ZONING BYLAW

TOWN OF HAMPDEN MASSACHUSETTS

REVISED APRIL 27, 2015

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Approved 2001, unless otherwise noted

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SECTION 1

PURPOSES

The purpose of this zoning bylaw is:

- to conserve health and secure safety from fire, flood, and other dangers;
- to prevent overcrowding of land and avoid undue concentration of population;
- to conserve natural resources and prevent pollution of the environment;
- to encourage the most appropriate use of land throughout the town and
- to provide regulations to fulfill said objectives in accordance with the provisions of Chapter 40A, as revised by Chapter 808 Acts of 1975, of the General Laws of the Commonwealth of Massachusetts.

SECTION 2

DEFINITIONS

For purposes of this bylaw certain terms and words are herein defined as follows:

Words used in the present tense include the future; words in the singular number include the plural number, and words in the plural number include the singular number; the word “shall” is mandatory and not directory; the word “building” includes the word “structure”, the word “lot” includes the word “plot”, and the word “land” includes “marsh” and “water”.

2.1 *Accessory Building*
A detached building which is subordinate to the main building, the use of which is customarily incidental to that of the main building. When an accessory building and a main building share a common wall, or are attached by a covered or roofed structure, the accessory building shall be considered to be part of the main building.

2.2 *Accessory Use*
A subordinate use of a building or premises for a purpose customarily incidental to the main or principal permitted use.

2.3 *Adult use*
An establishment whose primary purpose is providing entertainment, publications, or other material of a sexual nature.

2.4 *Alteration*
A change in or addition to a structure.

2.5 *Amusement Business*
An establishment engaged in providing amusement or entertainment for a fee or admission charge and including such activities as dance halls, studios, theatrical productions, musical entertainment, bowling alleys, billiard and pool establishments, and games.

2.6 *Assessed Valuation*
The valuation placed upon the land or building in question as carried on the books of the Town for purposes of real estate taxation.

2.7 *Assisted Living Facility*
A special combination of housing, supportive services, personalized assistance and healthcare designed to respond to the individual needs of those who need help with activities of daily living.

2.8 *Attic*
The space between the ceiling of the top story of a building and its roof and not used for living, sleeping or eating quarters.

2.9 *Aquifer*
Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

2.10 *Automobile Service Station*
A facility intended for the retail dispensing or sale of vehicular fuels; including and as an accessory use the sale and installation of lubricants, tires, batteries and similar accessories.

2.11 Automotive Repair, Services, and Garages
A facility that furnishes automotive repair, rental, leasing and parking services to the general public.

2.12 Banquet Facility (Added 4-27-15)
An establishment whose principal business is the selling of ready-to-consume food to the customer for consumption either on or off premises. Banquet facility may not have normal business hours.

2.13 Base Flood Elevation
The highest elevation, expressed in feet above sea level, of the level of floodwaters occurring in the regulatory base flood.

2.14 Bed and Breakfast Inn
A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

2.15 Boarding or Rooming House
A building or premises, other than a hotel, inn, motel, tourist court or lodging house, where rooms are let and where meals may be regularly served by pre-arrangement for compensation; not open to transient guests; in contradistinction to hotels, restaurants and tourist homes, which are open to transients.

2.16 Buffer Strip (Amended 4/27/15)
A portion of land set aside to separate the remainder of other districts from residential districts.

2.17 Building
A structure having a roof or cover supported by columns or walls for the shelter, support or enclosure of persons, animals or property. The word “building” shall be construed, where the context allows, as though followed by the words “or part or parts thereof”. A porch shall be considered part of the building in determining setback requirements.

2.18 Building, Accessory
A detached building which is subordinate to the main building, the use of which is customarily incidental to that of the main building. When an accessory building and a main building share a common wall, or are attached by a covered or roofed structure, the accessory building shall be considered part of the main building.

2.19 Building Commissioner
Building Commissioner shall mean the Inspector of Buildings or other designated authority, or his duly authorized representative, charged with the enforcement of this bylaw.

2.20 Building Coverage
That percentage which the aggregate area of all buildings on the lot bears to the total area of the lot.

2.21 Building Height
The vertical distance between the highest point of the roof and the average grade of land on which the building is located.

2.22 Building Line:
The line established by law beyond which a building shall not extend.

2.23 Building Lot
A building lot is that area of land described in an application for a building permit or an application to the Board of Appeals for a special permit, exception or variance, or otherwise defined as the area on which the structure is to be constructed or a certain use is to be carried on. A building lot shall not include any part of a street which is relied upon to qualify the lot as to frontage.

2.24 Building Permit
Written permission issued by the proper building authority for the construction, repair, alteration, or addition to a structure.

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

2.26 Campground
A plot of ground upon which two or more campsites are located, established or maintained for occupancy by the camping units of the general public as temporary living quarters for recreation, education, or vacation purposes.

2.27 Camping Unit
Any tent, trailer, cabin, lean-to, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

2.28 Campsite
Any plot of ground within a campground intended for the exclusive occupancy by a camping unit or units under the control of a camper.

2.29 Cemetery
Property used for the interring of the dead.

2.30 Child Care Center
A licensed facility with classrooms employing teachers with Early Childhood Education accreditation enrolling children where tuition, fees or other forms of compensation are charged for the care, protection and supervision on a regular schedule of children from 2 months to school age.

2.31 Child Care Home
A private single-family home licensed for the care, protection and supervision for a fee of 6 or fewer children, including children of the adult provider, who must be a resident of the home.

2.32 Church or Religious Structure
A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses, associated therewith.

2.33 Classroom
A structure or portion thereof, whose primary purpose is for education and/or training.

2.34 Clear Cutting
The cutting of all trees on a site.

2.35 Club
A group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

2.36 Commercial Recreation Use
A recreation use or facility operated as a private enterprise and open to the general public.

2.37 Commercial Use
Activity carried out for pecuniary gain.

2.38 Common Driveway *amended 4/29/2002*
A vehicular access from a road to more than one residential units, built in accordance with the common driveway standards stated in this bylaw, where allowed by special permit.

2.39 Communications Towers: *Approved October 26, 1998*

2.39.1 *Co-location*: The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

2.39.2 *Lattice Tower*: a type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

2.39.3 *Monopole*: The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

2.39.4 *Wireless Communications Facilities*: The structures and devices designed to facilitate cellular telephone services, personal communications services and enhanced specialized mobile radio service as defined in Section 704 of the Federal Telecommunications Act of 1996. Included are towers, antennae mounted to towers or other structures, and accessory structures, such as sheds, which are directly required for facility operations.

2.40 Condominium
A building, or group of buildings, in which units are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis; may be either residential, business or industrial.

2.41 Condominium, Commercial
A building or group of buildings, used for offices, businesses, professional services and other commercial enterprises organized, owned and maintained as a condominium.

2.42 Congregate Housing for Elderly and Handicapped Persons
A structure or structures arranged or used for the residence of persons age fifty-five (55) or older, or for handicapped persons, as defined in Chapter 121B of the M.G.L. with some shared facilities and services which may include meals, housekeeping, and personal care assistance.

2.43 Conservation Restriction
A legally binding deed restriction which precludes future or additional development of the land and permanently protects open space.

2.44 Coop, Pen, or Stable
An accessory building or enclosure for the keeping of domestic pets, animals or birds for the use and pleasure of the residents thereof.

2.45 Corner Lot
A lot abutting on two (2) or more streets at their intersection.

2.46 Court
An open space, other than a yard, on the same lot with a building, which space is bounded on three sides or more by the walls of such building.

2.47 Dwelling
Any building, or part thereof, used in while or in part for the continuous or permanent habitation of one (1) or more persons, but not including trailers or mobile homes, however mounted, or commercial accommodations for transient occupancy.

2.48 Dwelling, Multi-Family
A dwelling used or occupied by three (3) or more families, including apartment houses, apartment hotels, and group dwellings.

2.49 Dwelling, Multi-Unit
Any structure constructed to house two (2) families or more.

2.50 Dwelling Unit
One (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the continuous or permanent use of one (1) or more individuals living together as a single housekeeping unit.

2.51 Elder Care Home
A private residence where care, protection and supervision are provided, for a fee, at least twice a week to no more than 6 adults over the age of 60 at one time, including participating elder adults living in the residence.

2.52 Encroachment
Fill, construction of new structures, substantial improvement to existing structures or other development; any obstruction in a delineated floodway, right-of-way or adjacent land.

2.53 Essential Services
The erection, construction, alteration, or maintenance of underground, surface or overhead electrical, gas, steam, water and sewerage transmission and collection systems and the equipment and appurtenances necessary for such systems to furnish an adequate level of public service.

2.54 Family
Any number of individuals related by blood, marriage or adoption, living together as a single housekeeping unit, provided that a group of not more than seven (7) persons keeping house together, but not necessarily related by blood or marriage, may be considered a family.

2.55 Farm Business
Business established for the processing of farm products, fifty percent (50%) by volume of which must have been raised or produced on the premises, or elsewhere in the Town of Hampden.

2.56 Farm Stand
A booth or stall established for the display or sale of farm products to the general public. During the months of June, July and August, fifty percent (50%) by volume of which must have been raised or produced on the premises or elsewhere in the Commonwealth of Massachusetts.

2.57 Flexible Residential Open Space Development (FROSD)
A form of clustered single family residential development allowed by special permit, whereby the options of common driveways and flexible area and frontage requirements are utilized to create permanent open space and avoid standard ANR and subdivision development.

2.58 Floodplain
The channel and the relatively flat area adjoining the channel of a stream or river which has been or may be covered by floodwater; areas which would be flooded during the occurrence of the 100-year flood, shown as Zone A, A1-30 on the Flood Insurance Rate Maps (FIRM).

2.59 Floodway
The channel of a river or other watercourse plus any adjacent areas that must be kept free of encroachment in order that the 100-year flood may be carried without any increase in flood heights, as shown on the Flood Boundary and Floodway Map.

2.60 Floor Area, Gross
Total interior floor area of a building, including accessory buildings.

2.61 Floor Area, Net
The interior of a dwelling unit exclusive of basements, stairwells. Halls, bathrooms, closets, corridors, attic, walls, partitions, and floor area of attached buildings.

2.62 Forestry
The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forest services.

2.63 Frontage *Amended 1993*
The continuous linear distance along any approved way, measured on the street line, between the side lot lines.

2.64 Funeral Home
A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

2.65 Garage, Private
A building or part thereof used for the storage of motor vehicles, and accessory to the principal building on the same lot.

2.66 Garage, Public
A building or portion thereof, other than a private garage, available to the public for the storage of motor vehicles; may be operated for gain.

2.67 Garage, Repair
Any building, premises and land in which or upon which a business or service industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered.

2.68 Gasoline Service Station
See Automobile Service Station

2.69 Groundwater
All water found beneath the surface of the ground.

2.70 Hazardous waste
A waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed, however not to include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act of 1967 as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Acts of 1954. (MGL Chapter 21 D, Section 2). Hazardous wastes have been designated by the Regulations in 310 CMR 30.130 adopted pursuant to the Massachusetts Hazardous Waste Management Act, Massachusetts General Laws, Chapter 21C.

2.71 Hazardous waste management
The systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes. (MGL Chapter 21 D, Section 2)

2.72 Hillside
Land having an average grade of 15% or greater for a distance of 200 feet.

2.73 Home Occupation (Amended 4/29/2013)
An occupation conducted in a dwelling unit

2.74 Home Professional Office
A home occupation consisting of the office of a practitioner of a recognized profession.

2.75 Hotel, Inn, Tourist Court, or Lodging House
A building, or portion thereof, or a group of buildings, intended to be used for the more or less temporary occupancy of more than five (5) individuals, with or without meals, and in which major provision for cooking may be made in a central kitchen or in the individual rooms or suites.

2.76 Housing for the Elderly/Senior Apartments
Multifamily dwelling units occupied by persons 55 years or older. In the case of double occupancy of a unit, only 1 resident is required to be at least 55 years of age. The housing must be self-contained and physically accessible to elderly citizens.

2.77 Impervious Surfaces
Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

2.78 Interim Wellhead Protection Area
*A*n interim protective area used in the absence of a hydrogeological study defining Zone II, which is established by the Mass. Department of Environmental Protection, based on a radius around public wells.

2.79 Junkyard
Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal, or other scrap or discarded goods, materials, machinery or two or more unregistered, inoperable motor vehicles or other type of junk.

2.80 Kennel
An accessory building or enclosure in which more than six dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold.

2.81 Life Care Facility
A facility for the transitional residency of elderly and/or disabled persons, progressing from independent living in single-family units to congregate apartment living where residents share common meals and culminating in a full health and continuing care nursing home facility.

2.82 Light Industry
Industrial uses, which meet the performance standards, bulk controls, and other requirements established in this ordinance.

2.83 Loading Space, Off-Street
An off-street space or berth which has access to a street, alley or other appropriate means of ingress or egress on the same lot with a building, for the temporary parking of vehicles while loading or unloading merchandise or material.

2.84 Lodging House (Boarding)
A house containing one or more rooms for the semi-permanent use of one, two or more individuals not living as a single housekeeping unit and not having cooking facilities within the individual rooms.

2.85 Lot Line
A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

2.86 *Medical or Dental Lab*
A facility including, but not limited to, performing or processing medical or dental tests, fabricating or testing prosthetic, orthotic, or dental apparatus, and similar activities.

2.87 *Membership Club*
A private building or grounds, which include specifically country clubs and fraternities, and organizations to which membership is limited or controlled.

2.88 *Mobile home*
A structure transportable in one or more sections, which is at least 8 feet in width and 32 feet in length, which is built on a permanent chassis and designed for use as a dwelling unit, with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or camping trailers.

2.89 *Motel*
An establishment providing transient accommodations containing six or more rooms with at least 25% of all rooms having direct access to the outside without having to pass through the main lobby of the building.

2.90 *Net Developable Area*
The area of the lot excluding those features or areas which the FROSD or PURD ordinance excludes from the calculations. The net developable area of a parcel for FROSD or PURD development is the total area of all lots shown to be developable under Town of Hampden Subdivision Regulations and zoning, and shall be calculated by procedures described in the bylaw.

2.91 *Non-Conforming Use*
A non-conforming use is the use of a building structure or land lawfully occupied or lawfully begun at the time of adoption of this bylaw, but which does not conform to the requirements of this bylaw, which apply to the district in which such building structure or land is located.

2.92 Non-conforming structure (Added April 26, 2004)
A non-conforming structure is a building or structure lawfully in existence or lawfully begun at the time of adoption of this bylaw but which does not conform to the dimensional requirements of this
bylaw which apply to the district in which such building or structure is located.

2.93 *Nursery*
Land or Greenhouses used to raise flowers, shrubs and plants for sale.

2.94 *Off-Site Medical Marijuana Dispensary (OMMD*) Added April 28, 2014
A Registered Marijuana Dispensary that is located off-site from
the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered Qualifying Patients or their personal caregivers in accordance with the provisions of 105CMR 725.00.

2.95 *Personal Services*
Establishments primarily engaged in providing services involving the care of a person or their apparel.

2.96 *Planned Business Development*
A development constructed on a lot or contiguous lots, under single ownership at the time of application, planned and developed, operated and maintained as an integral unit containing one or more structures, consisting primarily of retail or service uses.

2.97 Planned Industrial Development
A development constructed on a lot or contiguous lots, under single ownership at the time of application, planned and developed, operated and maintained as an integral unit containing one or more structures, consisting primarily of light industrial uses.

2.98 Planned Unit Residential Development (PURD) Approved April 28, 1997
A residential development on a tract of ten (10) acres or more under single ownership with definite boundaries ascertainable from a recorded deed or plan, which consists of a mixture of residential uses and building types, including one family dwellings, two family dwellings, town houses, or multi-family dwellings, and open space, and which is planned and developed as an integral unit with a significant area of common open space and/or recreation land. The PURD includes streets, utilities, buildings and other site features and improvements for the common use by some or all of the occupants of the development, but which will not be provided, operated or maintained at general public expense.

