD FURNACE ORDINANCE

(Referred to as: Outdoor Wood Boilers or Outdoor Wood Hydronic Heaters)

- I. Definitions
- II. Regulations for Outdoor Wood Furnaces
- III. Substantive Requirements
- IV. Appeals/Variations
- V. Violations and Penalties
- VI. Civil Proceedings
- VII. Severability
- VIII. Effective Date

### I. Definitions

- A. Outdoor Wood Furnace: Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An Outdoor Wood Furnace may also be referred to as an Outdoor Wood Boiler or Outdoor Wood Hydronic Heater.
- B. Chimney: Any flue or flues that carries off exhaust from an Outdoor Wood Furnace firebox or burn chamber.
- C. Natural Wood: Wood, which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.
- D. Existing Outdoor Wood Furnace: An Outdoor Wood Furnace that was purchased and installed prior to the effective date of this local code.

## II. Regulations for Outdoor Wood Furnace

No person shall, from the effective date of this local code, construct, install or establish an Outdoor Wood Furnace unless:

- A. The existing Outdoor Wood Furnace was constructed, installed, established prior to the effective date of this section.
- B. No person shall, from the effective date of this local code operate an Outdoor Wood Furnace unless such operation conforms with the manufacturer's instructions regarding such operation and the requirements of this local code regarding fuels that may be burned in an Outdoor Wood Furnace as set forth in Sections 3.A and 3.B of this local code and chimney height as set forth in Section 3.D. of this local code.
- C. All new Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this local code. In the event of a conflict, the requirements of this local code shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
- D. The owner of any new Outdoor Wood Furnace shall produce the manufacturer's owner's manual or installation instructions to the building inspector to review prior to installation.
- E. All new Outdoor Wood Furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, CAN/CSA, ANSI or other applicable safety standards as may be required from the building inspector.
- F. EXCEPTION: If an existing Outdoor Wood Furnace is, through the course of a proper investigation by local authorities, creating a verifiable nuisance, as defined by local or state code, the following steps may be taken by the owner and the Health Inspector/Building Inspector for the Town of Hinsdale, having jurisdiction,
  - 1) Modifications made to the unit to eliminate the nuisance such as extending the chimney, or relocating the Outdoor Wood Furnace or both;
  - 2) Cease and desist operating the unit until reasonable steps can be taken to ensure that the Outdoor Wood Furnace will not be a nuisance.

## III. Substantive Requirements

Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained pursuant to the following conditions:

- A. Fuel burned in any new or existing Outdoor Wood Furnace shall be only natural untreated wood, wood pellets, corn products or other listed fuels specifically permitted by the manufacture's instructions such as fuel oil, natural gas or propane backup.
- B. The following fuels are strictly prohibited in new or existing Outdoor Wood Furnaces:

- 1) Wood that has been painted, varnished or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite wood products;
- 2) Rubbish or garbage, including but not limited to food wastes, food packaging, food wraps;
- 3) Any plastic materials including but not limited to nylon, PVC, ABS polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers;
- 4) Rubber including tires or other synthetic rubber like products;
- 5) Cardboard, or any paper dye products;
- 6) Any other items not specifically allowed by the manufacturer or this provision.

C. Setbacks for any new Outdoor Wood Furnace:

- 1) The Outdoor Wood Furnace shall be 35 feet from any property line;
- 2) The Outdoor Wood Furnace shall be located a minimum of 100 feet from any residence that is not served by the outdoor wood furnace and 50 feet from any abutter's structure. (As defined in zoning regulation definitions by the town).

D. Chimney heights for new and existing outdoor wood furnaces:

- 1) The Outdoor Wood Furnace chimney shall extend 20 feet above the ground surface or at least 2 feet above the peak of any residence not served by the Outdoor Wood Furnace located within 100 feet of such Outdoor Wood Furnace;

#### IV. Appeals

Appeals from any actions, decisions, or rulings of the building inspector or for a variance from the strict application of the specific requirements of Section II or III of this local code may be made to the Town of Hinsdale Zoning Board of Adjustments. Requests for all appeals shall be made in writing to the Zoning Board of Adjustments not later than 10 days of the act, decision, or ruling from which relief is sought.

- A Appeal Fees to include cost of notice, whether mailed, posted or published and shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid grounds for the board to terminate further consideration and to deny the appeal without public hearing.
- B Public Hearing: Within 30 days after receiving the written request, the Zoning Board of Adjustments shall hold a public hearing on the appeal, with prior notice published in a

newspaper of general circulation in the Town of Hinsdale at least 5 days before the date of the hearing and specifying the date, place, time, and purpose of the hearing;

- C Decision of Zoning Board of Adjustment. Within 7 days of the final adjournment of public hearing, the Zoning Board of Adjustment shall affirm, modify, or deny the action, decision, or ruling of the Building Inspector or correct any omission by the inspector or approve, approve with conditions, or disapprove the application. The decision of the Zoning Board of Adjustments shall be in writing and shall contain findings and the factual basis for each finding from the record of the hearing, which shall support the decisions of the Zoning Board of Adjustment. As part of any decision, the Zoning Board of Adjustment shall direct the officer to issue any appropriate permit in conformity with its ruling and shall state a time by which such permit shall be issued, in conformity with this local code.

## V. Violations and Penalties

Any person who shall violate any provisions of this local code shall be guilty of a violation as defined in Hinsdale Zoning Ordinance and shall upon conviction be subject to a fine of not more than \$500.00. Each week's continued violation shall constitute a separate and distinct offense.

## VII. Severability

The provisions of this local code are severable and the invalidity of a particular provision shall not invalidate any other provisions.

## VIII. Effective Date

This code shall be in effect on March 11, 2008.

## PRIVATE CAMPSITE AND CONSTRUCTION TRAILERS/OFFICES

1. A private campsite consists of only one of the following: camping trailer, camping tent, recreational vehicle, or similar shelter shall only be permitted on a residential parcel regardless of district, with the intent of being occupied temporarily.
2. Prior to the temporary occupation of a private campsite, the owner of the lot shall obtain a permit from the Hinsdale Building Inspector, to be valid no longer than 120 days per calendar year.
3. One private campsite per lot is allowed provided that written sewage disposal plans, describing the proposed method and location of sewage and solid waste disposal, are submitted to and approved by the Hinsdale Building Inspector. Where disposal is off-site, a written authorization from the receiving facility or landowner is required. Household rubbish will be disposed of according to the recycling and pay-per-bag system described in the Town of Hinsdale Recycling Information Guide.
4. Private campsite on a residential parcel shall conform to the setback requirements of the district, provided that the location and condition of such campsite is not detrimental to the neighborhood or to

property in the vicinity. Location, condition, and effective screening from neighbor homes will be approved by the Hinsdale Building Inspector.