2.99 Premises
That part of a lot or building actually in use for the specific purpose or use under consideration.

2.100 Primary Aquifer Recharge Area
Areas which are underlain by surficial geologic deposits including glaciofluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward public water supply wells or potential site for such wells.

2.101 Professional Office
The office of a recognized profession maintained for the conduct of that profession.

2.102 Recreation, Active
Leisure time activities, usually of a formal or organized nature, usually performed with others, often requiring equipment and taking place at prescribed places, sites or fields.

2.103 Recreation, Passive
Those leisure time activities not considered active, such as biking, hiking, or picnicking.

2.104 Recreation, Public
A recreation use or facility operated by a government agency and open to the general public.

2.105 *Registered Marijuana Dispensary (RMD) Added April 28, 2014*
A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products.

The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

2.106 Religious Use
One in which worship, ceremonies, rituals and education pertaining to a particular system of beliefs are held.

2.107 Repair Shop
A facility that provides repair, refurbishing, rental, or leasing services of small electronic, electrical, or mechanical items to the general public.

2.108 Research Laboratory
A facility for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of investigation with the objective of creating end products.

2.109 Research Offices
A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

2.110 Restaurant (Amended 4/2715)
An establishment whose principal business is the selling of ready-to-consume food to the customer for consumption either on or off premises with regular business hours.

2.111 Ridgeline
The long, narrow crest or horizontal line of hills or mountains, usually at the highest elevation.

2.112 Sales Yard
An unroofed outside area, enclosed by a fence, border or buffer used for the display and sale of goods, material, or merchandise to the general public.

2.113 Selective Cutting
No more than 50% of the mature trees on a site shall be cut under a selective cutting plan.

2.114 Self-service Storage Facility
A building or group of structures consisting of individual, small self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.

2.115 Setback
The distance measured from the closest point of a street or lot line to the nearest building. Setbacks, in other than residential districts, shall be landscaped or left natural as required by the Planning Board and may be used only as a setback, not for roads, parking or for any other activity.

2.116 Sign
Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trade marks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product or activity.

2.117 Silviculture
The development and/or maintenance of a forest or wooded preserve.

2.118 Solar Energy Systems (Added 4/27/15)
Any solar collector or other solar energy device, including appurtenances, mounted on a building or on the ground, the primary purpose of which is to provide for the collection, storage, conversion and distribution of solar energy for space heating or cooling, water heating or generation of electricity

2.119 Special Permit *Approved April 26, 1999*

A Special Permit is a permit from a Special Permit Granting Authority (SPGA) allowing the use of land or structures for a specific purpose upon satisfaction of general or specific provisions set forth in a zoning ordinance or bylaw. MA General Law Chapter 40A, S 9.

2.120 Story

That portion of a building included between the surface of any floor and the surface of the next floor above it, or, if there be no floor above it, than the space between such floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height from average ground level shall be considered as an additional story for each fourteen (14) feet or fraction thereof. One-half (1/2) story means any story or space situated wholly or partly in the roof, so designed, arranged, or built as to be used for storage or habitation.

2.121 Street

2.121.1 A public way or a way which the clerk of the town certifies is maintained and used as a public way, or

2.121.2 A way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or

2.121.3 A way in existence when the subdivision control law became effective in the Town in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the building erected or to be erected thereon, and

3.121.4 Use of the terms, *avenue*, *boulevard*, *highway*, *parkway*, *turnpike*, *road*, and *lane* shall refer to the definition of *street* for the purposes of this zoning bylaw.

2.122 Street Line

The side line of a street or way, as determined by deeds and plans recorded at the Registry of Deeds; where no line is thus legally established, then a line parallel with and twenty-five (25) feet distant from the center line of a traveled way.

2.123 Structure

Any construction, erection, assemblage or other combination of materials upon the land including, swimming pools, but excluding stone walls and fences.

2.124 Substantial Improvement

Improvement to a structure or building which exceeds 25% of the original footprint of such structure or building; or 'substantial improvements' as defined in the National Flood Insurance Programs Rules and Regulations published in the Federal Register of October 26, 1976, whichever definition is more restrictive.

2.125 Swimming Pool

A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-ground surface pool having a depth of more than thirty inches, designed, used and maintained for swimming and bathing. This shall include all structures, appurtenances, equipment, appliances, and all other facilities appurtenant to or intended for the operation and maintenance of a swimming pool, and also all pools operated and maintained in conjunction with or by clubs, community association or any commercial enterprise.

2.125.1 Family Pool

A swimming pool used or intended to be used only by the owner or lessee thereof and his or her family and friends invited to use it without payment of any fee.

2.125.2 Neighborhood Pool

A swimming pool owned and used by a non-profit Organization of households located in the immediate vicinity of the pool following special exception which may be granted by the SPGA after a public hearing and subject to the approval of abutting landowners. The pool is operated under a set of bylaws of the Organization.

2.126 Tourist Camps or Camp Sites
Land used, or intended to be used, let, or rented for temporary (thirty (30) days or less) occupancy by campers; or for temporary occupancy by house trailers, tents or movable dwellings, rooms or sleeping quarters of any kind.

2.127 Tourist Home
An establishment in a private dwelling that supplies temporary accommodations to overnight guests for a fee.

2.12 Toxic or Hazardous Material
Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Hampden. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (MGL) Chapter 21C and 21E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

2.129 Trailer or Mobile Home *Approved 1976*
Any vehicle or object on wheels and having no motive power of its own, but which is drawn by, or used in connection with, a motor vehicle and which is so designed and constructed or added to by means of such accessories as to permit use and occupancy thereof for human habitation, whether resting on wheels, jacks, or other foundation, and shall include the type of vehicle known as a mobile home. A prefabricated building or part thereof, or an existing building that is transported by truck from a factory or site to another site shall not be considered a trailer or mobile home, but shall be considered a dwelling or other type of structure.

2.130 Travel or Camping Trailer *Amended 4/29/2002* *Approved 1976*
A vehicle similar to a trailer or a mobile home and designed primarily for recreational purposes. The term “travel” or “camping trailer” shall also be applied to any motor vehicle whose body has been equipped for occupancy similar to that of a travel trailer or camping trailer.

2.131 Trucking Terminal
Business which services or repairs commercial trucks which are not owned by the business.

2.132 Utility, Private or Public
Any agency which, under public franchise or ownership, or under certificate of convenience and necessity, provides the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection, or other similar services; a closely regulated private enterprise with an exclusive franchise for providing a public service.

2.133 Utility Structure
A construction whose primary purpose is providing utility uses.

2.134 Veterinary Clinic (Added 4/27/15)
A facility for the treatment of injuries and illnesses of animals that operates with posted business hours and not open 24 hours/day; except for emergency situations.

2.135 Veterinary Hospital (Added 4/27/15)
A facility for the treatment of injuries and illnesses of animals that operates 24 hours/day, seven days/week.

2.136 Warehouse
A building used primarily for the storage of goods and materials.

2.137 Warehouse, Mini-
A structure containing separate storage spaces of varying sizes leased or rented on an individual basis; also Self-service Storage Facility.

2.138 Warehousing
Terminal facilities for handling freight with or without maintenance facilities.

2.139 Wastewater Treatment Works
Any wastewater treatment plants or works, including community septic systems, which require a permit from the Massachusetts Department of Environmental Protection.

2.140 Watershed
Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage areas of such water courses and bodies.

2.141 Wind Energy Conversion System(s) (Added 4/27/15)
Any wind energy collecting device or system, the primary purpose of which is to provide for the collection, conversion, storage and/or distribution of wind energy for generation of electricity, water pumping or operating mechanical devices.

2.142 Yard
All open space other than a court, on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and a lot line.

2.143 Yard, Front
An open, unoccupied space extending across the full width of the lot and lying between the front lot line of the lot and the nearest line of the building. The depth of a front yard shall be the minimum distance between the building and the front lot line, measured in Section 2.111.

2.144 Yard, Rear
The rear lot line of the lot and the nearest line of the building. The depth of a rear yard shall be the minimum distance between the building and the rear lot line, measured in Section 2.111.

2.145 Yard, Side
An open, unoccupied space between the side lot line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either such yards, to the front or rear lot lines. The width of the side yard shall be the minimum distance between the building and the side lot line, measured as in Section 2.111.

2.146 Zone I Recharge Area
That circle of a 400-foot radius extending around the wellhead of a drinking water well with the wellhead at its center and including all land within the boundaries of said circle.

2.147 Zone II Recharge Area
Means that area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield, with no recharge from precipitation). It is bounded by the groundwater divides result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, Zone II shall extend up gradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).

SECTION 3.

DISTRICTS

Section 3 approved 1978, unless otherwise noted

3.1 Establishment of Districts (amended 4/29/2002)
For purposes of this bylaw, the Town of Hampden has established the following districts and overlay districts.

1. *R-6 District*
2. *R-4 District*
3. *Multi-Unit Dwelling District*
4. *Business District*
5. *Commercial District*
6. *Limited Industrial District*
7. Golf Recreational District
8. Non-profit Educational and Recreational District
9. Flood Plain/Wetlands District
10. Ridgeline and Hillside Overlay District
11. Water Supply Protection Overlay District

3.2 Location of Districts:
Said districts are hereby established as shown, located, defined and bounded on a map entitled, "Zoning District Map of Town of Hampden, Massachusetts", current revision signed by the Planning Board and filed with the office of Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made part of this bylaw.

3.3 Location of Boundaries of Districts:
Where the boundary lines are shown upon said map within the street lines of public and private ways, or utility transmission lines, the center lines of such ways or lines shall be boundary lines unless otherwise indicated.

1. Boundary lines located outside of such street lines or transmission lines, and shown approximately parallel thereto shall be regarded as parallel to such lines, and dimensions shown in figures placed upon said map between such boundary lines and such transmission or street lines, are the distances in feet of such boundary lines from the center line of such street or transmission lines, such distances being measured at right angles to such street or transmission line, unless otherwise indicated.
2. Where the boundary lines are shown approximately on the location of property or lot lines, and the exact location of the property, lot or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.

3.4 Use Beyond a Boundary Line:
Where a district boundary line divides any lot of record existing at the time such line is adopted, any building or use permitted in either district shall be permitted for said lot within a distance not exceeding fifty (50) feet from the boundary.

3.5 Special Uses Within Districts:
Lands or structures used for religious purposes or for educational purposes, or lands owned or leased by the Commonwealth or any of its agencies, subdivisions, or bodies politic, or by a religious sect or denomination, or by a non-profit educational corporation, must comply with the yard size, lot area, setback, open space, parking, and building coverage requirements of the zone in which they are located.

SECTION 4.

CONTINUANCE OF EXISTING USES

Section 4 approved 1978, unless otherwise noted
Sections 4.2 through 4.4.2 amended April 28, 2003

4.1 Existing Buildings, Structures, and Uses:
No building, structure, or land shall be used, nor shall any building or structure, or part thereof, be erected or altered except in conformity with the provisions of this bylaw which apply to the district in which the building or structures shall be located. This bylaw shall apply to any change of use thereof when the same would amount to reconstruction, extension, or structural change, and to any alteration of a building or structure to provide for its use for a purpose or in a manner substantially different from the use to which it was put before alteration, or for its use for the same purpose to a substantially greater extent. This bylaw shall not apply to existing building or structures, nor to the existing use of any building, structure or land to the extent to which it is used at the time of adoption of this bylaw, not to land in excess of five acres used for agriculture, horticulture, or floriculture.

4.2 No non-conforming use of any building, structure, or premises shall be re-established where there has been a change to a use which is permitted in the district in which it is located. If the non-conforming use of any building, structure, or premises shall be discontinued for a period of twenty-four consecutive months, it shall not be re-established, and all future uses thereof shall be in conformity with applicable provisions of this bylaw. Nor shall there be an expansion of the non-conforming use or a change from the non- conforming use to another use not permitted in the district.

4.3 Changes, Alterations, Enlargement and Restoration of Non-Conforming Structures in the cases of Single and Two-family Residences: Addition, enlargement, extension, or restoration to any single or two-family residence shall be permitted provided that such addition, enlargement, extension, or restoration shall not increase the extent of the existing non-conformity nor add degrees of non-conformity unless the Board of Appeals shall issue a Special Permit allowing same. The Board of Appeals in deciding whether to issue a special permit must consider the following:

4.3.1 The proposed structure shall not be more detrimental to the neighborhood than the existing structure.

4.3.2. Setbacks shall conform to Table 7.2 annotated except for the side yard, which may be reduced to 25 feet.

4.4 Changes, Alterations, Enlargement and Restoration of Non-Conforming Structure excluding Single and Two-family Residences:

No non-conforming structure shall be altered, enlarged, or restored unless changed to a conforming structure or the Board of Appeals issues a
Special Permit allowing same. The Board of Appeals in deciding whether to issue a special permit, must consider the following:

4.4.1 The proposed structure shall not be more detrimental to the neighborhood than the existing structure.

4.4.2 Setbacks shall conform to Table 7.2 annotated.

SECTION 5.

NEW CONSTRUCTION AND NEW USES

Section 5 approved 1973, unless otherwise noted

5.1 For the purpose of this bylaw, any lawful building or structure or use of a building, structure or land, or part thereof, may be constructed, altered, enlarged, repaired, occupied and used for any purpose which does not violate any section of this bylaw or any of the provisions of the bylaws of the Town of Hampden.

5.2 For the safety and the general welfare, all principal buildings designed or intended for residential purposes hereafter erected shall be in a location which fronts upon a street as defined by this bylaw.

5.3 Requirements respecting lot size and frontage provided in this bylaw shall be subject to exemptions provided by Section 6, Chapter 40A of the General Laws of the Commonwealth of Massachusetts and shall not apply to a lot recorded with the Registry of Deeds prior to publication of the notice of the Planning Board hearings respecting this bylaw unless adjoining land is vacant and in the same ownership.

5.4 A lot on which there existed at the time of the adoption of this bylaw two (2) or more dwelling houses may be divided into as many lots as there were dwelling houses thereon, notwithstanding any requirements respecting lot size and frontage, provided the lot is divided in such manner that the resulting lots shall conform as nearly as possible to area and frontage requirements of this bylaw.

5.5 Any construction or use for which a building permit was legally issued prior to the publication of the notice of the Planning Board hearing respecting this bylaw shall be permitted, notwithstanding non-compliance with the requirements of this bylaw and provided such construction or use is commenced within six (6) months after the issuance of the permit and, in the case of construction, completed as provided in Section 9 and 10 of Chapter 40A of the General Laws of the Commonwealth of Massachusetts.

5.6 No provision of this bylaw shall be construed to be contrary to the provisions of Chapter 40A, Section 3, of the General Laws of the Commonwealth of Massachusetts, pertaining to religious and educational uses.

5.7 Environmental Impact Study *Approved 1986*

The Planning Board may require an environmental impact study in the case where the additional rate and volume of runoff created by the subdivision/development may cause an impact on downstream properties, receiving streams, etc. The developer must undertake a comprehensive hydrology study of the area which is planned to be developed and the downstream and/or adjacent properties.

1. Drainage area, including:
    a. Area
    b. Cover type
    c. Soil types
    d. Soil percolation rates for each type of soil cover material encountered.
2. Drainage patterns
3. Dry/wet weather water levels of all streams, rivers, ponds, retention basins, etc.
4. Rate of runoff correlated:
    a. Intensity of storm event
    b. Intensity and duration of storm intent
    c. Runoff characteristics vs. frozen and unfrozen ground conditions
5. Predictions of the following must be developed:
    a. Time Parameters
        1. Slope (s) within the affected drainage area
        2. Flow length
        3. Surface roughness
        4. Time of concentration
        5. Time of travel
        6. Lag time
    b. Runoff rates and effect upon receiving streams and/or properties for both the existing drainage area and the affected drainage area for the following storm frequencies:
        1. 10 year
        2. 25 year
        3. 100 year
        4. 500 year

If, in the opinion of the Planning Board, the data generated above indicates that there may be an impact on downstream properties, public or private, then the Board reserves the right to require the developer to install retention basins to prevent any impact on downstream properties. The retention basin must be of sufficient capacity to retain the full runoff created as a result of the development for a 25-year storm.