5. Private campsite shall not be located on any permanent foundation except for a gravel pad, and no structure, including a patio and deck, except canopies, shall be associated with the private campsite.

6. If electricity or plumbing from an external source is provided to the recreational vehicle, tent or similar shelter, they shall be in compliance with all applicable codes. The method/appliance used to heat the recreational vehicle, tent or similar shelter shall be in compliance with all applicable codes.

7. Nothing herein shall preclude the storage of an unoccupied recreational vehicle on private property provided all other State and local requirements are met. Tents and similar structures within the permitted districts shall be collapsed when stored. Likewise, recreational vehicles, including campers and pop-ups, shall be stored in their fully collapsed, road-ready configuration, disconnected from all utilities.

8. A private campsite, or a temporary manufactured house, associated with the construction of a permitted single-family dwelling or duplex, shall be allowed for a period of three (3) months by the Hinsdale Building Inspector while a building permit is valid, or until completion of construction, whichever occurs first. The Building Inspector may extend such permission at his discretion if in his judgment the applicant has diligently pursued construction of the single-family or duplex dwelling, and has made substantial construction progress.

9. Private construction trailers/offices associated with construction shall be allowed for a period of time to be determined by the Building Inspector, while a building permit is valid, or until completion of project, whichever occurs first.

## HINSDALE WELLHEAD/AQUIFER PROTECTION DISTRICT

### I. Authority

The town of Hinsdale hereby adopts this ordinance pursuant to the authority granted under RSA 674:16, in particular RSA 674:16, 11 relative to innovative land use controls.

### II. Purpose

The purpose of this ordinance is, in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas and to protect surface waters that are fed by groundwater and/or feeding groundwater under the influence.

The purpose is to be accomplished by regulating land uses which could contribute pollutants to designated wells and/or aquifers identified as being needed for present and/or future public water supply.

### III. Definitions

*Aquifer*: a geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.

*Stratified-drift aquifer:* a geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.

*Surface water:* streams, lakes, ponds and tidal waters, including marshes, water-courses and other bodies of water, natural or artificial.

*Groundwater:* subsurface water that occurs beneath the water table in soils and geologic formations. (RSA 485-C, Groundwater Protection Act)

*Impervious:* not readily permitting the infiltration of water.

*Impervious surface:* a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt; earthen, wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious substances.

*Secondary containment:* a structure such as a berm or dike with an impervious surface which is adequate to hold at least 110% of the volume of the largest regulated-substances container that will be stored there.

*Junkyard:* an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary landfills. The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

*Outdoor storage:* storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

*Petroleum bulk plant or terminal:* means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline tank car, tank vehicle, portable tank, or container.

*Gasoline station:* means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purpose of retail sale of gasoline.

*Public water system:* a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

*Municipal water system:* a system which is owned and maintained by the town.

*Regulated substance:* petroleum, petroleum products, and substances listed under 40 CFR 302, 7-1-05 edition, excluding the following substances: (1) Ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquefied fuels which exist as gasses at normal atmospheric temperature and pressure.

*Temporary storage:* means storage for less than 6 months.

*Snow dump:* For the purposes of this ordinance, a location where snow, which is cleared from roadways and/or motor vehicle parking areas, is placed for disposal

*Sanitary protective radius:* (Zone 1) The area around a public water supply well which must be maintained in its natural state as required by Env-Dw 302.06.  
A minimum of 400 ft for any municipal well or Test well site.

*Wellhead protection area:* (Zone 2) the surface and subsurface area surrounding a water well or wellfield supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

IV The Hinsdale Wellhead/Aquifer Protection District is an overlay district which is superimposed over the existing underlying zoning and includes within its boundaries all the Wellhead protection Areas for municipal water supply wells as defined under Article III and the aquifer Protection district as shown on the map entitled Town of Hinsdale Wellhead/Aquifer Protection District. Date Adopted March 10, 2009.

#### V. Applicability

This Ordinance applies to all uses in the Wellhead/Aquifer Protection Areas, except for those uses exempt under Article XII (Exemptions) of this Ordinance.

#### VI. Performance Standards

The following Performance Standards apply to all uses in the Groundwater Protection District unless exempt under XII:

- A. For any use that will render impervious more than 15% or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall be prepared which the Town Engineer determines is consistent with Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, Rockingham County Conservation District, August 1992 and Best Management Practices for Urban Stormwater Runoff, NH Department of Environmental Services, January 1996.
- B. Conditional uses, as defined under Article X shall develop stormwater management and pollution prevention plans and include information consistent with Stormwater Management for Industrial Activities:

Developing Pollution Prevention Plans and Best Management Practices. (US EPA, 1992) The plan shall demonstrate that the use will:

- 1) Minimize, through a source control plan that identifies pollution prevention measures, the release of regulated substances into stormwater.
  - 2) Demonstrate that recharge to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Ws410.05 at the property boundary.
  - 3) Stipulate that expansion or redevelopment activities shall require an amended stormwater plan and may not infiltrate stormwater through areas containing contaminated soils without completing a Phase 1 Assessment in conformance with ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI).
- C. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 2005, and any subsequent revisions.
  - D. All regulated substances stored in containers with a capacity of 5 gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains.
  - E. Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner.
  - F. Outdoor storage areas for regulated substances associated material or waste must be protected from surface water or storm drains, at least 75 feet from private wells, and outside the 400-foot sanitary protective radius of wells used by public water systems.
  - G. Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of 275 gallons or more of regulated substances are stored outdoors on any particular property.
  - H. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.
  - I. Prior to any land disturbing activities, all inactive wells on the property not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with We604 of the New Hampshire Water Well board Rules.

#### VII. Spill Prevention, Control and Countermeasure (SPCC) Plan

Conditional uses, as described under Article X, part (A), using regulated substances shall submit a spill control and countermeasure (SPCC) plan to the Fire Chief who shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods or fires that may cause large releases of regulated substances. It shall include:

1. A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.
2. Contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment.
3. A list of all regulated substances in use and locations of use and storage.

4. A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure.
5. description of containment and diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.

#### VIII. Permitted Uses

All uses permitted by right or allowed by special exception in the underlying district are permitted in the Groundwater/Aquifer Protection District unless they are Prohibited Uses or Conditional Uses. All uses must comply with the Performance Standards unless they are Prohibited Uses or Conditional Uses. All uses must comply with the Performance Standards unless specifically exempt under Article XIII.

#### IX. Prohibited Uses

The following uses are prohibited in the Groundwater Protection District.

The development or operation of a hazardous waste disposal facility as defined under RSA 147-A.

- A. The development or operation of a solid waste landfill
- B. The outdoor storage of road salt or other deicing chemicals in bulk.
- C. The development or operation of a junkyard
- D. The development or operation of a snow dump
- E. The development or operation of a wastewater or septage lagoon
- F. The development or operation of a petroleum bulk plant or terminal.
- G. The development or operation of gasoline stations.

#### X. Conditional Uses

The Planning Board may grant a Conditional Use Permit for a use which is otherwise permitted within the underlying district, if the permitted use is involved in one or more of the following:

- A. Storage, handling and use of regulated substances in quantities exceeding 100 gallons or 800 lbs dry weight at any one time, provided that an adequate spill prevention control and countermeasure (SPCC) plan, in accordance with Article VII, is approved by the Fire Department.
- B. Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater.
- C. In granting such approval the Planning Board must first determine that the proposed use is not a prohibited use and will be in compliance with the Performance Standards and Article VI as well as all applicable local, state and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards.

#### XI. Existing nonconforming uses

may continue without expanding or changing to another nonconforming use, but must be in compliance with all applicable state and federal requirements, including Env-W's 421, Best Management Practices Rules.

## XII. Exemptions

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

- A. Any private residence is exempt from all Performance Standards.
- B. Any business or facility where regulated substances are not stored in containers with a capacity of 5 gallons or more is exempt from Article VI, Performance Standards, sections E through H.
- C. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Performance Standard E.
- D. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards E through H.
- E. Storage and use of office supplies is exempt from Performance Standards E through H.
- F. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards E through H.
- G. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance.
- H. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03(b)(1) and 501.01(b) are exempt from Performance Standards E through H.
- I. Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Article XIV of this ordinance.

## XIII. Relationship between State and local requirements.

Where both the State and municipality have existing requirements the more stringent shall govern.

## XIV. Maintenance and Inspection

- A. For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Cheshire County. The description so prepared shall comply with the requirements of RSA 478:4-a.
- B. Inspections may be required verify compliance with Performance Standards. Such inspections shall be performed, at the expense of the applicant. By the Town Engineer at reasonable times with prior notice to the landowner.
- C. All properties within the Groundwater Protection District known to the building inspector as using or storing regulated substances in containers with a

capacity of 5 gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under Article XII, shall be subject to inspections under this Article.

- D. The Selectboard may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Selectboard as provided for in RSA 41-9: a.

**XV. Enforcement Procedures and Penalties**

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

**XVI. Saving Clause**

If any provision of this ordinance is found to be unenforceable, such provision shall be considered separable and shall not be construed to invalidate the remainder of the ordinance.

**XVII. Effective Date**

This Ordinance shall be effective upon adoption by the legislative body.

**Addendum to Hinsdale Wellhead/Aquifer Protection District Ordinance**

The purpose of this addendum is to protect the sourcewaters of the Lily pond and Lily Pond brook. The Wellhead/ Aquifer protection committee recommends a 50 ft. buffer as this is a known vulnerability to present and future drinking water protection.

**ARTICLE VIII MANUFACTURED HOUSING PARKS**

- 1. No person, persons, firm or corporation shall establish or operate a new manufactured housing park within the Town of Hinsdale.
- 2. No certificate for a new manufactured housing park or for the enlargement or expansion of an existing manufactured housing park shall be issued in the Town of Hinsdale.
  - a. Any person operating a manufactured housing park at the time of adoption of this ordinance shall be entitled, to a special manufactured housing park certificate. The processing fee of a special manufactured housing park certificate shall be \$250.00, renewable every five years. Such certificate shall authorize the continuing operation of the manufactured housing park in substantially the same manner as existed at the date of the adoption of this ordinance, subject only to any overriding limitations of applicable state law. A special manufactured housing park certificate does not entitle the holder to enlarge or expand the number of lot locations within the park or to enlarge the area of the park by purchasing additional land, or substantially altering the manner of operation of such pre-existing manufactured housing park.
  - b. No manufactured housing park certificate shall be transferable without the approval of the board of selectmen and there shall be no refund if a certificate is not used for its full term. Every person, persons, firm, or corporation holding such a certificate shall give

notice in writing to the board of selectmen at least fifteen (15) days before any transfer of an interest in, or control of, a manufactured housing park, other than a transfer in mortgage as security for a bona fide loan. If, upon such a transfer of any interest in, or control of a manufactured housing park, the board of selectmen is satisfied that the transferee is a proper person to hold a manufactured housing park certificate, it may cause a transfer of the manufactured housing park certificate to said transferee for the unexpired term of the existing certificate upon payment of the sum of \$25.00. The transferee, however, must conduct the manufactured housing park at the same location at which it was originally licensed. This provision is not to be interpreted to allow a new manufactured housing park or the enlargement, expansion, or substantial alteration of any existing ones.

c. Any special manufactured housing park certificate may be revoked by the Board of Selectmen at any time, if, after due investigation, the board of selectmen finds that the holder thereof has violated any of the provisions of this ordinance or that the manufactured housing park is being maintained in an unsanitary or unsafe manner or is a nuisance.

3. The board of selectmen or its designated town officer are hereby authorized and directed to make semi-annual inspections to determine the condition of manufactured housing parks in order that the health and safety of occupants and of the general public shall be properly safeguarded, and it shall be the duty of the owner or operator of a manufactured housing park to afford the board of selectmen and its town officer free access to such premises at reasonable times during normal business hours for the purpose of inspection.
4. Each manufactured housing park owner or operator shall maintain a register for the registration of all manufactured housing units, and the occupants thereof, which register shall include the following information, as well as any other facts that may be requested by the board of selectmen:
  - a. Name and permanent address of the owner of each manufactured housing unit and/or of the occupant in charge thereof.
  - b. For each owner (or person in charge) of a manufactured housing unit:
    - (1) The make, serial number, year of manufacture, length and width of the manufactured housing unit.
    - (2) The number of the parking location in the park assigned to the particular manufactured housing unit.
    - (3) The date of arrival of the manufactured housing unit in the park.
5. Each manufactured housing park owner or operator shall annually, on or before the 15th day of April, file with the board of selectmen a list showing all of the owners of manufactured housings in the manufactured housing park, and the owner/operator shall also file with the board of selectmen, at the same time, a list of all occupants residing within the manufactured housing park on April 1st of each year.