All of the above must be prepared by an engineering firm knowledgeable and proficient in hydrology. All data generated through both field and office computations must be stamped by a registered professional engineer.

SECTION 6.

USE REGULATIONS

Section 6 approved 2001, unless otherwise noted

The Use Regulations are intended to protect the public health and safety, to protect persons and property against the hazards of flood water inundation, and unsuitable and unhealthy development of unsuitable soils, swamp land, marsh land, and water courses, to preserve areas for agriculture, and to conserve and increase the amenities of the Town.

6.01 Applicability of Use Regulations. Except as provided for by the Zoning Act or in this bylaw, in each district no building, structure, water body, or lot shall be used or occupied except for the purposes permitted in the district as described in this section.

Any use not listed shall be construed to be prohibited.

See Table 6.0-Table of Uses, on accompanying pages which are declared to be a part of this bylaw.

6.02 Use Designations. In the *Table of Use Regulations* the following abbreviations and use designations apply:

P	Use Permitted
N	Use Prohibited
SPB	Use allowed by Special Permit from the Planning Board
SPB-PA	Use allowed by Special Permit with Site Plan Approval from the Planning Board
SPR-AD	Use allowed by Site Plan Review-Administrative Review by the Planning Board
SZBA	Use allowed by Special Permit from the Zoning Board of Appeals

Other Abbreviations:

SPGA	Special Permit Granting Authority
SPRA	Site Plan Review Authority

6.03 Abbreviations for zoning districts:

R-6	Residential district R-6
R-4	Residential district R-4
MD	Multi-unit Dwelling district
B	Business district
C	Commercial district
LI	Light Industrial district
FP/W	Floodplain/Wetland district
WSP	Water Supply Protection district
GR	Golf Recreational district
N-PER	Non-Profit Educational and Recreational district

6.04 Uses Subject to Other Regulations. Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other provisions of this Bylaw.

6.0 Table of Use Regulations

	General Uses		Residential		Business	Commercial	Industrial	Special Districts				
	District	**R-6**	**R-4**	**MD**	**B**	**C**	**LI**	**FPW**	**GR**	**N-PER**	**WSP**	**Standards and Conditions**
	Principal Uses											
1.0	RESIDENTIAL USES											
1.11	Single-family detached dwelling	P	P	N	N	N	N	N	SPB	P	See Notes A and C	See Sections 6.81-7. See notes A and C at the end of the Table.
1.12	Multifamily dwelling	N	N	SPB-PA	N	N	N	N	N	N	See Notes A and C	See notes A and C and Section 6.3.
1.13	Boarding house/rooming house: Up to two lodging units with no cooking facilities, and is in an existing dwelling	SPB	SPB	N	N	N	N	N	N	N	See Notes A and C	
1.14	Boarding house/rooming house: Up to four lodging units with no cooking facilities, and is in an existing dwelling	N	SPB	N	N	N	N	N	N	N	See Notes A and C	
1.15	Congregate housing for elderly and handicapped persons	SPB-PA	SPB-PA	SPB-PA	SPB-PA	N	N	N	N	N	See Notes A and C	See Definitions.

	General Uses		Residential		Business	Commercial	Industrial	Special Districts				
	District	R-6	R-4	MD	B	C	LI	FPW	GR	N-PER	WSP	Standards and Conditions
	Principal Uses											
1.16	Housing for the elderly/senior apartments	N	P	P	N	N	N	N	SPB-PA	N	See Notes A and C	Restricted to Housing Authority; apply to non-profit and for-profit developments. See definitions.
1.17	Life care facility/ Assisted living facility	N	SPB-PA	SPB-PA	SPB-PA	SPB-PA	N	N	N	N	See Notes A and C	See Definitions.
1.18	Planned Unit Residential Development (PURD)	SPB -PA	SPB-PA	N	N	N	N	N	N	N	See Notes A and C	See Section 7.13.
1.19	Flexible Residential Open Space Development	SPB	SPB	N	N	N	N	N	N	N	See Notes A and C	See Section 7.15.
1.20	Common driveways	SPB	SPB	N	N	N	N	N	SPB	N	See Notes A and C	See Section 7.5
1.21	Mobile home or trailer home (temporary - up to 60 days in any calendar year)	N	N	N	N	N	N	N	N	N	See Notes A and C	See definitions. Requires Building Commissioner approval under Hampden Zoning Bylaw , Section 7.11.
2.0	CIVIC USES											
2.11	Church or other religious purpose	SPR-AD	SPR-AD	SPR-AD	SPR-AD	SPR-AD	SPR-AD	N	SPR-AD	SPR-AD	See Notes A and C	In accordance with M.G.L. Chapter 40A. See Notes A and C.

	General Uses		Residential		Business	Commercial	Industrial	Special Districts				
	District	R-6	R-4	MD	B	C	LI	FPW	GR	N-PER	WSP	Standards and Conditions
	Principal Uses											
2.12	Public educational institution	SPR-AD	SPR-AD	SPR-AD	SPR-AD	SPR-AD	SPR-AD	N	SPR-AD	SPR-AD	See Notes A and C	In accordance with M.G.L. Chapter 40A. See Notes A and C.
2.13	Private educational institution	SPR-AD	SPR-AD	SPR-AD	SPR-AD	SPR-AD	SPR-AD	N	SPR-AD	SPR-AD	See Notes A and C	See Notes A, B, and C.
2.14	Childcare center	SPB-PA	SPB-PA	P	P	P	P	N	P	P	See Notes A and C	See Definitions and notes B and C.
2.15	Public recreation use and outdoor recreation	SPR-AD	SPR-AD	SPR-AD	SPR-AD	SPR-AD	SPR-AD	N	SPR-AD	SPR-AD	See Notes A and C	See Notes A and C, and Section 6.924-2.a; also Definitions.
2.16	Non-commercial passive recreation use, including, but not limited to, parks, boating, fishing and hunting (where legally permitted),hiking trails or cross country ski trails.	P	P	P	P	P	P	P	P	P	See Notes A and C	See Notes A, B and C,,and Definitions. Picnic areas must have adequate provisions for parking and waste disposal.
2.17	Non-commercial active recreational use, including but not limited to tennis courts, swimming pools or golf.	SPB	SPB	P	P	P	P	SZBA	SPB	P	See Notes A and C	See Notes A, B and C and Definitions.

	General Uses		Residential		Business	Commercial	Industrial	Special Districts				
	District	R-6	R-4	MD	B	C	LI	FPW	GR	N-PER	WSP	Standards and Conditions
	Principal Uses											
2.18	Commercial recreation uses, including but not limited to golf facilities, water slides, batting cages	N	N	N	SPB-PA	SPB-PA	N	N	SPB-PA	N	See Notes A and C	A clubhouse is permitted with site plan review in the GR district.
2.19	Day camps, overnight camps, and campsites where tents are used for shelter	SZBA	SZBA	N	N	N	N	N	N	P	See Notes A and C	See Notes A, C, and Definitions.
2.20	Town building except public works garage and fire station	P	P	P	P	P	P	P	P	P	See Notes A and C	In accordance with M.G.L. Chapter 40A. See Notes A, B and C.
2.21	Town public works garage and fire station	SPB	SPB	SPB	P	SPB	SPB	N	SPB	SPB	See Notes A and C	In accordance with M.G.L. Chapter 40A. See Notes A, B and C.
2.22	Cemetery	SPB-PA	SPB-PA	SPB-PA	N	N	N	N	N	N	See Notes A and C	
2.23	Library, classrooms, o r museum	SPR-AD	SPR-AD	SPR-AD	SPR-AD	SPR-AD	SPR-AD	N	SPR-AD	SPR-AD	See Notes A and C	In accordance with M.G.L. Chapter 40A. See Notes A, B and C.
2.24	Hospital or nursing home	N	N	SPB	SPB	SPB	N	N	N	N	See Notes A and C	
2.25	Elder care home	P	P	N	N	N	N	N	P	N	See Notes A and C	See Definitions.

	General Uses		Residential		Business	Commercial	Industrial	Special Districts				
	District	R-6	R-4	MD	B	C	LI	FPW	GR	N-PER	WSP	Standards and Conditions
	Principal Uses											
2.26	Public utilities and essential services	SPR-AD	SPR-AD	SPR-AD	SPR-AD	SPR-AD	SPR-AD	SZBA	SPR-AD	SPR-AD	See Notes A and C	See definitions and Notes A and C.
2.27	Water protection facilities	P	P	P	N	P	N	N	N	N	See Notes A and C	
3.0	AGRICULTURAL USES											
3.11	Agriculture, horticulture, viticulture, aquaculture uses on parcels of land 5 acres or more	P	P	P	P	P	P	P	P	P	See Notes A and C	
3.12	Commercial livestock, dairy, poultry farm on parcels of land 5 acres or more	P	P	P	P	P	P	P	P	P	See Notes A and C	
3.13	Farm business, commercial greenhouse on parcels of land 5 acres or more	P	P	P	P	P	P	P	P	P	See Notes A and C	See definition of farm business.
3.14	Farm stand on parcels of land 5 acres or more	P	P	P	P	P	P	P	P	P	See Notes A and C	See definition of farm stand.
3.15	Agriculture, horticulture, viticulture, aquaculture uses on parcels of land less than 5 acres	P	P	P	P	P	P	P	P	P	See Notes A and C	
3.16	Commercial livestock, dairy, poultry farm on parcels of land less than 5 acres	SPB	SPB	SPB	P	P	P	P	P	P	See Notes A and C	See Notes A, B and C.

	General Uses		Residential		Business	Commercial	Industrial	Special Districts				
	District	R-6	R-4	MD	B	C	LI	FPW	GR	N-PER	WSP	Standards and Conditions
	Principal Uses											
3.17	Farm business, commercial greenhouse on parcels of land less than 5 acres	SPB	SPB	SPB	P	P	P	N	P	P	See Notes A and C	See definition of "Farm business"; see Notes A, B and C.
3.18	Farm stand on parcels of land less than 5 acres	P	P	P	P	P	P	N	P	P	See Notes A and C	See definition of farm stand; see Notes A, B and C.
3.19	Tree farm, nursery, forestry	P	P	P	P	P	P	P	P	P	See Notes A and C	
3.20	Raising and keeping horses	P	P	N	N	N	N	P	N	N	See Notes A and C	See Notes B and C. A barn is a requirement. See section 6.11-2.
3.21	Non-commercial kennel	SPB-PA	SPB-PA	N	P	N	N	N	N	N	See Notes A and C	Ten acres required, 20' buffer, and 200' from lot lines.
3.22	Veterinary clinic (Added 4/27/15)	N	N	N	P	P	N	N	N	N	See Notes A And C	
3.23	Veterinary hospital (Amended 4/27/15)	N	N	N	P	P	N	N	N	N	See Notes A and C	
4.0	RETAIL AND SERVICE USES											
4.11	Retail establishment selling principally convenience goods	N	N	N	SPB-PA	SPB-PA	P	N	SPB	N		

	General Uses		Residential		Business	Commercial	Industrial	Special Districts				
	District	R-6	R-4	MD	B	C	LI	FPW	GR	N-PER	WSP	Standards and Conditions
	Principal Uses											
4.12	Retail establishment selling general merchandise; salesrooms	N	N	N	SPB-PA	SPB-PA	N	N	SPB	N	See Notes A and C	
4.13	Gift shops and places for the display of handicrafts	N	N	N	SPB-PA	SPB-PA	N	N	N	P	See Notes A and C	See Note A.
4.14	Restaurant	N	N	N	SPB	SPB	SPB ~~N~~	N	SPB-PA	N	See Notes A and C	See Note A and definitions.
4.15	Adult uses	N	N	N	N	N	SPB-PA	N	N	N	See Notes A and C	See definitions; M.G.L. Chapter 272, Section 72; Ch. 40A, S. 9A.
4.16	Hotels and motels	N	N	N	SPB-PA	N	N	N	N	N	See Notes A and C	
4.17	Lodging house	N	N	N	SPB-PA	N	N	N	N	N	See Notes A and C	
4.18	Bed and breakfast inn	SPB	SPB	N	SPB	SPB	N	N	SPB	N	See Notes A and C	See Definitions and Note A.
4.19	Funeral establishment or mortuary	N	N	N	SPB-PA	N	N	N	N	N	See Notes A and C	See Definitions and Note A.
4.20	Business or professional offices or banks	N	N	N	SPB-PA	SPB-PA	SPB-PA	N	N	N	See Notes A and C	See Definitions and Note A.
4.21	Membership club	N	N	SZBA	SPB-PA	N	N	N	N	N	See Notes A and C	See definitions. See Note A.

	General Uses		Residential		Business	Commercial	Industrial	Special Districts				
	District	R-6	R-4	MD	B	C	LI	FPW	GR	N-PER	WSP	Standards and Conditions
	Principal Uses											
4.22	Conversion of an existing structure to offices	N	N	N	SPB-PA	SPB-PA	SPB	N	N	N		See Note A. The exterior residential character of the structure shall not be altered; no retail sales.
4.23	Amusement business	N	N	N	SPB-PA	~~N~~	N	N	N	N		See definitions.
4.24	Commercial recreation use	N	N	N	SPB-PA	SPB-PA	N	N	SPB	N	See Notes A and C	See definitions.
4.25	Communications and television towers	SZBA	SZBA	SZBA	SZBA	SZBA	SZBA	N	SZBA	SZBA	See Notes A and C	See Wireless Communications Bylaw, Section 7.14. See Note B.
4.26	Parking areas or garages for use by employees, customers, or visitors	N	N	N	SPB-PA	SPB-PA	SPB-PA	N	SPB	P	See Notes A and C	See Note A.
4.27	Gasoline service stations, garages and repair shop	N	N	N	SPB-PA	SZBA	N	N	N	N	See Notes A and C	See definitions.
4.28	Self-service storage facility	N	N	N	SPB-PA	SPB-PA	SPB-PA	N	N	N		See Note A.
4.29	Laundry, dry cleaning shop, or other personal services	N	N	N	SPB-PA	SPB-PA	N	N	N	N	See Notes A and C	
4.30	Utility structures and warehouses	N	N	N	N	SPB-PA	SPB-PA	N	N	N	See Notes A and C	See Note A.
4.31	Sales yards	N	N	N	SZBA	SZBA	SZBA	N	N	N	See Notes A and C	See Definitions.

	General Uses		Residential		Business	Commercial	Industrial	Special Districts				
	District	R-6	R-4	MD	B	C	LI	FPW	GR	N-PER	WSP	Standards and Conditions
	Principal Uses											
4.32	Banquet Facility (Added 4/27/15)	N	N	N	SPB	SPB	SPB	N	SPB-PA	N	See Notes A And C	See Note A and Definitions.
5.0	WHOLESALE, TRANSPORTATION AND INDUSTRIAL USES											
5.11	Earth removal	SZBA	SZBA	N	SZBA	SZBA	SZBA	N	N	N	See Notes A and C	
5.12	Processing earth products	N	N	N	N	SZBA	SPB	N	N	N	See Notes A and C	See Section 7.8
5.13	Manufacturing	N	N	N	N	SPB-PA	SPB-PA	N	N	N	See Notes A and C	
5.14	Construction industry and suppliers	N	N	N	N	N	SPB-PA	N	N	N	See Notes A and	C
5.15	Freight and trucking terminal and warehousing (6.6.1.3)	N	N	N	N	SPB-PA	SPB-PA	N	N	N	See Notes A and C	See Section 6.61-1.
5.16	Other transportation service	N	N	N	SPB	N	SPB-PA	N	N	N	See Notes A and C	Van or livery service.
5.17	Wholesale trade and distribution	N	N	N	N	SPB-PA	SPB-PA	N	N	N	See Notes A and C	See Section 6.61-1.

	General Uses		Residential		Business	Commercial	Industrial	Special Districts				
	District	R-6	R-4	MD	B	C	LI	FPW	GR	N-PER	WSP	Standards and Conditions
	Principal Uses											
5.18	Open storage of materials and equipment	N	N	N	N	SPB-PA	SPB-PA	N	N	N	See Notes A and C	See 6.61-1.
5.19	Research offices and development activities	N	N	N	N	N	SPB-PA	N	N	N	See Notes A and C	
5.20	Scientific research laboratories, scientific development, or related production	N	N	N	N	N	SPB-PA	N	N	N	See Notes A and C	
5.21	Printing	N	N	N	P	P	P	N	N	N	See Notes A and C	
5.22	Publishing, data processing	N	N	N	P	P	P	N	N	N	See Notes A and C	
5.23	Assembling, packaging	N	N	N	N	N	SPB-PA	N	N	N	See Notes A and C	
5.24	Medical or dental laboratories	N	N	N	SPB-PA	SPB-PA	SPB-PA	N	N	N	See Notes A and C	
5.25	Photographic studios	N	N	N	SPB-PA	SPB-PA	SPB-PA	N	N	N	See Notes A and C	
5.26	Hazardous waste facilities	N	N	N	N	N	SPB-PA	N	N	N	See Notes A and C	See Definitions.
5.27	Registered Marijuana Dispensary (RMD)	N	N	N	N	N	SPB-PA	N	N	N	See Notes A and C	See Definitions

	General Uses		Residential		Business	Commercial	Industrial	Special Districts				
	District	R-6	R-4	MD	B	C	LI	FPW	GR	N-PER	WSP	Standards and Conditions
	Principal Uses											
5.28	Off-Site Medical Marijuana Dispensary	N	N	N	N	N	SPB-PA	N	N	N	See Notes A and C	See Definitions
6.0	ACCESSORY USES											
6.11	Home occupation/ professional office	SPR-AD	SPR-AD	SZBA	SZBA	SZBA	N	N	N	SPR-AD	See Notes A and C	See Definitions and Section 7.12.
6.12	Home occupation/ professional office in an accessory building	SPB-PA	SPB-PA	SPB-PA	SPB-PA	SPB-PA	N	N	SPB-PA	SPB-PA	See Notes A and C	See Notes A and C
6.13	Swimming pool, or neighborhood pool	P	P	P	N	N	N	N	SPB	N	See Notes A and C	See Section 7.4. See Definitions.
6.14	Accessory building, or other structure	P	P	N	P	P	SZBA	N	SPB	P	See Notes A and C	See Section 7.3.
6.15	Accessory buildings for pets or other animals for the personal use of the residents of the premises	P	P	N	N	N	N	SZBA	N	N	See Notes A and C	See definitions and Section 6.11-2.
6.16	Accessory buildings for maintaining wildlife in captivity	N	N	N	N	N	N	N	N	P	See Notes A and C	See Section 6.81-2.
6.17	Family childcare home	P	P	P	P	N	N	N	P	P	See Notes A and C	See definitions.

	General Uses		Residential		Business	Commercial	Industrial	Special Districts				
	District	R-6	R-4	MD	B	C	LI	FPW	GR	N-PER	WSP	Standards and Conditions
	Principal Uses											
6.18	Elder care home	P	P	P	P	P	N	N	P	P	See Notes A and C	See Definitions.
6.19	Buildings for storage and maintenance of equipment	SPB	SPB	SPB	SPB	SPB	SPB	N	SPB	P	See Notes A and C	See Note A.
6.20	Accessory private garage for more than three vehicles	SPB-PA	SPB-PA	N	SPB	SPB	SPB	SPB-PA	SPB	SPB	See Notes A and C	See Note A.
6.21	Storage of one unoccupied motor home or travel trailer and/or two boats not less than 50 feet from any front lot line	P	P	P	SPB	SPB	SPB	N	P	N	See Notes A and C	
6.22	Accessory commercial service for occupants within a hotel, hospital, office, industrial building or transportation terminal for occupants	N	N	P	SPB	SPB	SPB	N	P	P	See Notes A and C	
6.23	Accessory uses to the principal use permitted by right which is necessary in connection with scientific research or scientific development or related products	N	N	N	N	N	SPB	N	N	N	See Notes A and C	
6.24	Instructional use or facility, classroom	SZBA	SZBA	N	SPB	SPB	SPB	N	P	P	See Notes A and C	
6.25	Solar Energy System(s) (Added 4/27/15)	P	P	P	P	P	P	N	P	P	N	See Notes A & C **Special Permit required for systems larger than 3,501 sq. ft**.

	General Uses		Residential		Business	Commercial	Industrial	Special Districts				
	District	**R-6**	**R-4**	**MD**	**B**	**C**	**LI**	**FPW**	**GR**	**N-PER**	**WSP**	**Standards and Conditions**
Principal Uses												
6.26	Wind Energy Conversion Systems(s) (Added 4/27/15)	SPB-PA	SPB-PA	SPB-PA	SPB-PA	SPB-PA	SPB-PA	SPB-PA	SPB-PA	SPB-PA	SPB-PA	See Notes A & C
Refer to Section 6.02 and 6.04 for the key to abbreviations used in Table 6.0												
NOTES:												

A. The Water Supply Protection District is an overlay zone which imposes additional restrictions on specified uses. Within the Water Supply Protection District permitted uses or uses requiring a Special Permit from the SPGA must meet all applicable restrictions or requirements of Section 6.11. Note that Section 6.11 prohibits certain business and industrial uses which may be hazardous to water supplies.

B. Within the Floodplain and River Protection district, permitted uses or uses requiring a Special Permit from the SPGA must meet all applicable requirements of Section 6.9.

C. Use listed as allowed by Special Permit in overlay districts, are so permitted only in cases where the use is allowed by right or by Special Permit in the underlying district. If a use is prohibited in the underlying district, it shall remain prohibited in the overlay district

6.1 The R-4 and R-6 District are intended for residential and non-commercial uses as permitted according to the Table of Use Regulations 6.0. (Amended 4/29/2013)

6.11 Additional regulations:

1. Private garages shall be limited to as many stalls plus one (1) as there are bedrooms in the dwelling of which it is an accessory use. In addition, all accessory building(s) shall not exceed, in aggregate area, a square footage which is more than one half (1/2) the ground floor area of the main dwelling including any attached garage. Any deviation from the above will require a special permit from the Planning Board as provided in Section 10 of the Zoning Bylaws.

2. Any accessory buildings, including barns, sheds, and workshops, for the personal use of the residents of the premises are permitted subject to the size restrictions outlined in Section 6.11; provided that no building used for horses, livestock or for more than 3 “pets”, is located within 50 feet of any occupied dwelling on the premises or within 65 feet of the premises property line.

6.2 The R-4 and R-6 District are intended for residential and non-commercial uses as permitted according to the Table of Use Regulations 6.0. (Amended 4/29/2013)

6.21 Additional regulations:

Housing projects for Elderly Persons

a. Minimum area required shall be 6000 sq. feet of usable lot area per dwelling unit.

b. The site shall consist of not less than six (6) acres.

c. No minimum frontage will be required except entrances shall be fifty (50) feet, including buffer strips if required.

d. Distance between buildings shall be a minimum of thirty (30) feet.

e. Minimum side and rear set-backs, including buffer strips, shall be fifty (50) feet from adjacent abutting property.

f. A twenty (20) foot buffer strip shall be established and maintained around the entire perimeter of the Building Project.

g. The gross floor area per dwelling unit shall not be less than four hundred fifty (450) square feet.

h. There shall be a minimum of twelve (12) dwelling units per building.

i. Off street parking ratio shall not be less than one (1) space for each two (2) dwelling units.

j. All proposed utilities shall be installed underground at the time of the initial construction.

k. Plans submitted by the Hampden Housing Authority must meet the approval of the Hampden Planning Board before a building permit can be issued.

6.3 The Multi-Unit Dwelling District is intended to provide for the erection of garden-type apartments as permitted according to the Table of Use Regulations 6.0.

6.31 Additional regulations

1. The minimum lot area for any lot used for a Multi-Unit Dwelling shall be one hundred thousand (100,000) square feet and shall be increased by ten (10) percent for each dwelling unit over three (3).

2. The minimum lot frontage for any lot used for Multi-Unit dwellings shall be two hundred twenty (220) feet and shall be increased by ten (10) percent for each unit of three (3).

3. No Multi-Unit Dwelling shall be built less than one hundred (100) feet from the front lot line.

4. No Multi-Unit Dwelling shall be built less than fifty (50) feet from the side lot line.

   a. When a side or rear yard borders on a street, the minimum distance between the lot line and any Multi-Unit Dwelling shall be one hundred (100) feet.

5. No Multi-Unit Dwelling shall be built less than fifty (50) feet from the rear lot line.

6. The minimum distance between Multi-Unit Dwellings shall be fifty (50) feet.

7. Detached accessory structures must be located on the rear or side yard of a Multi-Unit Dwelling and shall be no greater than fifteen (15) feet in height and shall comply with setbacks in accordance with Section 7, paragraph 7.3.

8. Two parking spaces per family unit must be provided in the rear of the front setback line, and in no case may the parking area be within twenty (20) feet of any lot line.

9. Multi-Unit Dwellings shall be no more than two (20 stories and attic, and the building shall not exceed thirty-five (35) feet in height.

10. The floor area for each unit shall be a minimum of four hundred eighty (480) square feet.

11. Each Multi-Unit Dwelling shall be limited to a maximum of twelve (12) units.

6.4 The Business District is intended to provide for consumer goods and service uses as permitted according to the Table of Use Regulations 6.0.

6.5 The Commercial District is intended to provide for goods and services for transients or tourists, and non-consumer goods and services uses as permitted according to the Table of Use Regulations 6.0.

6.6 Limited Industrial District Approved 1978

The Limited Industrial District is intended for use by research laboratories, office buildings and light industries which are compatible with a low density, rural residential community uses as permitted according to the Table of Use Regulations 6.0.

6.61 Additional regulations

Uses permitted by Special Permit or as provided in the Table of Uses.

1. Building materials, sales rooms, contractors' yards, storage warehouses and buildings, and wholesale distribution plants are permitted provided that:

a. All loading and unloading is done at the rear of the building.

b. All outdoor storage of materials and equipment is screened from view from public ways and abutting property.

2. A dwelling for a caretaker or watchman is permitted when contained in the same structure as the permitted use.

6.7 The Golf Recreational District is intended for a commercial golf course and the normal and usual accessory uses as permitted according to the Table of Use Regulations 6.0.

Additional regulations:

Uses permitted by Special Permit or as provided in the Table of Uses

1. A residence for caretaker shall be permitted provided:

a. One (1) residence for a caretaker is permitted within a Golf Recreational Project.

b. The residence shall be considered a part of the Golf Recreational project and may not be sold separately.

6.72 Requirements for Developing:

In a Golf Recreational District the following conditions of development must be met and maintained in the construction of any golf course.

1. Utilities

a. All proposed utilities shall be installed underground at the time of the initial construction.

b. Fire Alarm System:
There shall be a fire alarm system as approved by the National Fire Protection Association Standards and the Hampden Fire Department.

c. Waste Disposal:
There shall be a satisfactory design and location of collection points for the disposal of solid wastes as approved by the Hampden Board of Health.

d. Sewage Treatment:
A sewage treatment system as approved by the State of Massachusetts Department of Public Health shall be provided to serve the maximum facilities of the golf course, restaurant, and accessory uses. The owner (s) of the golf course shall be responsible for the maintenance of such treatment system as prescribed by the State Department of Health and the Town of Hampden.

2. All areas, including set-backs, buffer strips, and land left in its natural state, shall be maintained by the owner (s) of the golf course.

3. Landscaping

a. In all areas where the golf course abuts existing or proposed property development, the one hundred (100) foot landscaped buffer strip shall be densely treed to help reduce the hazard of misdirected golf balls to the neighbors.

4. The following shall be the procedure for submission of an application for a Golf Recreational District: (Amended – Sub-Section 4(d) Payment deleted 4/27/15)

a. Preliminary Plan (Form B of Rules and Regulations Governing the Subdivision of Land) and Section 3.1

(1) Each application for approval of a Preliminary Plan for a commercial golf course shall be accompanied by an original and nine (9) prints, to be submitted to the Planning Board.

(2) The Preliminary Plan shall conform to Section 3.1 of the Rules and Regulations Governing the Subdivision of Land in Hampden, and shall show the location of all structures within two hundred (200) feet of the property boundary.

(3) The Preliminary Plan is intended to show all features affecting the function of the golf course area, including, but not limited to runoff and drainage; circulation of vehicles and pedestrians; recreational facilities and their use: utilities such as sewage, water, electricity, gas, for all areas: and include hydrological, soil, and sub-surface studies evaluating the site for development. The Preliminary Plan shall include a general time table for construction of the entire project.

(4) Circulation Plan:
Accompanying each copy of the Preliminary Plan shall be a circulation plan showing the street system and circulation patterns within and adjacent to the proposed development including any special engineering features, such as, but not limited to, median strips, overpasses and underpasses, and major pedestrian paths.

b. Definitive Plan (Form C of Rules and Regulations Governing the Subdivision of Land) and Section 3.2

(1) Each application for approval of a definitive plan for a commercial golf course shall be accompanied by an original and nine (9) prints of a definitive plan to be submitted to the Planning Board.

(2) The Definitive Plan shall conform to Section 3.2 of the Rules and Regulations Governing the Subdivision of Land in Hampden and include all structures within two hundred (200) feet of the property boundary.

(3) The Definitive Plan is intended to show all aspects of the commercial golf course and shall include, but not limited to, location of streets, parking areas, sidewalks, landscaping utilities, drainage and structures. The Definitive Plan shall include a time table for the construction of the drainage system, roads, all landscaping, and buildings.

c. Performance Guarantee:
Before endorsement of approval of a Definitive Plan of a golf course, the developer shall contract to construct and complete the golf course as required by Sections 6.72 and 6.73 hereof, such construction and completion to be secured in accordance with the provisions of G.L. Chapter 41, 81-U as amended.

6.8 Non-Profit Educational and Recreational District Approved 1978

Use regulations for the Non-profit Educational and Recreational District shall be in accordance with the Table of Use Regulations 6.0.

There may be in the Town of Hampden a Non-Profit Educational and Recreational District intended to permit the study of natural history including examination and preservation of plant and wildlife species, and for related non-profit recreational activities.

6.81 Additional regulations: Uses permitted in such a District shall be limited to the following:

1. The storage, repair and maintenance of equipment associated with the permitted uses.

2. Facilities for maintaining wildlife in captivity subject to applicable state and federal regulations.

3. Sales will be limited to refreshments consumed on the premises and items normally associated with the permitted uses.

4. Nature trails for pedestrians, cross-country skiing, snowshoe hikes, bicycling and horseback riding.

5. Supervised camping activities, both day and night, provided no continuous camping program shall exceed six (6) weeks duration and no permanent structures shall be constructed specifically for camping purposes.

6. The charging of program and admission fee.

7. Two (2) residences for caretakers are permitted within a Non-Profit Educational and Recreational District. The residences shall be considered part of the District and may not be sold separately.

6.82 Layout and Design Requirements - Heights, Set-back and Other Specifications:

1. Accessory buildings exceeding one hundred (100) square feet in ground floor area shall be a minimum of fifty (50) feet in any direction from any other building.

2. Front setback for buildings and activity areas shall be 100 feet.

3. Side and rear set-backs for buildings and activity areas shall be 200 feet from adjacent abutting property, except for nature trails as defined in Section 6.81-4 which shall not be within fifty (50) feet of the boundary line.

4. Where the Non-profit Educational and Recreational District abuts a residential area, a minimum 50 feet landscaped or natural state buffer strip shall separate this District from abutting property.