6. It shall be the duty of the owner or operator of a manufactured housing park to notify the board of selectmen of the date of intended departure of a manufactured housing unit from the park as soon as it is learned that the owner of a manufactured housing unit intends to remove it from the park.

## **ARTICLE IX PLANNED UNIT DEVELOPMENT ORDINANCE**

### **Purpose and Intent**

The purpose and intent of the Planned Unit Development (PUD) Ordinance of the Town of Hinsdale and the provisions of this article are to:

1. Encourage a greater diversity of housing opportunities in town to meet the needs of a population which is diversified with respect to the number of persons per household and income;
2. Ensure that the development of additional housing units does not detract from the livability, scale, character, or economic value of existing residential neighborhoods;
3. Provide greater choice in housing to correspond to the varying needs of town residents in different stages of their life cycles;
4. Encourage the development of housing affordable to low-, moderate-, and middle-income households;
5. Provide greater flexibility and design freedom in the development of those tracts which lend themselves to planned unit development, and promote a high standard in the design and development of sites and individual buildings;
6. Encourage the preservation of open space for conservation, outdoor recreation or park purposes, in conjunction with development;
7. Encourage the preservation, and minimum disruption, of the existing natural attributes of land, minimize impacts on environmentally sensitive lands, and preserve, where applicable, historically and culturally significant buildings or places;
8. Assure that the development allowed will be compatible with surrounding land uses, and that traffic and public services will not be adversely impacted;
9. Promote the efficient and economic provision of public facilities and services such as utilities, streets, and recreational opportunities;
10. Facilitate a comprehensive review by town officials of those developments which may have an impact on public facilities and services, on adjoining land, or are large enough to

constitute a self-contained environment;

11. Comply with the Declaration and Purpose of RSA 672:1, III-e.

## **Definitions**

In addition to the definitions contained in Article III of the Town of Hinsdale Zoning Ordinance and Section 11 of the Hinsdale Subdivision Regulations, the following definitions shall apply for the purposes of this article:

"Applicant" - The person or persons, including a corporation or other legal entity, who applies for issuance of a planned unit development permit hereunder. An agent, representative, or his assigns may act for an owner, provided that written evidence of such fact is submitted. Evidence in the form of a list of its officers and designated legal authority to sign legal documents shall be required for a corporation.

"Buffer" - An area of land used to visibly segregate the planned unit development from abutting properties.

"Common open space" - Land within or related to a planned unit development which is designed and intended for the common use or enjoyment of the residents of the planned unit development. Ownership of this common open space shall be the developer or shared interest by the property owners within the planned unit development through a homeowner's association. The covenants that run with the common open space will first be approved by the Hinsdale Planning Board, and the covenants will be recorded on the final plan and with each ensuing real estate deed. Subsequent subdivision and/or development of the common open space shall not be allowed.

"Developable land" - The portion of land remaining after deducting the undevelopable land area (i.e., wetlands, steep slopes, ledge, etc.) from the total area.

"Homeowner association" - A corporation, trust, or unincorporated association, the members of which consist of the owners of the planned unit development units or lots within the tract, which shall own and manage all private interior ways and the land not occupied by residential, commercial or industrial structures and lots, including facilities and structures thereon, in perpetuity. An association in which individual owners share common interest in common open space and/or facilities. The association is in charge of preserving, managing and maintaining the common open space and/or facilities and will enforce certain covenants and restrictions.

"Lot" - A parcel of land capable of being occupied by one principal building and accessory buildings customarily incident thereto.

"Planned Unit Development" (PUD) - A planned unit development or planned residential development shall mean development of an area of land as a single entity, in which a mixture of either residential, commercial or industrial uses and open space in a variety of building types and designs, are determined to be sufficiently advantageous to render it appropriate to grant a special permit to depart from the normal requirements of the district(s) in which the PUD or PRD is to be

located, to the extent authorized by this article of the zoning ordinance. All requirements of the State of New Hampshire, Department of Environmental Services Water Division must be met when municipal sewer connection is not available.

“Tiny House Development” – A development of small homes that have a minimum of 200 sq. ft. and a maximum of 900 sq. ft. of livable space, and which meet the requirements listed in this article.

"Tract" - An area, parcel, site, piece of land, or property which is the subject of a planned unit development proposal.

**Planned Unit Development Application Granting Authority**

Notwithstanding the provisions of the subdivision regulations for the Town of Hinsdale and in compliance with RSA 674:16 and RSA 674:21, each applicant shall be required to obtain a special permit from the Planning Board as part of the approval process for all planned unit developments. Acting as the special permit granting authority, the Planning Board shall base its review and decision on all planned unit developments on the criteria listed in this article. A planned unit development approval shall not be granted unless the applicant demonstrates compliance therewith.

**Permitted Uses**

A. Notwithstanding the permitted uses allowed by right in the specified zoning district by Article V of the Town of Hinsdale Zoning Ordinance, the following land uses may be permitted in a planned unit development:

Legend: RA = Rural Agricultural District; RC = Roadside Commercial District; CI= Commercial/Industrial District; P = Permitted; NP = Not Permitted.

	<b>RA</b>	<b>RC</b>	<b>CI</b>
<b>1. Residential</b>			
a. Single-family detached dwellings	P	P	NP
b. Two-family dwellings	P	P	NP
c. Multi-family dwellings	P	P	NP
d. Townhouses	P	P	NP
e. Tiny House Development	P	P	NP
<b>2. Commercial</b>			
a. Hotel, motel	NP	P	NP
b. Restaurants	NP	P	NP
c. Theatres	NP	P	NP
d. General retail sales and service	NP	P	NP
e. Banks and financial services	NP	P	NP
f. Business and professional offices	NP	P	NP
g. Personal services	NP	P	NP
h. Community facilities which the planning	NP	P	P

board determines not to be injurious to the safety and welfare of the area

i. Home occupation	P	P	NP
<b>3. Industrial</b>			
a. Research and development	NP	NP	P
b. Storage and warehouse facilities	NP	NP	P
c. Community facilities which the planning board determines not to be injurious to the safety and welfare of the area	NP	P	P
<b>4. Active recreational uses</b>			
a. Racquet and other hard surface courts	P	P	P
b. Swimming pools and facilities	P	P	P
c. Clubhouses and other common recreational facilities	P	P	P
d. Ball fields	P	P	P
e. Golf courses	P	P	P
f. Horse stables	P	P	P
g. Playgrounds and related equipment	P	P	P
<b>5. Passive recreational uses</b>			
a. Nature and hiking trails	P	P	P
b. Jogging/walking trails	P	P	P
c. Bicycle trails	P	P	P
d. Cross country ski trails	P	P	P
e. Common gardens and arboretums	P	P	P
f. Picnic areas	P	P	P
<b>6. Agricultural Uses</b>			
a. Row crops	P	P	P
b. Orchards	P	P	P
c. Forestry practices	P	P	P

B. The permitted uses in a planned unit development as listed above do not imply that the Planning Board would approve any mixture of these uses, unless it is clearly proven that there will be no significant impacts on the environment, workers, residents, abutters or the surrounding community.