5. Buffer strips shall be left natural or landscaped as required by the Hampden Planning Board and can be used only as buffer strips and not as roads, parking or for any other activity.

6. All Exterior artificial lighting, other than street lighting approved by the Selectmen, shall be restricted in accordance with Section 7.72-9 to the lighting of walks, driveways, parking areas and activity areas necessary for the operation thereof and public safety. Any such lighting shall be shaded and directed in such a manner so as not to constitute a nuisance.

7. Roads and Parking Areas:

   a. All parking shall be regulated as prescribed in Section 7.5

8. Surface Drainage:
   There shall be no change in direction, volume, or velocity without prior approval of the Planning Board. Drainage shall be piped and discharged into a natural drainage area if feasible from a cost and engineering analysis.

9. Non-Conforming Buildings shall conform to Section 4.

10. Noise Control shall conform to Section 7.72-10.

6.83 Developmental Requirements

1. Utilities:

   a. All proposed utilities shall be installed underground at the time of the initial construction.

   b. There shall be a fire alarm system as approved by the national Fire Protection Association Standards and the Hampden Fire Department.

   c. There shall be a satisfactory design and location of collection points for the disposal of solid wastes as approved by the Hampden Board of Health.

d. A sewage treatment system as approved by the Massachusetts Department of Public Health and the Hampden Board of Health shall be provided to serve the maximum facilities. The owners of the Non-Profit Educational and Recreational Project shall be responsible for the maintenance of such treatment system as prescribed by the Massachusetts Department of Public Health and the Town of Hampden.

2. Maintenance of Grounds:
All areas, including set-backs, buffer strips and land left in its natural state, shall be maintained by the owner (s) of the Non-Profit Educational and Recreational District.

3. Open Space:
A minimum of seventy five per cent (75%) of the total land area will remain in a natural state except for clearly marked nature trails and selective tree and brush cutting necessary to enhance the permitted uses.

4. Pedestrian Safety:
When a Non-Profit Educational and Recreational District is divided by a public street, adequate arrangements must be provided to assure the safety of pedestrian crossing during the special activity periods. The Hampden Police Chief, after notification by the activity director, will determine the necessary safeguards.

5. Sanitary Facilities:
All projects, facilities and activities shall comply with the Massachusetts Sanitary Code and the Hampden Board of Health Regulations.

6.84 Procedure for Submitting an Application for a Non-Profit Educational and Recreational Facility:

No facility may be constructed within the District unless:

1. The Preliminary Plans shall include a site plan, a land survey, and a circulation plan.

a. The site plan is intended to show all features affecting the function of the facility, including, but not limited to, run-off and drainage, specific activity areas and their use, utilities such as sewage, water, electricity and gas for all areas, and hydrological, soil, and sub-surface studies evaluating the site for development.

b. If required by the Planning Board, the Land Survey, drawn up by a registered surveyor, shall show all metes and bounds, easements, rights-of-way, and other features.

c. The Circulation Plan shall show the street system and circulation patterns within and adjacent to the proposed development including any special engineering features such as, but not limited to, median strips, overpasses and underpasses, and major pedestrian paths.

d. The Preliminary Plans shall conform to Section 3.1 of the Rules and Regulations governing the Subdivision of Lane in Hampden and shall show the accurate location of all structures within two hundred (200) feet of the property boundary.

e. Each application for approval of the Preliminary Plans for a project shall be accompanied by the original and nine (9) prints of the Preliminary Plan submitted to the Planning Board. The Preliminary Plans shall include a general timetable for the construction of the entire project.

f. The Preliminary Plans must be submitted before the request for the zone change can be initiated.

2. Definitive Plan

a. The Definitive Plan is intended to show all aspects of the project and shall include, but not limited to, location of streets, parking areas, sidewalks, landscaping, utilities, drainage, and structures.

b. The Definitive Plan shall conform to Section 3.2 of the Rules and Regulations Governing the Subdivision of Land in Hampden, and include all structures within two hundred (200) feet of the property boundary line.

c. Each application for approval of a Definitive Plan for a recreational project shall be accompanied by an original and nine (9) prints of the Definitive Plan submitted to the Planning Board.

d. The Definitive Plan must be approved by the Planning Board before a building permit can be issued.

3. Performance Guarantee

Before endorsement or approval of a Definitive Plan of a Non-Profit Educational and Recreational project, the developer shall contract with the Town of Hampden to construct and complete all the requirements in Sections 6.81 through 6.84 hereof, such construction and completion to be secured in accordance with the provisions of G.L. Chapter 41, 81-U as amended.

4. Fees

Accompanying each application shall be payment in cash or certified check payable to the Town of Hampden.

a. Preliminary Plans
Fifty (50) Dollars plus Two (2) Dollars for each acre of land contained in the Preliminary Plan.

2. Definitive Plan
One Hundred (100) Dollars plus Eight (8) Dollars for each acre of land contained in the Definitive Plan.

3. Zone Change Request
The Applicant shall pay the newspaper advertising costs plus Thirty (30) Dollars for the Planning Board Hearing.

6.9 Floodplain and Wetland Districts (Amended 4/29/13)

6.91 The purpose of these Districts are:

6.911 To provide that the lands in the Town of Hampden subject to seasonal or periodic flooding as described hereinafter shall not be used for residence or other purpose in such a manner as to endanger the health or safety of the occupants thereof.

6.912 To protect, preserve and maintain the water table and water recharge areas within the Town so as to preserve present and potential water supplies for the public and safety of the Town of Hampden.

To assure the continuation of the natural flow pattern of the water course (s) within the Town of Hampden in order to provide adequate and safe flood water storage capacity to protect persons and property against the hazards of flood inundation.

6.92 Floodplain District Boundaries and Base Flood Elevation and Floodway Data

6.921 The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Hampden designated as Zone A, AE, AH, AO, A99, V, or VE on the Hampden County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Hampden County FIRM that are wholly or partially within the Town of Hampden are panel numbers 25013C0430E, 25013C0435E, 25013C0440E, 25013C0445E, 25013C0453E, and 25013C0461E dated July 16, 2013. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Hampden County Flood Insurance Study (FIS) report dated July 16, 2013. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.

6.922 In Zone A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, Local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

6.923 Notification of Watercourse Alteration - Notify, in a riverine situation, the following of any alteration or relocation of a watercourse:

1. Adjacent Communities

2. Bordering State

3. NFIP State Coordinator
   Massachusetts Department of Conservation and Recreation
   251 Causeway Street, Suite 600-700
   Boston, MA 02114-2104

4. NFIP Program Specialist
   Federal Emergency Management Agency, Region I
   99 High Street, 6th Floor
   Boston, MA 02110

6.924 Use Regulations

1. The Flood plain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or special permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:
   - Section of the Massachusetts State Building Code which addresses floodplain areas - currently 780 CMR;

- Wetlands Protection Regulations - currently 310 CMR 10.00;
- Inland Wetlands Restriction currently 310 CMR 13.00;
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, currently - 310 CMR 15, Title V.

Any Variances from the provisions and requirements of the state regulations referenced above may only be granted in accordance with the required variance procedures of these State regulations.

2. In the Wetland District, and in the Flood Plain outside of the Designated Floodway, no new buildings other than accessory buildings or municipal public works structures may be erected or constructed. Construction of accessory buildings in the Flood Plain shall be allowed only so long as they are anchored to prevent flotation and lateral movement, and are constructed with flood-resistant materials and methods, as determined by the Building Inspector in conformance with the State Building Code. Additionally, no dumping, filling, or transfer or relocation shall be permitted in the above mentioned districts, nor shall any land, building, or structure be used for any purpose except:

   a. Outdoor recreation, including play areas, nature study, boating, fishing, and hunting where legally permitted, but excluding buildings and structures

   b. Non-commercial signs (as permitted in the Residential District), foot, bicycle, and/or horse paths and bridges, and wildlife management areas, provided such use does not affect the natural flow pattern on any watercourse.

   c. Grazing and farming, including truck gardening and harvesting of crops.

   d. Forestry and nurseries.

   e. Conservation of water, plants, and wildlife.

   f. Dwellings and other structures and uses lawfully existing prior to the adoption of these provisions, but not including substantial improvements as defined in the National Flood Insurance Programs Rules and Regulations published in the Federal Register of October 26, 1976.

   g. Other uses, which are permitted in the underlying zoning districts, and are proposed within the Wetland and Flood Plain outside of the Designated Floodway, may be allowed by Special Permit from the Board of Appeals subject to the following:

      (1) All proposals for special permits must have been referred to the Planning Board, the Board of Health, and the Conservation Commission for review to assure that: a) such proposals minimize flood damage; b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and c) adequate drainage is provided to reduce exposure to flood hazards. The proposals must be reported favorably by two of the three boards. If the boards fail to act upon the proposal or fail to notify the Town Clerk and the applicant of their action within forty-five days after its submission, the

proposal shall be deemed approved, and the Town Clerk shall issue a certificate to the same effect.

(2) The proposed use will not be detrimental to the public health, safety and welfare.

(3) All proposed new construction in the Flood Plain must be in conformance with the regulations as referenced in Section 6.924-1 of this bylaw as determined by the Building Inspector.

(4) In the Flood Plain all subdivision proposals and other proposed new developments greater than fifty (50) lots or five (5) acres, whichever is less, must include base flood elevation data.

(5) All new water systems must be located and designed so as to avoid impairment due to flooding.

(6) Within Zone AE, all new construction and substantial improvements (the cost of which equals or exceeds fifty percent of the market value of the structure) of residential and non-residential structures shall conform to the regulations as referenced in Section 6.924-1 of this bylaw.

(7) Within Zone A (un-numbered A zone), where the base flood elevation is not provided on the Flood Insurance Rate Map, the applicant shall produce the best available Federal, State, local or other floodway data which shall be used to ensure conformance to the State Building Code Section 780 CMR. In cases where data is not available the Wetlands Protection Act may require engineering studies to be performed in order to determine base flood elevations in unnumbered A zones.

(8) Where watertight flood proofing of a structure is permitted in lieu of elevation, a registered professional engineer or architect shall certify to the building inspector that the methods used are in conformance with the regulations as referenced in Section 6.924-1 of this bylaw.

(9) The proposed use must comply in all other respects to the provisions of the underlying District or Districts within which the land is located.

(10) No encroachments (including fill, new construction, substantial improvements to existing structures, or other development) shall be allowed unless it is demonstrated by the applicant that the proposed development, as a result of compensating actions, will not result in any increase in flood levels during the occurrence of a 100-year flood in accordance with the Federal Emergency Management Agency's regulations for the National Flood Insurance Program.

6.93 Within the designated floodway, no encroachments, including fill, new construction, substantial improvements and other development shall be permitted, except for municipal public works structures and repairs to existing facilities, subject to the provisions in section 6.924(2)(g)(10).

6.94 The portion of any lot within the area delineated on the Hampden Zoning Map as Flood Plain and Wetland district or other existing wetland as defined by M.G.L. Chapter 131, Section 40, may be used to meet the area and yard requirements for the district or districts in which the remainder of the lot is situated (provided the proposed construction site be a non-wetland or non-flood plain area of at least 75% of the minimum lot area requirements).

6.95 Where the bounds are in doubt, the burden of proof shall be on the owner(s) of the land in question, to show where they should be properly located. However, the Town of Hampden retains its authority to determine the actual boundaries of the flood plain/wetland within the area in question.

6.96 The donation of recreational easements to provide public access to the Scantic River shall be encouraged within the Floodplain District.

6.10 Ridgeline and Hillside Overlay District

6.101 Purpose

The purpose of this bylaw is to promote the health, safety and general welfare of the Town by:

1. insuring that any development that takes place within the Ridgeline and Hillside District preserves and protects critical natural resource areas, minimizes visual impact of man-made features and enhances the economic values of the properties located therein;
2. minimizing the removal of native vegetation, especially large timber, and regulating the excavation and alteration of land in order to minimize any danger of erosion, flooding or pollution of the ground or surface water supply (public or private) within the district or any adjacent low lying areas,
3. insuring that all proposed development activities do not reduce property values within the district or adjacent to by unnecessarily detracting from the visual setting or obstructing significant views;
4. to protect historically existing physical features and the preservation and development of linkages from one open space area to another.

6.102 Overlay District

The Ridgeline and Hillside District is an overlay district; therefore the underlying zoning provisions for this area still apply. If there is any conflict between this by-law and any other, the more restrictive shall apply.

6.103 District Delineation

1. The Ridgeline and Hillside District By-Law shall be applied to sensitive mountains or steep slope areas of scenic and natural resource value.

2. The Ridgeline and Hillside District is intended to include those mountain or upland areas which have one or more of the following characteristics:
   a. Steep slopes averaging 15% or greater for 200 feet;
   b. Unique landforms, including bedrock outcrops, till-covered hills, geological rarities, cliffs, or other unusual topographic features;
   c. Any land at an elevation of 600 or more feet above sea level.

6.104 Uses

1. Permitted Uses

   a. Agricultural production, including but not limited to raising of crops, livestock, poultry, nurseries, orchards, hay;
   b. Recreational uses, provided there is minimal disruption of wildlife habitat;
   c. Maintenance and repair usual and necessary for continuance of an existing use;
   d. Conservation of water, plants, and wildlife, including the raising and management of wildlife;
   e. Uses permitted under M.G.L. Chapter 40a, Section 3 with limitations imposed therein.

6.105 Prohibited Uses

1. All uses not permitted in "Section 6.104-1 (Permitted Uses) or Section 6.106 (Work Permitted with Ridgeline and District Review) shall be deemed prohibited.
2. Clear cutting of trees and vegetation shall be prohibited.

6.106 Work Permitted with Ridgeline and Hillside District Review

1. The following uses shall be permitted, subject to Ridgeline and Hillside District Review of project site plans prior to the issuance of a building permit or Special Permit or approval of a definitive plan under the Massachusetts Subdivision Control Law:

   a. Any construction or significant alteration of any dwelling or other structure, if any such action affects the exterior appearance. A significant alteration is defined as any alteration which increases the assessed value of 15%, or which adds to the height of a structure, or which substantially alters the visual profile of the property or structures thereon;
   b. Any commercial or industrial use allowed by Special Permit in the underlying district;
   c. Any subdivision which required approval under the Massachusetts Subdivision Control Law, M.G.L.,Chapter 40;
   d. The Board may waive any or all requirements of the Ridgeline and Hillside District Review for dwelling additions, and or accessory buildings of 400 square feet or less.

2. No work, including clearing or removal of vegetation, grading or construction, shall be undertaken in the Ridgeline and Hillside District, without prior review and approval by the Ridgeline and Hillside Review Board, except for :

   a. agricultural activities;

b. work incidental to construction on the premises under a currently valid Building Permit;
selective cutting of trees or vegetation for normal maintenance or non-commercial purposes on less than one half acre of land, provided that no additional cutting shall be done on the parcel, or on adjoining parcels in common ownership, for a period of two years;

d. selective cutting of an amount not exceeding twenty-five thousand board feet or fifty cords on any parcel of land at any one time, specified in a Forest Cutting Plan approved in accordance with the Mass. Forest Cutting Practices Act (M.G.L. Chapter 132, sections 40-46).

6.107 Ridgeline and Hillside Development Standards

Buildings and landscaping are to be designed and located on the site to blend with the natural terrain and vegetation, and to preserve the scenic character of the site, conforming to the following standards:

1. Building Characteristics

a. Building height shall not exceed thirty-five (35) feet.

b. Exposed foundation walls shall not exceed two (2) feet above the proposed finished grade.

c. Building, alterations, additions, or structures should be placed downgrade of the ridgeline where possible.

d. Building materials shall blend with the natural landscape.

2. Landscaping

a. Removal of native vegetation, especially large timber, shall be minimized and the replacement of vegetation and landscaping shall be generally compatible with the vegetation of the designated area.

b. Trees may only be removed for location and construction of streets, driveways or structures. Selective clearing for views is permitted where the viewshed is obstructed by dense vegetation.

c. Retaining walls, of natural materials only, may be used to create usable yard space in the side and rear yard.

d. Landscaping and plantings shall be utilized to screen major buildings in open or prominent areas from significant views, both when installed and when mature.

3. Grading

Any grading or earth moving operation is to be planned and executed in such a manner that final contours appear to be consistent with the existing terrain, both on and adjacent to the site.

4. Prevention of Water Pollution and Flooding

a. Storage and/or transmission of petroleum or other refined petroleum products is prohibited except within buildings which they will heat or in quantities of 50 gallons or less. Petroleum products stored within a building shall be placed on a diked or impermeable surface to prevent spills or leaks from reaching groundwater.

b. All run-off from impervious surfaces shall be recharged on the site by being diverted to storm water infiltration basins covered with natural vegetation. Storm water infiltration basins must be designed to handle a 25-year storm. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

5. Prevention of Erosion and Sedimentation

a. No area or areas totaling two (2) acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled six (6) inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity or unless necessarily incidental to construction on the premises under a currently valid building permit or unless within streets which are either public or designated on an approved subdivision plan or unless a special permit is approved by the Zoning Board of Appeals on the condition that run-off will be controlled, erosion avoided and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a temporary cover or winter rye or similar plant materials being provided for soil control, except in the case of agricultural activity where such temporary cover would be infeasible.

b. Sediment and erosion control measures shall be employed to minimize such impacts during and after construction, in accordance with guidelines established by the U.S. Soil Conservation Service “Guidelines for Soil and Water Conversation in Urbanizing Areas of Massachusetts.”

6. Utilities

a. Utilities shall be constructed and routed underground except in those situations where natural features prevent the underground siting or where safety considerations necessitate above ground construction and routing. The Review Board may waive this requirement.

b. Above ground utilities shall be constructed and routed to minimize detrimental effects on the visual setting.

7. Site Planning

In the building of more than one structure, variable setbacks, multiple orientations, and other site planning techniques shall be incorporated in order to avoid the appearance of a solid line of development.

8. Accessory Structures

Construction of a tower, satellite dish, windmill, any type of antenna, or other installation shall not obstruct the view of a public way, or from a public way, or from an abutter's dwelling.

6.108 Regulatory Body

The Ridgeline and Hillside District Review Board is a sub-committee of the Planning Board, appointed by the Planning Board, and shall consist of no more than five (5) members. In the absence of such a board, the Planning Board shall administer this Bylaw.

6.109 Procedures For Review by the Ridgeline and Hillside District Review Board

1. Prior to undertaking any work in the Ridgeline and Hillside District, including clearing and removal of vegetation, grading or construction, and prior to applying for a Building Permit, landowners must submit an application for Ridgeline and Hillside Review to the Ridgeline and Hillside Review Board. The Building Inspector shall not accept an application for a Building Permit without an attached Ridgeline and Hillside Review application, which has been reviewed by the Ridgeline and Hillside Review Board.

2. The Ridgeline and Hillside District Review Board shall review the application and return its recommendations in writing to the Building Inspector within thirty-five (35) days of the receipt of the application. If the application for Ridgeline and Hillside District Review is associated with an application for a variance, special permit, or subdivision review, the Ridgeline and Hillside District Review Board shall immediately transmit their recommendations to the Planning Board or Zoning Board of Appeals as appropriate.

3. If the Ridgeline and Hillside District Review Board does not submit its recommendations to the Building Inspector within thirty-five (35) days, such failure to act shall constitute approval of the application.

4. The Ridgeline and Hillside District Review Board's action shall be advisory to the Planning Board and shall consist of either:

   a. A determination that the proposed project will constitute a suitable development and is in compliance with the criteria set forth in the Bylaw;

   b. Approval subject to conditions, modifications, and restrictions as the Ridgeline and Hillside District Review Board may deem necessary.

5. The Building Inspector, Planning Board, and Zoning Board of Appeals shall, in making their permit granting decision, give due consideration to the Ridgeline and Hillside District Review Board's recommendations, and shall communicate all subsequent decisions to said Board.

6.1091 Ridgeline and Hillside District Review Applications

To facilitate siting and design of building sensitively related to the natural setting, applications for the Ridgeline and Hillside District Review of proposed development in the district must be accompanied by the following:

1. Plot Plan

2. View Points - Photographs of the development site taken from points along the street, together with a map indicating the distance between these points and the site.

3. Placement, height and physical characteristics of all existing and proposed buildings and structures located on the development site.

6.1092 Exceptions for Additions to Single Family Residences

Any addition, enlargement, extension, restoration of single family residences or construction of accessory buildings to any single family residences which have been actually and completely constructed prior to the adoption of Section 6.10 shall be exempt from the provisions of Section 6.10.

6.11 Water Supply Protection Overlay District

6.111 Purpose of District

To promote the health, safety and welfare of the community by protecting and preserving the surface and groundwater resources of the Town of Hampden and the region from any use of land or buildings which may reduce the quality and quantity of its water resources.

6.112 Scope of Authority

The Water Supply Protection District is an overlay district and shall be superimposed on the other districts established by this bylaw. All regulations of the Town of Hampden Zoning Bylaw applicable to such underlying districts shall remain in effect, except that where the Water Supply Protection District imposes additional regulations, such regulations shall prevail.

6.113 District Delineation

1. The Water Supply Protection District is herein established to include all lands within the Town of Hampden, lying within the Interim Wellhead Protection Area for town water supply wells, and all lands lying within the primary recharge areas of groundwater aquifers which now or may in the future provide water supply for town residents. The map entitled “Water Supply Protection District,” Town of Hampden, on file with the Town Clerk, delineates the boundaries of the district.

2. Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. At the request of the owner(s) the Town may engage a professional hydrogeologist to determine more accurately the location and extent of a primary aquifer recharge area, and may charge the owner(s) for all or part of the cost of the investigation.

6.114 Permitted Uses

The following uses are permitted within the Water Supply Protection District, provided that they comply with all applicable restrictions in this bylaw, including but not limited to Section 6.116:

1. single family residences;
2. residential accessory uses, including garages, driveways, private roads, utility rights of way, and onsite wastewater disposal systems;
3. agricultural uses such as farming, grazing and horticulture;
4. forestry and nursery uses;
5. outdoor recreational uses, including fishing, boating, and play areas;
6. conservation of water, plants, and wildlife; wildlife management areas;
7. excavation for earth removal, provided that the requirements of Section 4.6 are met, and an earth removal permit is granted by the Special Permit Granting Authority;
8. day care centers, day care homes, and school age child care programs;
9. structures for educational or religious purposes.

6.115 Prohibited Uses

The following uses are prohibited within the Water Supply Protection District:

1. Business and industrial uses, not agricultural, which generate, treat, store, or dispose of hazardous wastes, except for the following:

    a. very small quantity generators of hazardous waste, as defined by 310 CMR 30.00 as amended which generate less than 20 kilograms or 6 gallons of hazardous waste per month may be allowed by Special Permit in accordance with Section 4.8 of this bylaw;
    b. household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390 as amended;
    c. waste oil retention facilities required by M.G.L. C.21, §52A, and; treatment works for the remediation of contaminated water supplies, which are approved by Massachusetts Department of Environmental Protection and designed in accordance with 314 CMR 5.00 as amended.

2. business or industrial uses, not agricultural, which dispose of process wastewaters on-site;
3. commercial fuel oil storage and sales;
4. solid waste landfills, dumps, auto recycling, auto graveyards, junk and salvage yards, landfilling or storage of sludge and septage, with the exception of the disposal of brush or stumps;
5. Storage of liquid petroleum products, except for the following:

    a. Storage which is incidental to:

(1) normal household use, outdoor maintenance, or the heating of a structure;
(2) emergency generators required by statute, rule or regulation;
(3) waste oil retention facilities required by statute, rule, or regulations;
treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters; provided that storage, listed in items 1-4 above, shall be in a free standing, above ground container within a structure or within the basement of a structure, with secondary containment adequate to contain a spill the size of the containers total storage capacity. The storage tank and piping must comply with all applicable provisions of 527 CMR 9.00 Massachusetts Board of Fire Prevention regulations.

b. Replacement of storage tanks or system for the keeping, dispensing or storing of gasoline, which existed at the time of adoption of this bylaw, provided that:
(1) all such replacement storage tanks or systems shall be located underground as required by Massachusetts Board of Fire Prevention regulation 527 CMR 14;
(2) all such storage systems shall be protected by one of the secondary containment systems specified in Massachusetts Board of Fire Prevention regulations 527 CMR 9.08(3); and
(3) the head of the Fire Department may deny an application for tank replacement, or approve it subject to conditions if he or she determines that it constitutes a danger to public or private water supplies, in accordance with 527 CMR 9.26(4)(d).
Replacement of all other storage tanks for liquid petroleum products other than gasoline must be above ground, in accordance with Section 6.115-5 above.
(4) outdoor storage of salt, de-icing materials, pesticides or herbicides;
(5) dumping or disposal of any hazardous material or hazardous waste on the ground, in water bodies, in septic systems or in other drainage system. This shall include the use of septic system cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane.
(6) stockpiling and disposal of snow or ice removed from highways and streets located outside of the Water Supply Protection District that contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal;
(7) wastewater treatment works subject to a groundwater discharge permit under 314 CMR 5.00 except the following:
(a) the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s);
(b) the replacement of an existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s), and;
(c) treatment works designed for the treatment of contaminated ground or surface waters subject to 314 CMR 5.00.

(d) residential, commercial or industrial uses within Zone I of any municipal water supply well; and
(e) multifamily resident uses which are not served by the municipal sewer system.

6.116 Performance Standards

All uses, whether allowed by Special Permit or by right, must meet the performance standards herein:

1. Sodium chloride for ice control shall be used at the minimum salt to sand ratio which is consistent with the public highway safety requirements, and its use shall be eliminated on roads which may be closed to the public in winter.

2. The storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads shall be covered and located in a paved surface with berms, or within a structure designed to prevent the generation and escape of contaminated run-off.

3. Fertilizers, pesticides, herbicides, lawn care chemicals, or other leachable materials shall be used in accordance with the Lawn Care Regulations of the Massachusetts Pesticide Board, 333 CMR 10.03 (30, 31), as amended, with manufacturer's label instructions and all other necessary precautions to minimize adverse impacts on surface and groundwater.

4. The storage of commercial fertilizers and soil conditioners shall be within structures designed to prevent the generation and escape of contaminated run-off or leachate.

5. To the extent feasible, all new permanent animal manure storage areas shall be covered and/or contained to prevent the generation and escape of contaminated run-off or leachate.

6. All hazardous materials, as defined in M.G.L. Chapter 21E, must be stored either in a free standing container within a building, or in a free standing container above ground level with protection to contain a spill the size of the container's total storage capacity.

7. For commercial and industrial uses, to the extent feasible, run-off impervious surface shall be recharged on the site by stormwater infiltration basins or similar systems covered with natural vegetation. Such run-off shall not be discharged directly to rivers, streams, or other surface water bodies. Dry wells shall be used only where other methods are infeasible. All such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. All recharge areas shall be permanently maintained in full working order by the owner(s). Infiltration systems greater than 3 feet deep shall be located at least 100 feet from drinking water wells, and shall be situated at least 10 feet down-gradient and 100 feet up-gradient from building foundations to avoid seepage problems. Infiltration basins and trenches shall be constructed with a three foot minimum separation between the bottom of the structure and maximum groundwater elevation.

8. In accordance with the State Plumbing Code, all vehicle maintenance facilities must have floor drains, unless they have received a variance from the State Plumbing Board, which must be connected to a municipal sewer system or to a state-approved holding tanks in unsewered areas. All other facilities which use, store or maintain hazardous materials or wastes must, with state approval, seal floor drains or connect them to a sewer system or holding tank.

6.117 Special Permit Uses

1. Uses allowed by Special Permit obtained from the Planning Board:

   a. commercial, industrial, governmental or educational uses which are allowed in the underlying district, and which are not prohibited in Section 6.115;
   b. with respect to pre-existing non-conforming uses, any of the following changes in an existing business, commercial or industrial use:
      (1) increase in generation of hazardous wastes above quantities permitted in the Special Permit for the use;
      (2) increase in impermeable surfaces to greater than 15% of lot area or 2,500 square feet, whichever is greater;
      (3) change of use; and
      (4) enlargement in the building footprint greater than 25% of the existing footprint.

   c. The rendering impervious of greater than 15% of the area of 2,500 square feet whichever is greater, provided that a system for artificial recharge of precipitation is developed. The management of stormwater and any artificial recharge systems developed shall be designed so as not to result in the degradation of groundwater.

      (1) For commercial uses, a stormwater management plan shall be developed which provides for the artificial recharge of precipitation to groundwater, where feasible. Recharge shall be attained through site design that incorporates natural drainage patterns and vegetation, and through the use of stormwater infiltration basin, infiltration trenches, porous pavement or similar systems. All infiltration practices shall be preceded by oil, grease, and sediment traps or other best management practices to facilitate removal of contamination.

      (2) For residential uses, recharge shall be attained through site design that incorporates natural drainage patterns and vegetation. To the extent possible, stormwater runoff from rooftops, driveways, roadways and other impervious surfaces shall be routed through areas of natural vegetation and/or devices such as infiltration basins, infiltration trenches or similar systems.

Infiltration practices shall be utilized to reduce runoff volume increases to the extent possible as determined in accordance with infiltration standards and specifications established by the Soil Conservation Service. A combination of successive practices may be used to achieve the desired control requirements. Justification shall be provided by the person developing land for rejecting each practice based on site conditions. Any and all recharge areas shall be permanently maintained in full working order by the owner. Provisions for maintenance shall be described in the stormwater management plan.

c. Excavation for removal of earth, loam, sand, gravel and other soils or mineral substances shall not extend closer than five (5) feet above the historical high groundwater table (as determined from on-site monitoring wells and historical water table fluctuation data compiled by the United States Geological survey, whichever is higher). A monitoring well shall be installed by the property owner to verify groundwater elevations. This section shall not apply to excavations incidental to permitted uses, including but not limited to providing for the installation or maintenance or structural foundations, freshwater ponds, utility conduits or on-site sewage disposal.

(1) Access road(s) to extractive operation sites shall include a gate or other secure mechanism to restrict public access to the site.

(2) Upon completion of earth removal operations, all altered areas shall be restored with topsoil and vegetative plantings suitable to control erosion on the site. All find materials, such as clays and silts, removed as part of the earth removal operation and leftover as by-products, shall be disposed of off-site to prevent damage to aquifer recharge characteristics.

d. Requirements for Special Permit in the Water Supply Protection District

The applicant shall file nine (9) copies of a site plan prepared by a qualified professional with the Planning Board. The site plan shall at a minimum include the following information where pertinent.

(1) A complete list of chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.

(2) Those businesses using or storing such toxic or hazardous materials shall file a hazardous materials management plan with the Planning Board, Hazardous Materials Coordinator, Fire Chief, and Board of Health which shall include:

(a) Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism including spill containment and clean-up procedures.

(b) Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.

(3) The applicant will submit evidence of compliance with the Regulations of Massachusetts Hazardous Waste Management Act 310 CMR 30 and information on anticipated hazardous waste generation rates. Copies of Massachusetts Hazardous Waste Reporting forms shall be made available to the Zoning Enforcement officer upon request.

(4) Drainage recharge features and provisions to prevent loss of recharge.

(5) Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.

(6) Periodic water quality monitoring may be required by the Planning Board, including sampling of wastewater disposed to on-site systems and sampling from groundwater monitoring wells to be located and constructed as specified in the Special Permit with reports to be submitted to the Planning Board, the Board of Health, and the Board of Water Commissioners. The Costs of monitoring, including sampling and analysis, shall be borne by the owner of the premises.

e. Additional Procedures for Special Permit in the Water Supply Protection District:

(1) The Planning Board shall follow all special permit procedures contained in Section 10 of this Bylaw. In addition the Planning Board shall distribute copies of all application materials to the Board of Health, the Conservation Commission, and the Water Commissioners, each of which shall review the application, and following a vote, shall submit recommendations and comments to the Planning Board. Failure of boards to make recommendations within 35 days of distribution of the applications shall be deemed to be lack of opposition. One copy of the applications materials shall be transmitted to or retained by the Town Clerk for viewing by the public during office hours.