C. All residential, commercial, and industrial uses listed above shall be restricted to the area of development within the tract of the proposed or approved planned unit development. All active recreational uses shall be restricted to the buildable land area of the tract within or out of the common open space. Passive recreational uses and agricultural uses may be located on all common open space within the tract except for wetlands.

D. Accessory uses and structures are permitted when provided as an integral part of the definitive site plan, and determined by the Planning Board to be necessary for residents, patrons, and guests

thereof.

E. Active recreational uses, as permitted above, shall be required as an integral part of the usable open space. Active recreational opportunities must be located on at least ten (10) percent of the usable open space in the PUD, or as determined sufficient by the Planning Board. However, in no instance are the active recreational uses to exceed fifty (50) percent of the usable open space.

F. Other active or passive recreational uses may be allowed upon the approval of the Planning Board.

### **General Requirements**

1. Allowable Districts. A planned unit development will be allowed in the Rural Agricultural, Roadside Commercial, and Industrial Districts only.
2. Minimum Acreage. A planned unit development shall have a minimum of ten (10) contiguous acres in the Rural Agricultural District and a minimum of four (4) contiguous acres in the Roadside Commercial and the Industrial Districts.
3. Housing. A planned residential development shall include single-family dwellings, two-family dwellings, and multi-family dwellings up to four units except that a Tiny House Development shall be exempt from this provision.
4. Open Space. A planned unit development in the Rural Agricultural District shall require fifty (50) percent of the land to remain open space. The roads and utilities shall be subtracted from the remaining up to a maximum of fifteen (15) percent.
5. Residential open space. A planned residential development shall have at least fifty (50) percent of the total acres set aside for common open space. This land shall be usable for recreation purposes and the uses shall be clearly defined during the review process. Special attention shall be given to recreational uses that might create objectionable noise levels to surrounding properties. The Planning Board will use its discretion in approving all recreational uses.
6. Road Design. A planned unit development road design shall be in accordance with the requirements set forth in the Hinsdale Subdivision Regulations. Any deviation of these requirements must be approved by the Hinsdale Highway Superintendent, and must be noted on the final plat.
7. Buffer Area. A planned unit development buffer area shall be landscaped in such a manner that the planned unit development will be shielded from abutting properties. The vegetative buffer area between the planned unit development and surrounding properties shall be no less than thirty (30) feet. Use of existing vegetation will be encouraged by the Hinsdale Planning Board; however, if not feasible, new plantings approved by the Planning Board shall be required.

8. Compatibility. No planned unit development will be approved within a permitted zoning district if the Planning Board determines that such land use would have a detrimental effect on the surrounding area.
9. Construction During Review. After a planned unit development application has been submitted, no utility installation, no ditching, grading of land or lots, no excavation except for the purpose of soil testing, no dredging or filling, and no construction of buildings or structures shall be done on any part of the development site until the application has been reviewed and approved as provided in this article.
10. Further Subdivision. There shall be no further subdivision of an approved planned unit development.
11. Buildable Land Area. The buildable land area shall include the area of land in the tract that is suitable for residential, commercial or industrial uses, as well as recreational and agricultural uses. It will be used to determine the overall allowed density of the tract. The buildable land area shall be equal to the entire tract minus the "non-buildable land".
12. Non-buildable Land. For the purposes of this section, non-buildable land in a planned unit development shall include all of the following:
  - a. Wetlands;
  - b. Slopes in excess of fifteen (15) percent;
  - c. All water bodies and water courses;
  - d. Lands within floodplains or floodways as defined in Article VI of the Hinsdale Zoning Ordinance;
  - e. Land prohibited from development under easement or covenant;
  - f. Land of aesthetic, historic, or cultural significance; and
  - g. Land otherwise determined to be unsuitable for development by federal, state, or local regulations.
13. Residential Design and Layout. No residential structure shall contain more than four (4) residential units. The residential design shall reflect the residential character of the surrounding community and achieve architectural diversity. Multi-family residential structures shall be no closer than fifty (50) feet from an adjacent residential structure. One-family detached and two-family dwelling units shall be no closer than forty (40) feet from other residential structures. One-family detached structures shall be no less than 1,400 square feet in finished living area except as provided for in 15.
14. Intensity Regulations for Conventional Subdivisions. For all planned unit developments that contain a conventional subdivision, the following regulations shall apply to that portion of the tract:
  - a. All residential structures shall be located on individual lots of at least 15,000 square feet of land per residential unit and an additional 5,000 square feet for each additional living unit except as provided for in 15.
  - b. Structures for commercial or industrial use shall be located on lots of at least 15,000 and 20,000 square feet in area, respectively, with an additional 5,000 square feet of land area for

each additional use and shall have a maximum of seventy-five (75) percent lot coverage by impervious surfaces.

c. All structures shall have a required rear and side setback of at least a distance of fifteen (15) feet. The front setback will be at least thirty-five (35) feet measured from the edge of the street right-of-way.

d. The amount of frontage per lot shall be equal to at least seventy-five (75) feet for a 15,000 square foot lot and an additional ten (10) feet for each additional 5,000 square feet of lot area.

15. **Tiny House Development.** A Tiny House Development is permitted in the Rural Agriculture District (RA) and subject to the following restrictions and requirements:

1). The maximum size of the unit can be no greater than 900 sq. ft. living space and the minimum size can be no less than 200 sq. f.t of living space.

2). Each lot can have an additional 500 sq. ft. combined for all outdoor structures (including garage, carport, deck or shed combined square footage).

3). The lot size minimum is 10,890 sq. ft.

4). Side and rear setbacks shall be a minimum of 10' from the property line. The front setback shall be a minimum of 25' from street.

5). These units shall be considered permanent structures and shall not be mobile. Structures must be secured to a foundation and must meet all applicable building codes. All wheels must be removed prior to occupancy of the unit.

6). Applicants are encouraged to use innovative land use practices for energy efficiency and stormwater management.

7). Applicants should seek to provide for a variety of architectural styles throughout the development.

16. **Utilities.** All utilities including, but not limited to, gas, electric, telephone, cable television, water, and sewerage shall be placed underground. There shall be adequate water and sewer service provided to each structure, where applicable, evidenced by either the availability of public water and/or sewerage, sufficient water quantity and quality on-site, or innovative and effective measures of community sewage treatment and disposal. The applicant shall provide water and sewerage services to the planned unit development in the manner set forth in the Hinsdale Water Regulations and Sewer Ordinance, or in the following manner:

a. Where either public water or sewerage service is available within five hundred (500) feet of any boundary of the planned unit development tract, the applicant will be required to provide these public services to each residential, commercial, industrial, and active recreational structure and facility (where applicable) on site; or

b. Only where public sewerage is not available within five hundred (500) feet of the tract, the applicant can facilitate a community package treatment plant to service all units in a planned unit development provided that the facility complies with all applicable federal, state, and local regulations; and

- c. Only where public water is not available within five hundred (500) feet of the tract, the applicant may provide for on-site water wells provided that all applicable federal, state and local regulations are complied with. The applicant must demonstrate that there will be a sufficient supply of potable water as well as sufficient water for fire protection. To establish evidence of a sufficient quantity and quality of water for the above purposes, the Planning Board may require the applicant to commission a study by a mutually agreeable consultant at the applicant's expense.
17. **Parking.** Residential parking requirements shall be 1.5 parking spaces per residential unit. Parking provided for nonresidential uses shall be in accordance with the requirements of the Town of Hinsdale Zoning Ordinance and subsequent amendments thereto.
  18. **Lighting.** Exterior illumination shall only be as necessary for safety, lighting of buildings, walks, and roads, and shall be subject to approval and limitation by the Planning Board. All lighting shall be full cut-off to reduce light trespass into wildlife habitat areas and neighboring properties.
  19. **Public dangers and disturbances.** Other than time and emergency signals, and noise necessary for the construction or demolition of buildings on the tract, no unreasonable or objectionable noise shall be transmitted from an individual lot or dwelling from which it originates, nor shall any offensive odor, noxious, toxic or corrosive fumes or gasses, dust, dirt, smoke, or materials be emitted into the air or water so as to endanger public health or safety.
  20. **Landscaping.** Landscaping shall be such that the site is buffered for both sight and sound from abutting land uses within and outside the tract. Existing vegetation shall be used wherever feasible.
  21. **Height.** No building or any other structure, including antennas, shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height from natural grade, whichever is less, unless the Planning Board determines that a higher structure will not be detrimental to the character or aesthetic quality of the planned unit development or surrounding community.
  22. **Density.** The total number of residential units allowed in a residential planned unit development shall not exceed the number of units allowed for the tract by conventional subdivision in the zoning district unless one or more of the conditions for a density bonus is fulfilled. (See density bonus options.)
  23. **Common open space.** At least fifty (50) percent of the entire tract area of a planned unit development shall be maintained as common open space. At least thirty (30) percent of the common open space shall be of buildable quality land and to be used only for active recreational uses as listed in the Permitted Uses section of this article. Only passive recreational uses that are deemed appropriate by the Planning Board will be allowed in the non-buildable land area of the common open space. Agricultural uses may be allowed in either portion of the common open space. Any amount of the common open space shall be subtracted from the area of development and will not be used as part of one or more

residential, commercial or industrial lots and buffer area.

23. Area of development. The formula for the area of development shall be equal to:
  - 1) the entire area of the tract- minus
  - 2) common open space- minus
  - 3) any non-buildable land in excess of fifty (50) percent of the common open space. The area of development shall be buildable lands outside the common open space where residential, commercial, industrial, agricultural, recreational, and accessory uses may be permitted in addition to infrastructure such as roads and utilities.
24. Compliance with subdivision regulations. All proposed planned unit developments shall comply with all other provisions of the Town of Hinsdale Subdivision Regulations in effect at the time of application, insofar as they are applicable.

**Planned Unit Development Dimension Requirements\***

	RA	RC	COMM/IND
Maximum stories	2 1/2	2 1/2	2 1/2
Maximum height in feet	35	35	35
Minimum lot frontage in feet	50	50	50
Minimum lot area in square feet (Tiny House Development) *	15000 10,890*	15000	15000
Minimum front yard setback in feet (Tiny House Development) *	35 25*	35	35
Minimum side yard setback in feet (Tiny House Development) *	15 15*	15	15
Minimum rear yard setback in feet (Tiny House Development) *	15 10*	15	15
Maximum building coverage	40%	75%	75%
Minimum tract area in acres	10	4	4
Minimum common open space	50%	25%	25%

\* See General Requirements item number 14 page 54

**Open Space Use and Design**

- A. Design and maintenance: the common open space shall be designed and maintained and improved in accordance with the following standards:

1. Uses of the common open space shall, in all instances, require approval by the Planning Board, and all structural improvements and impervious surfaces must be shown on the definitive site plan;
2. Naturally existing woods, fields, meadows and wetlands shall be maintained and improved in accordance with applicable state regulations and good conservation practices;
3. Common open space shall be planned as large contiguous parcels whenever possible. Strips or narrow parcels of common open space shall be permitted only when necessary, for access or as vegetated buffers along the site's perimeter;
4. Common open space may be located in more than one parcel provided that the size, shape, and location of such parcels are suitable for the designated uses;
5. No more than twenty (20) percent of the common open space shall be covered with man-made impervious surfaces;
6. Common open space may be used for passive and active recreational uses, conservation, preservation, forestry, agriculture, natural buffers, structures necessary for approved uses, and utilities;
7. In cases where the common open space has been damaged environmentally prior to the completion of the development as a result of soil removal, harvesting of trees or other natural features, refuse disposal, or any other activity, the Planning Board may require the developer to restore or improve the conditions and appearance of the common open space, and may require the posting of a bond or other appropriate form of performance guarantee to ensure such restoration or improvement.

**B. Common open space ownership and management.**

1. Common open space in a planned unit development shall be conveyed to one of the following entities: the town, which may accept it for a public park or open space use; a nonprofit organization, the principal purpose of which is the conservation of open space; or a corporation or trust owned, or to be owned by the owners of the lots, structures and units within the planned unit development;
2. If the common open space is not conveyed to the town, the application for a planned unit development special permit must include a program describing how the common open space will be maintained, in perpetuity, to standards satisfactory to the Planning Board. The applicant shall also provide as part of the common open space proposal, an agreement empowering the Town of Hinsdale to perform maintenance of the common open space in the event of failure to comply with the program included in the application pursuant to the preceding sentence, provided that, if the town is required to perform any maintenance work, the owners of the lots, structures or units shall pay the cost thereof and that the cost shall constitute a lien upon their properties until said cost has been paid.