(2) The Planning Board may grant the required special permit only upon finding that the proposed use meets the following standards and those specified in Section 10 of the bylaw. The proposed use must:

(a) in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Supply Protection District; and,

(b) be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.

The Planning Board shall not grant a special permit under this section unless the petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in this section.

6.118 Non-conforming Use

Non-conforming uses which were lawfully existing, begun or in receipt of a building or special permit prior to the first publication of notice of public hearing for this bylaw may be continued. Such non-conforming uses may be extended or altered, as specified in M.G.L. C. 40A, §6, provided that there is a finding by the Planning Board that such change does not increase the danger of surface or groundwater pollution from such use.

6.12, Registered Marijuana Dispensary (RMD) and Off-Site Medical Marijuana Dispensary (OMMD)
Added April 28, 2014

1. Purposes.

It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers and off-site medical marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Registered Marijuana Dispensaries (hereafter referred to as a RMD) as Medical Marijuana Treatment Centers and Off-site Medical Marijuana Dispensary (hereafter referred to as an OMMD) facilities is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Hampden. Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, Registered Marijuana Dispensaries and Off-site Medical Marijuana Dispensaries will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (hereafter referred to as MDPH).

2. Additional Requirements/Conditions

In addition to the standard requirements for uses permitted By-right or requiring a Special Permit or Site Plan Approval, the following shall also apply to all Registered Marijuana Dispensaries and Off-Site Medical Marijuana Dispensaries:

a. Use:

i. RMD and OMMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services.

ii. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.

iii. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall an RMD or OMMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.

iv. RMD facilities that can demonstrate that they comply with the agricultural exemption under M.G.L. Chapter 40A, Section 3 must still apply for Site Plan Approval.

b. Physical Requirements:

i. All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.

ii. No outside storage is permitted.

iii. No OMMD Facility shall have a gross floor area in excess of 2,500 square feet.

iv. Ventilation – all RMD and OMMD facilities shall be ventilated in such a manner that no:

1. Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere,
2. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.

v. Signage shall be displayed on the exterior of the RMD and OMMD facility's entrance in plain sight of clients stating that "Registration Card issued by the MA Department of Public Health required" in text two inches in height.

c. Location:

i. No RMD and OMMD facility shall be located on a parcel which is within fifteen hundred (1,500) feet (to be measured in a straight line from the nearest points of each property line) of parcel occupied by:

1. a public or private elementary, junior high, middle, vocational or High school, college, junior college, university or child care facility or any other use in which children commonly congregate in an organized ongoing formal basis, or
2. another RMD or OMMD facility, except that this limitation shall not apply in Industrial zones

ii. No RMD or OMMD facility shall be located on a lot which abuts a residential use (including commercial residential uses such as hotels, motels, lodging houses, etc.) or residential zoning district.

iii. No RMD or OMMD facility shall be located inside a building containing residential units, including transient housing such as motels and dormitories.

d. Reporting Requirements.

i. All Special Permit and Site Plan Approval holders for an RMD or OMMD facility shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.

ii. The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority (in cases where a Special permit or Site Plan Approval was granted) shall be notified in writing by an RMD or OMMD facility owner/operator/ manager:

1. A minimum of 30 days prior to any change in ownership or management of that facility
2. A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the RMD or OMMD.

iii. Permitted RMD and OMMD facilities shall file an annual report to and appear before the Special Permit Granting Authority no later than January 31st, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

iv. The owner or manager is required to respond by phone or email within twenty-four hours of contact by a city official concerning their RMD or OMMD at the phone number or email address provided to the City as the contact for the business.

e. Issuance/Transfer/Discontinuance of Use

i. Special Permits/Site Plan Approvals shall be issued to the RMD Operator
ii. Special Permits/Site Plan Approvals shall be issued for a specific site/parcel
iii. Special Permits/Site Plan Approvals shall be non-transferable to either another RMD Operator or site/parcel
iv. Special Permits/Site plan Approvals shall have a term limited to the duration of the applicant's ownership/control of the premises as a RMD or OMMD, and shall lapse:
    1. If the permit holder ceases operation of the RMD, and/or
    2. The permit holder's registration by MDPH expires or is terminated
v. The permit holder shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration.
vi. An RMD or OMMD facility shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state Registration or ceasing its operation.

3. Application Requirements

In addition to the standard application requirements for Special Permits and Site Plan Approvals, such applications for an RMD or OMMD facility shall include the following:

a. The name and address of each owner of the RMD or OMMD facility/operation;
b. A copy of its registration as an RMD from the Massachusetts Department of Public Health or documentation that demonstrates that said RMD or OMMD facility, and it's owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of a RMD in accordance with 105 CMR 725.000 of the Massachusetts Department of Public Health.
c. Evidence that the Applicant has site control and right to use the site for a RMD or OMMD facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement;

d. A notarized statement signed by the RMD or OMMD organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons;
e. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the RMD or OMMD including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
f. A detailed floor plan identifying the areas available and functional uses (including square footage)
g. All signage being proposed for the facility.
h. A traffic study to establish the RMD or OMMD impacts at peak demand times.
i. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to OMMDs or off-site direct delivery to patients.

4. Findings

In addition to the standard Findings for a Special Permit or Site Plan Approval the Special Permit Granting Authority must also find all the following:

a. That the RMD or OMMD facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.;
b. That the RMD or OMMD facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
c. that the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
d. That the RMD or OMMD project meets a demonstrated need
e. That the RMD or OMMD facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured.
f. That the RMD or OMMD facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and it impact on neighboring uses.

SECTION 7

DEVELOPMENT OF SITES AND LOCATION OF BUILDINGS AND STRUCTURES

Section 7 approved 2001, unless otherwise noted

7.1. Height Regulations:

1. The height of any building or structure shall not exceed thirty-five (35) feet.
2. Limitations of height shall not apply to communications towers, for which a special permit has been granted under Section 7.14, or to features of buildings such as chimneys, ventilators, skylights, spires, tanks, TV antennae, and solar panels which are carried above roofs, provided that in a residential district such features are not used for living purposes.

7.2. Area, Frontage, Yard and Floor Area Requirements:

No building shall be erected unless in conformity with the requirements listed in Table 7.2 except that:

1. Eaves, sills, steps, cornices, belt cornices, fences or walls, and similar features may project into the specified yards and provided that:
2. On a corner lot, in order to provide unobstructed visibility at intersections, no sign, fence, wall, tree, hedge or other vegetation, and no building or other structure more than three (3) feet above the established street grades, measured from a plane through the curb grades on the height of the crown of the street, shall be erected, placed or maintained within the area formed by the intersecting street lines and a straight line joining said street lines at points which are twenty-five (25) feet distant from the point of intersection, measured along said street lines.
3. Further, no yard, lot area, or other open space required for a building by this bylaw shall, during the existence of such building, be occupied by or counted as open space for another such building. No lot area shall be so reduced or diminished so that the yards or other open space shall be smaller than prescribed by this bylaw.
4. The Planning Board may, after a public hearing issue a Special Permit waiving the requirements of Table 7.2 for lots with substandard frontage in Districts R-4 and R-6, providing the lot meets the following alternative requirements:

Minimum lot area:	8 acres
Minimum square footage within 150 feet of street:	9000 sq. feet.
Minimum lot frontage:	60 feet
Minimum front setback:	120 feet
Minimum side setback:	100 feet
Minimum rear setback:	100 feet

There shall be a minimum 100 foot setback from any property line. There shall be no more than two (2) substandard frontage lots created within any 320 feet of any frontage on any way The Planning Board, in making a decision on the Special Permit, must consider: (Amended April 25, 2005)

1. Protection of adjoining premises against any possible detrimental or offensive uses on the site, including unsightly or obnoxious appearance.
2. Convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements.
3. The impact of creating more than one substandard frontage lots on adjoining land in separate ownership (Adopted April 25, 2005)

TABLE 7.2	LOT AREA, FRONTAGE, SETBACK AND BUILDING COVERAGE						Approved 1978
DISTRICT	For Dwelling and Principal Structures Minimum Lot Area in Square Feet	Required Square Footage within 150' of Street	Minimum Lot Frontage (continuous) in feet (1) amended 1993	Minimum Front Setback in feet (2)	Minimum Side Setback in feet (3)	Minimum Rear Setback in feet	Maximum % Building Coverage of Land including Accessory Buildings
R-4	40,000	22,000 sq. ft	170	60	35	40	25
R-6	60,000	27,000 sq. ft	200	75	35	50	25
MULTI-UNIT DWELLING	100,000	30,000 sq. ft	220	100	50	50	25
BUSINESS *(amended 4/29/02)	----	----	----	50	25, *except 50, where it abuts residential district	25, except 50, where it abuts residential district	30
COMMERCIAL		----	----	75	"	"	40
LIMITED INDUSTRIAL	----	----	----	75	100	100	40
FLOOD PLAIN	----	----	200 (4/29/02)	75	50	50	10

Notes to Table 7.2 amended 4/29/2002

1) The distance from side lot line to side lot line measured at right angles to the side lot line at the front lot line, except that a lot, which conforms to all other requirements and which is on a turning radius of less than 250 feet, shall have a minimum of one hundred fifty feet of street frontage and shall have a distance, measured from side lot line to side lot line through the center of the building, equal to the required frontage for the district in which it is located. (Amended 1995)

2) Provided that, in residential districts only, the front yard set-back need only be the average of the depths of the front yards on the abutting yards on the abutting lots, considering the front yards of vacant lots as having the minimum required. (1986)

3) Except that in the case of a lot having frontage on two (2) streets, the frontage requirements apply to the side of the structure on street frontage, as well as to the front.

7.3 Accessory Building: (Amended 4/29/2002)

A detached accessory building may be erected in the front, rear or side yard area and shall be subject to the front, side and rear yard requirements applicable to the principal building, with the following exceptions:

1. Any building less than 170 square feet in area and less than 12 feet in height shall be subject to minimum side and rear setbacks distances of five (5) feet.
2. Note (3) to Table 7.2 applies, and the total area of buildings under Section 7.3.1 shall not exceed 200 square feet.

7.4 Swimming Pools

7.41 Swimming Pools include family and neighborhood pools.

7.42 Neighborhood Pool.

1. A neighborhood pool shall not exceed twenty-four (24) feet by fifty-two (52) feet and shall not be used by more than twenty-five (25) families living in the immediate vicinity of the pool.

2. A neighborhood pool shall be operated under a set of bylaws which include safety rules, limited guest privileges, as well as regulations to keep the use of said pool from becoming objectionable to the abutters and neighbors, or a general nuisance.

3. There shall be a fence surrounding the pool. Such fence shall conform to the setback, side yard, and rear yard requirements for a primary building for the district in which the pool is located. See Section 7.46.

4. Sufficient provision shall be made on the property in which the pool is located for off-street parking for all members or their guests.

5. Should the organization decide to disband, the Town has the right of first refusal to purchase the pool, lot, infrastructure, and facilities appurtenant to the pool.

6. It shall also be required that neighborhood pools whose organizations decide at any time to disband shall be either: completely filled in, or; offered to the town for continued use as a municipal pool, before such organization is disbanded. Any of the membership in such organization shall be held responsible personally for the fulfillment of this requirement should the organization disband without satisfactory completion of this requirement.

7. All associations which own and operate neighborhood pools must maintain a current list of their members and addresses with the Town Clerk.

7.43 Restriction

The family pool and neighborhood pool are the only pools permitted in Residence districts. All swimming pools shall conform to the principal building setback, side yard, and rear yard requirements of the district in which located.

7.44 Board of Health Construction Permit and Approval

Before work is commenced on the construction of a swimming pool, neighborhood pool, or family pool or on any alteration, addition, remodeling or other improvements to a swimming pool, neighborhood pool, or family pool, an application for a permit to construct or erect, and the plans and specifications and pertinent explanatory data for same shall be submitted to the Board of Health for its approval; and no part of the work shall be commenced until the Board of Health has granted such approval by a written permit to construct and has further evidenced its approval by a suitable endorsement upon such plans and specifications. Such plans and specifications shall conform to the provisions of Article VI of the State Sanitary Code.

7.45 Lighting

Artificial lighting of the pool shall be shaded and directed in such a manner as to limit the lighting to the actual area of the pool.

This section purposely left blank after Attorney General approval.

7.47 Permits

1. No swimming pool shall be constructed, installed, enlarged, or altered unless a permit has been granted by the Building Inspector.

2. All electrical installations to a swimming pool must have a permit granted by the Electrical Inspector.

7.48 Protection of Property Rights

No swimming pool, neighborhood pool, or family pool shall be located, designed, operated, or maintained as to interfere unduly with the enjoyment of the property rights of owners of property adjoining the swimming pool, neighborhood pool, or family pool, or located in the neighborhood of such swimming pool, neighborhood pool or family pool.

7.5 Off-Street Parking and Loading Areas

It is the intention of this bylaw that all structures and land uses shall have a sufficient amount of off-street vehicle parking and loading areas to meet the needs of persons employed at, and/or making use of such structures or land uses.

7.51 Purposes

The purpose is to provide safe access and egress, provide pedestrian protection and reduce street congestion.

7.52 Building Permit

No permit for the erection or substantial alteration of a structure, (i.e. a 15% increase in assessed value) or for the development of a land use, shall be issued unless off-street parking and loading facilities shall have been laid out on a site plan in accordance with the appropriate requirements for structure and uses set forth in this Bylaw and said site plan is approved by the building Commissioner.

7.53 New Structures and Land Uses, and Alterations of Existing Structures

For all new buildings erected, and the substantial alteration of existing buildings (i.e. a 15% increase in assessed value) parking facilities sufficient to accommodate the motor vehicles of all occupants, employees, customers, and other persons normally visiting the premises at any time, shall be provided on the lot and off the street.

7.54 Regulations
(Section 7.541 amended April 28, 2003)

7.541 In the districts there shall be provided facilities for off street parking for every building thereafter constructed or enlarged as described above.

a. All parking areas shall be contiguous with the roadway and shall be otherwise adapted to the parking of vehicles and shall be kept available therefore.

b. All access and egress ways shall intersect the public way at an angle of (90) ninety degrees, +- 10%, for at least (10) ten feet inside the property line and continue to the roadway's pavement edge for a minimum of (22) twenty-two feet.

c. The driveway, at its intersection with the street, must provide a leveling of area with a slope of no greater than 1% for the first (20) twenty feet, a slope of no more than 8% for the next (30) feet and no more than 15% for the remainder. There shall be a 2% grade across the driveway for the first (20) feet to provide adequate water run off.

d. A single family residence driveway shall be (12) twelve feet wide and must be set back at least (10) ten feet from the side and rear lot lines.

e. The minimum curvature of a driveway shall be sufficient for a fire engine to negotiate, generally no less than a radius of (50) fifty feet or as deemed necessary by the Fire Chief.

f. No driveway is to be within (40) forty feet of any public intersection.

g. The first (20) feet of the driveway are to be constructed of pavement or concrete. The remainder of the materials to be used shall be constructed and maintained to allow the safe passage of emergency vehicles at all times.

h. All steps in the procedure for obtaining a building permit must be followed.

i. Any and all damages to public roadways shall be the responsibility of the homeowner for restitution to the Town of Hampden and shall be done at the Highway Superintendent's approval. Any repairs made are to be done by an approved contractor of the Town of Hampden.

j. Construction of all driveways entering public ways in the Town of Hampden will be contingent upon the submission and approval of the Highway Superintendent, Building Inspector, and the Fire Chief of a "Driveway Permit Application" before any construction or cut is made.