**Density Bonus Options**

If the applicant for a planned unit development special permit successfully fulfills one or more of the following site improvements, they may be granted density bonuses of a specified amount in addition to the number of residential units allowed by right. Density bonuses are only applicable to residential units and under no circumstances are to exceed the number allowed by right by more than twenty-five (25) percent, regardless of the accumulated total of any combination of the density bonus options listed below.

- A. Public water or sewer extension. The number of residential units may be increased up to twenty (20) percent over the allowable density when public water or sewer is provided to the site of a planned unit development from over five hundred (500) feet from any boundary of the tract.
- B. Off-site improvements. The allowed density of a planned unit development may be increased by as much as twenty (20) percent for on or off-site improvements mutually agreed upon by the applicant and the Planning Board. All such improvements will have a direct and substantial benefit to the residents and tenants of the proposed planned unit development, and cause a reduction in the impact on the provision of public facilities services.

### **Planned Unit Development Application Procedures**

A. Submission of preliminary site plan. Prior to the submission of a formal application for a PUD, the applicant shall submit a preliminary site plan entitled "Preliminary Site Plan, Planned Unit Development" to the Planning Board at a regularly scheduled meeting. The Planning Board will notify the Conservation Commission, and the Board of Selectmen of the time and location of the meeting. The contents of a preliminary site plan shall be consistent, to the extent applicable, with the preliminary plan requirements of the Town of Hinsdale Subdivision Regulations. In addition, the preliminary site plan shall include the following:

- 1. Existing and proposed residential, commercial, industrial, and recreational structures, significant historical or cultural structures and proposed common open space in a general manner;
- 2. A description of the general land uses in the surrounding vicinity of the tract, including utilities and other public facilities and the general impact of the proposed PUD upon them;
- 3. Architectural renderings of proposed residential, commercial, industrial and/or recreational structures on site.

B. Submission of the PUD application and completed site plan.

- 1. The conditions for submission of a completed plan as part of the PUD permit application are as follows:
  - a. The applicant shall submit an application for a PUD accompanied by the original of the completed site plan and eleven (11) copies thereof,
  - b. The Planning Board secretary shall transmit a copy of the completed site plan to each of the following: the chairman of the Planning Board; the Police Chief, the Fire Chief, the Highway Superintendent, the Building Inspector, the Chairman of the Board of Selectmen, the Water Department Superintendent; the Waste Water Treatment Superintendent; the Parks and Cemeteries Superintendent; the Chairman of the Conservation Committee; and the Chairman of the Solid Waste Committee.
  - c. The parties receiving copies of the completed site plan shall submit to the Planning Board written recommendations on the proposed project within fourteen (14) days of filing. Failure to comment shall be deemed lack of objection;
  - d. The Planning Board within thirty (30) days of the filing of the completed plan shall hold a public hearing in accordance with RSA 676:4;

- e. The Planning Board shall within sixty-five (65) days following the public hearing certify in writing that the application is approved as submitted; approved subject to modification, or denied. If the Planning Board fails to issue its findings within sixty-five (65) days the plan shall be deemed approved. However, no building permit shall be issued until the plan, signed by the Chairman of the Planning Board, has been filed in the Cheshire County Registry of Deeds;
  - f. No construction or reconstruction except as shown on the recorded plan shall occur without further submission of plans to the Planning Board and a notation to this effect shall appear upon the recorded plan and upon deeds to any property within the PUD;
2. Contents of the PUD application and completed site plan. The application for a PUD review shall be accompanied by eleven (11) copies of the completed plan and seven (7) copies of the written materials required to be submitted below. The completed site plan and written materials required for a planned unit development application shall contain the following information:
- a. The completed site plan shall show, to the extent applicable, all of the information required for a completed subdivision plan as specified in the Subdivision Regulations for the Town of Hinsdale.
  - b. The location of existing and proposed buildings, and the dimensions of the existing and proposed buildings in feet and the square footage of the net floor area.
  - c. The location and area of non-buildable lands on site, and other natural features requested by the Planning Board.
  - d. The distance of existing and proposed structures from the lot lines, and the distance between structures.
  - e. The existing and proposed topographical lines at five-foot intervals.
  - f. The use designation of each building or part thereof, and of each section of open ground, plaza or usable roof space, the numbering of parking spaces, the height of all buildings above average finished grade of abutting streets, and the number of apartments, hotel rooms, meeting rooms, and restaurant seats.
  - g. Architectural rendering of residential, commercial, industrial, and recreational structures on site.
  - h. Total area in square feet of all landscape and recreational areas, and depiction of materials to be used (grass, five-foot shrubs, etc.).
  - i. Deed or other recorded instrument that shows the applicant to be the owner or owner under option of the land to be designated as a planned unit development.
  - j. A development schedule identifying the order of construction and the sequence of improvements to be built and furnished on the PUD site defined in stages where applicable.
  - k. Submission of a traffic impact analysis to be conducted by a certified traffic engineer. The analysis shall include:
    - i. Traffic counts on arterial streets that provide access to the development site showing data on average daily traffic (ADT) and a.m. and p.m. peak periods, conducted for two hours divided into 15-minute segments;
    - ii. Intersection turning movement counts at intersections likely to be affected by the proposed development, conducted for two hours divided into 15-minute segments;
    - iii. An inventory of roadway characteristics showing the width of the principal



open spaces and facilities until such time as the Homeowners Association is able to assume such responsibility. In order to ensure that the Association will properly maintain the land deeded to it under this section, the applicant shall cause to be recorded in the Cheshire County Registry of Deeds a declaration of covenants and restrictions which shall, at a minimum, provide the following:

1. Mandatory membership in an established homeowner's association is required of individual ownership of any residential, commercial, or industrial unit within the tract;
  2. The ownership or beneficial interest in the homeowner's association of each owner of a residential, commercial, or industrial unit and the provision that such ownership or beneficial interest shall be appurtenant to the residential unit to which it relates and may not be conveyed or encumbered separately therefrom;
  3. Provision for the number, term of office, the manner of election to office, removal from office, and the filing of vacancies in the office of directors and/or officers of the organization;
  4. Procedures for the conduct or the affairs and business of the association including provisions for the calling and holding of meetings of members and directors and/or officers of the association, and provisions for quorum and voting requirements for action to be taken. Each owner of a residential, commercial or industrial unit or lot shall have voting rights proportional to his ownership or beneficial interest in the PUD;
  5. A legal description of the common open space and facilities;
  6. A statement of purposes for which the common open space is intended to be used and the restrictions on its use and transfer;
  7. Provisions for the management, maintenance, operation, improvement and repair of common open space and facilities, including provisions for obtaining and maintaining adequate insurance and levying and collecting from the residential, commercial, or industrial unit or lot owners' common charges to pay for expenses associated with the common open space and facilities, including real estate taxes. It shall be provided that common charges are to be allocated among unit owners in proportion to their ownership or beneficial interest in the PUD and that each unit owner's share of the common charge shall be a lien against his real estate in the development, which shall have priority over all other liens with the exception of municipal liens and first mortgages of record;
  8. The method by which such instrument or instruments may be amended.
- B. Review of homeowner's association documents. All documentation and instruments required under this section shall be reviewed by the town's council at the expense of the developer.

### **Criteria for Granting PUD Approval**

- A. The Planning Board may approve a planned unit development if the board finds that all of the following conditions were met:
1. The completed site plan and written materials required under this section are substantially conforming to the preliminary site plan given preliminary approval by the Planning Board.

The Planning Board may permit minor changes in light of the more detailed survey and engineering design provided that they do not conflict with the intent of the preliminary site plan.

2. The completed site plan and materials are incorporated into the planned unit development by reference.
3. Methods satisfactory to the Planning Board of ensuring the performance of any special conditions included in the completed site plan have been submitted by the applicant.
4. The applicant for a planned unit development successfully demonstrates to the Planning Board that this form of land development will be as, or more, appropriate for the site than conventional patterns of development.

B. The Planning Board in granting a planned unit development may impose such additional conditions as the Planning Board finds will serve the public interest and safety, and are consistent with the intent of the preliminary plan given preliminary approval by the Planning Board.

C. The Planning Board may deny an application for a planned unit development and base its denial on the finding that the development proposal in the completed plan and required reports did not meet one or more of the four criteria for approval.

### **Duration of Approval**

Any permit granted by the Planning Board for a planned unit development shall become void within two (2) years from the date of issue, which two (2) years shall not include time required to pursue or await determination of an appeal, unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, except for a good cause. The applicant may receive a written extension from the Planning Board, such extension being of one (1) year duration. Time of completion of all phases of construction shall be as determined by the Planning Board and stated as a condition of granting the permit.

Severability: A determination that any portion of this article is invalid shall not render any other part thereof invalid.

## **ARTICLE X ADMINISTRATION AND ENFORCEMENT**

### Interpretation of regulations

In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended that these regulations repeal, abrogate, annul or in any way impair or interfere with any existing provisions of the law or ordinance of any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued pursuant to law, relating to the use of buildings or premises, nor is it intended by these regulations to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where these regulations impose greater restriction upon the use of building or premises or upon the height of buildings, or require larger yards or other

open spaces than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations or permits, or by such easements, covenants or agreements, the provisions of these regulations shall control.

#### Enforcement and penalties

These regulations shall be administered and enforced by the board of selectmen of the Town of Hinsdale, which is empowered to cause any building, structure, place or premises to be inspected and examined and to order, in writing, the remedying of any conditions found to be in violation of any provision of these regulations.

#### Certificate of occupancy

No land shall be occupied nor used and no building hereafter erected, altered, or extended shall be used nor changed in use until a certificate of occupancy shall have been issued by the board of selectmen, or its designee(s), which shall include the building inspector, stating that the proposed building or use thereof complies with the provisions of these regulations.

No nonconforming use shall be renewed, changed, or extended without a certificate of occupancy having first been issued by the board of selectmen, or its designee(s).

The board of selectmen and its designee(s) shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected. The issuance of permits required in this ordinance shall be by the board of selectmen or by such designated official appointed by the selectmen, such person not to be a member of the Hinsdale Planning Board or Board of Adjustment.

#### Board of Adjustment

The Zoning board of adjustment shall be elected and consist of five members. Zoning board of adjustment members who are elected shall be elected for the term provided under RSA 673:5, II. The board of adjustment shall appoint not more than five alternates conforming in duties and authority to the provisions of Chapter 674 of the New Hampshire Revised Statutes Annotated.

#### Powers of the board

The board of adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination, made by an administrative official, in the enforcement thereof or of any ordinance adopted pursuant thereto.
2. To authorize, upon appeal in specific cases, such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to peculiar shape, size or topography of the lot or other special or exceptional conditions of the building or land, practical difficulty or unnecessary hardship would result to the owners of the property from strict enforcement of the regulations, and so that the spirit of the ordinance shall be observed and substantial justice done.

3. In exercising the above-mentioned powers, the board may, in conformity with the provisions hereof, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such of a decision as ought to be made, and to that end shall have all the powers of the Board or officer from whom the appeal is taken.

The decision of the board of adjustment on all special questions in all appeals and in application for variance shall be made after public notice and hearing and subject to appropriate conditions and safeguards in accordance with the public interest the most appropriate development of the area in question, and in harmony with the purpose and intent of these regulations.

#### Validity of regulations

If any section, paragraph, subdivision, clause or provision of these regulations shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or such provision so adjudged, and the remainder of these regulations shall be deemed to be valid and effective.

#### Violation

The penalty for a violation of these regulations shall be in accordance with the penalties and remedies section of The New Hampshire PLANNING AND LAND USE REGULATION Revised Statutes Annotated, Chapter (RSA 676:15 - 676:18).

#### Amendments

This ordinance and the boundaries of zoning districts established hereunder, may from time to time be amended or changed as provided by Chapter 674 of the New Hampshire Revised Statutes Annotated.

International Property Maintenance Code 2015, which shall thereby be adopted by reference in the Town of Hinsdale Building Code.

The Board of Selectmen, or its designees, which shall include the building inspector, shall be authorized to issue building, electrical, mechanical, or plumbing permits, as permitted by the State Building Code or the Town of Hinsdale Building Code. The Board of Selectmen may, in its discretion, establish fees to be charged for permits issued under this Section, inspections, and for any certificate of occupancy.

The Town of Hinsdale Zoning Board of Adjustment shall act as the building code board of appeals pursuant to RSA 673:1, IV, as amended.

#### Effective Date

The effective date of this ordinance and the zoning map shall be the date of passage of the regulations and such revision.