7.542 Common Driveways

a. Common Driveways Allowed by Special Permit

(1) The Planning Board, acting as a Special Permit Granting Authority, may authorize by Special Permit, the following:

(a) a waiver of the foregoing setback requirements and to allow a single driveway to provide access to adjoining lots across the side lot line(s) or the rear lot line(s) from a single common driveway.

(b) a common driveway to provide access to up to four (4) adjoining lots, as part of a Flexible Residential Open Space Development (FROSD).

Where applicable, under the Subdivision Regulations, common driveways may be allowed in place of a subdivision road.

(2) No common driveway shall be accepted as a public road; nor shall the town under any circumstances be held liable for construction, reconstruction, maintenance, or snow removal on any common driveway.

b. Driveway Right-of-Way

The landowners of all residences served by a common driveway shall be granted a Right-of-Way for the use of the common driveway. Such Right-of-Way shall be recorded in the Hampden County Registry of Deeds, together with a statement of covenants as follows:

(1) the common driveway shall at no time be used to satisfy frontage requirements under the zoning bylaw; and

(2) the common driveway shall at no time become the responsibility or liability of the town; and

(3) each landowner served by the common driveway shall be liable and responsible in whole for the repair and maintenance of any portion of the common driveway to which they have the exclusive Right-of-Way (such as a spur serving solely one parcel); and

(4) each landowner served by the common driveway shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the common driveway to which more than one landowner holds a Right-of-Way.

c. Common Driveway Alignment and Dimensions - General

(1) The minimum width of the common driveway surface shall be fourteen (14) feet.

(2) These standards may be waived when, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Bylaw.

(3) Minimum safe sight distance must be provided at the intersection of a common driveway with a street, and safe access and egress provided by adequate distance between common driveway entrances.

d. Common Driveway Alignment and Dimensions – Additional Standards for Flexible Residential Open Space Development (FROSD)

(1) The width of the right of way shall be thirty-two (32) feet.

(2) The common drive shall have three (3) ft. gravel shoulders on each side.

(3) The slope or grade of a common drive shall not exceed twelve (12) percent. Short sections may exceed twelve (12) percent grade with the approval of the Planning Board, but in no event shall any section exceed fifteen (15) percent grade.

(4) The common driveway, at its intersection with the street, must provide a leveling-off area with a slope no greater than 1% for the first 20 feet and a slope no greater than 8% for the next 30 feet.

(5) The common drive shall intersect a public way at an angle of not less than 80 degrees.

(6) The minimum curvature of a common driveway shall be sufficient for a fire engine to negotiate, generally no less than a radius of 50 feet.

(7) There shall be a turnaround area at the resident end of the driveway. Such turnaround shall accommodate safe and convenient turning by fire trucks and other emergency vehicles.

(8) The maximum length of a common driveway shall be six hundred (600) feet.

(9) Other standards may be set based on site configurations, including requirements for drainage.

e. Additional Common Driveway Standards

(1) Street addresses for all dwelling units on the common driveway shall be posted in a manner sufficient for public safety purposes both at the intersection of the common driveway and the street and at the intersection of the common driveway and each individual drive.

(2) The Planning Board may require engineered plans for the driveways and drainage system if it deems such plans necessary.

(3) Common driveways shall conform to all other driveway requirements of the Zoning Bylaw.

7.543 Non Residential Driveways

For all districts other than residential, all driveways must conform to the following:

a. All driveways must be setback at least twenty (20) feet from the side and rear lot lines.

b. All driveways must be at least twenty (20) feet wide where separate access and egress driveways are provided.

c. All driveways must be at least twenty-five (25) feet wide where a common access/egress driveway is provided.

d. Where lot frontage at the street line is one hundred fifty (150) feet or less, one common access/egress driveway or one pair of separate access/egress driveways is permitted.

e. For each additional two hundred fifty (250) feet of frontage one additional common access/egress or one additional pair of additional pair of separate access/egress driveways is permitted.

7.544 Access

Required off-street parking and loading spaces shall all have adequate maneuvering space and unobstructed vehicular access to and from a street and shall be properly maintained in such a manner as to permit them to be fully used at all times. Parking spaces shall be so arranged as not to permit backing of automobiles onto any public or traveled pedestrian or vehicle way.

7.545 Location

All parking shall be located to the rear of the required building setback line. All parking areas and traffic circulation within the parking areas in all districts except residential districts shall be located to the rear of the required building setback lines as defined in Table 7.2. Access and egress ways shall not change direction until the way has penetrated through the required setback.

7.546 Areas Included in Computation

In computing parking space requirements no space shall be counted which is needed for circulation, maneuvering or loading of vehicles. Required space shall be provided on the same lot with principal use, or on a contiguous lot or on other premises within two hundred (200) feet of such lot and within the same district, provided that no space is counted as meeting the requirements of more than one building or use, and provided further that the distance between a parking lot and the entrance to the use it serves shall not exceed two hundred (200) feet and shall be within the same district.

7.547 Loading Berths

Provision shall be made for the loading and unloading of all trucks off the street and highway right-of-way, and without encroachment of required parking areas. The berths shall be located at the rear of the building. The adequacy of space, and suitability of location shall be determined among other things by expected volume, building use, and relation to streets and access driveways.

Not less than one loading space, fifteen (15) feet by twenty-five (25) feet with fourteen (14) foot height clearance, shall be required for a building with a gross floor area of ten thousand (10,000) to twenty thousand (20,000) square feet; as a guideline additional berths shall be provided for each additional twenty thousand (20,000) square feet or nearest multiple thereof.

7.548 Parking Space Size

A minimum of three hundred (300) square feet of net standing and maneuvering area, (two hundred fifty (250) square feet if area is enclosed on three (3) or more sides) exclusive of drives and other access ways, shall be considered one (1) off-street parking space. However, a driveway may be considered the required parking space for a residential dwelling.

7.549 Surfacing

All off-street parking areas and loading areas including drives and other access ways, other than those provided for residential dwellings, shall be paved as specified by the Hampden Building Code. Parking lots, if paved, shall have a run-off absorption area of turf or gravel. They shall be sloped to provide maximum absorption and minimum run-off.

7.5410. Illumination

Illumination shall be required for all business and industrial off-street parking areas and, to eliminate the annoyance and danger of glare on adjoining property and in the roadway, shall be so arranged as to deflect the light away from adjoining lots and abutting streets and shall not shine beyond the property lines, except for driveway entrances in which case the light may shine onto the immediate area of the street right-of-way.

7.5411 Minimum Parking Space Requirements

The following are minimum parking space requirements for listed uses. In cases where a use is not specifically listed, the classification which most nearly describes the use shall be used. For cases in which there is more than one use, the minimum parking requirement for the premises shall be the total of the minimum parking requirements calculated for each use separately.

1. Residential uses:
   Two (2) spaces for each and every dwelling unit.

2. Customary home occupations and professional offices in residential zones as provided in Section 6.11 and Section 6.12:
   Two (2) spaces for each activity in addition to those required for the residential use.

3. Boarding and rooming houses:
   One (1) space for each and every sleeping room used by boarders in addition to those required for the residential use.

4. Apartment houses, and other multiple housing projects:
   Two (2) spaces for each and every family unit.

5. Nursing and convalescent homes:
   One (1) space for each and every two beds.

6. Stores, retail businesses, medical and dental offices:
   Four (4) spaces for each establishment or one (1) space for each one hundred fifty (150) square feet of gross floor area, whichever is larger.

7. Offices, banks, and other business activities described as office work:
   One (1) space for each two hundred fifty (250) square feet of gross floor area.

8. Farm produce stands:
   Five (5) spaces.

9. Places of assembly (including recreation clubs, and funeral homes):
   One (1) space for each and every three (3) movable and stationary seats, based on maximum capacity; or one (1) space for each sixty (60) inches of bleachers and benches based on maximum capacity, whichever is larger.

10. Hotels and motels:
    One (1) space for each and every sleeping unit.

11. Restaurants and places serving food and/or beverage:
    One (1) space for each and every three (3) seats.

12. Industrial, manufacturing and wholesale uses:
    One (1) space per three hundred fifty (350) square feet of gross floor area.

13. Schools:
One (1) parking space for each and every classroom and office therein; and, in addition to the above where an auditorium or cafeteria is included, one (1) space for each and every three (3) seats, movable and stationary, based upon maximum capacity.

Golf Courses:

Golf courses shall have an additional minimum of ten (10) parking spaces per hole of golf exclusive of other provisions of Section 7.5411, or parking facilities equal to sixty (60) per cent of the serving facilities, whichever is greater.

15. Other uses not specifically covered above:
One (1) space for each two hundred (200) square feet of gross floor area on the ground floor plus one (1) space for each three hundred (300) square feet of floor space on other than the ground floor.

7.5412 Additional Parking Requirements.

1. In addition to the minimum parking space requirements listed in Section 7.5411, additional parking spaces shall be provided as required to provide adequate off-street parking for all customers, employees, and visitors gathered at the premises at any one time.

2. Parking spaces for the physically handicapped shall be provided and designed in accordance with the Rules and Regulations of the Architectural Barriers Board of the Commonwealth of Massachusetts Department of Public Service; as such standards may be amended. The handicapped spaces shall be located in the portion of the parking lot nearest the entrance to the use or the structure which the parking lot serves. Adequate access for the handicapped from the parking area to the structure or use shall be provided.

3. Drive-through Establishments

Any use (drive-in, drive-through, etc.) which requires the “stacking” of vehicles waiting in line must provide for the stacking of at least five (5) vehicles in each line without the vehicles exceeding the boundaries of the lot.

4. Shared Parking

The Planning Board may grant a Special Permit to allow the reduction of the parking space requirements to eighty (80) percent of that required in Section 7.5411 where conditions unique to the use or uses will reasonably justify such a reduction. The Planning Board may grant a greater percentage reduction where joint use of

the same spaces by two or more uses or establishments is justifiable by virtue of the fact that the uses or establishments generate peak demand at substantially different time periods. In the event that a shared parking area is proposed, the applicants shall be subject to the following standards:

a. An agreement, lease, deed, contract or easement establishing shared use of a parking facility shall be submitted to, and approved by, the Planning Board as part of the Special Permit application. The approved agreement shall be recorded in the Registry of Deeds prior to the issuance of an occupancy permit for the project.

b. In the event that a shared parking agreement is terminated or a Special Permit lapses, those uses with less that the required number of spaces shall notify the Planning Board within fourteen (14) days and do one of the following:

(1) Provide at least fifty (50) percent of the required parking within one hundred twenty (120) days and provide the remaining required parking within one (1) year following termination of the shared use agreement or lapse of the Special Permit; or

(2) Demonstrate to the Planning Board, using a study deemed reliable by the board, that the available parking is sufficient to accommodate the use's peak parking demand; or

(3) Apply for and receive a variance from the Zoning Board of Appeals for less than the required number of spaces.

7.6 Signs

7.61 General Regulations

7.611 Permitted Signs:

1. Only signs which refer to a permitted use are permitted, provided such signs conform to the provisions of this section.

2. Any traffic, informational or directional sign owned and installed by a governmental agency shall be permitted.

3. Construction signs, for sale or rent signs, political signs and special event signs shall be permitted, provided such signs conform to the provisions of this section.

7.612 Prohibited Signs:

1. Billboards, moveable and sandwich board signs are not permitted.

2. Flashing signs and signs containing reflective elements which sparkle in sunlight are not permitted. Signs indicating the current time and/or temperature are permitted providing they meet all other provisions of this bylaw.

3. Any sign advertising or identifying a business or organization which is either defunct or no longer located on the premises is not permitted.

4. No new signs shall be permitted in the Floodplain District.

7.613 General Standards:

1. Sign materials: Sign materials shall be durable and easy to maintain. Signs may be constructed of wood, stone, metal, gold leaf, canvas, stained glass, or encased in a wooden frame.

2. Sign lettering: Letters shall be neat and uncluttered. No more than 60% of the total sign area shall be occupied by lettering.

3. Illumination Standards: No sign shall incorporate, or be lighted by flashing or blinking lights, or be designed to attract attention by a change in intensity or by repeated motion. Any illumination provided for signs shall be white light only, and shall be indirect illumination only. The light source shall be shaded from view of the premises.

7.62 District Regulations

7.621 Residential, Multi-Unit Dwelling and Wetland District:

No display sign or other advertising device shall be permitted except:

1. One (1) interior, illuminated or non-illuminated or exterior non-illuminated professional name plate having an area of not more than two hundred eighty-eight (288) square inches.

2. One (1) Subdivision Identification sign having an area of not more than ten (10) square feet, the top of which shall be no more than five (5) feet above grade line, advertising the sale, rental or lease of the lots or premises within the subdivision development on which it is maintained.

3. If the premises has frontage on two (2) streets, one (1) such sign may be used to face each street.

4. Signs shall be non-flashing, non-moving, non-animated and shall not be less than twenty (20) feet from any side lot line. Any illumination provided for signs shall be white only. The light source shall be shielded so as to prevent direct light rays from extending beyond the lot line.

5. Signs in this district only require no setback from the front lot line.

7.622 Business and Commercial District:

1. No display sign or other advertising device shall be permitted except:

   a. All signs shall be attached to a primary building except for one (1) sign. This sign shall be placed at least ten (10) feet back from the front property line and must comply with the side lot requirements for a primary building and shall not obstruct vehicular visibility. The top of the sign shall not be more than fifteen (15) feet above the main grade level of the area of the land on which the sign is placed. Such sign shall not be more than five (5) feet from the base of the actual sign to the top of the actual sign, and shall not contain more than forty (40) square feet. If the premise has frontage on two streets, one (1) such sign may be used to face each street, providing the total sign area does not exceed eighty (80) square feet.

   b. Signs attached to the primary buildings may not project toward the street more than two (2) feet from the building and may not exceed four (4) feet in height from the base of the sign to the top of the sign, and total sign height may not exceed ten percent (10%) of the wall area of the building fronting on the street. The top of such sign shall not extend above the parapet line in a flat roofed building, nor above the ridge line on a pitched roof building.

   c. Signs shall be non-flashing, non-moving, non-animated. Any illumination, including neon, provided for signs shall be white only. The light source shall be shielded so as to prevent light rays from extending beyond the lot line.

   d. Signs must identify or otherwise relate to the primary building or tenants of such building or the use of which such building is placed, and shall not be used for other purposes. The relationship to the use to which the primary building is placed must be direct (except that on vacant lots, real estate signs advertising the sale, rental, or leasing of the lot shall be allowed subject to the requirements under Section 7.633). The provisions of this bylaw shall be construed to mean that signs generally referred to as billboards are expressly prohibited.

   e. All illuminated signs shall be submitted to the Building Commissioner for approval.

7.623 Industrial District

No display sign or other advertising device shall be permitted in an Industrial District except under the following conditions:

1. Signs must identify or otherwise relate to the primary building or tenants of such building or the use to which the building is placed and shall not be used for any other purpose. The relationship to the use to which the primary building is placed must be direct (except that on vacant lots, non-illuminated real estate signs advertising the sale, rental, or leasing of the lot on which it is located and having an area of not more than twenty (20) square feet are permitted.)

2. All signs shall be attached to a primary building except for one (1) sign. This sign shall be placed at least ten (10) feet back from the front property line and must comply with the side and rear lot requirements for a primary building and shall not obstruct vehicular visibility. The top of the sign shall not be more than fifteen (15) feet above the main grade level of area of land on which sign is placed. Such sign shall not be more than five (5) feet from the base of the actual sign and shall not contain more than forty (40) square feet.

3. If the premise has frontage on two streets, one such sign may be used to face each street, provided that the total area of all signs conforms to Section 7.623-2.

4. Signs shall be non-flashing, non-moving, non-animated. Any illumination, including neon, provided for signs shall be white only. The light source shall be shielded so as to prevent light rays from extending beyond the lot line.

5. Total area of all signs shall not exceed ten percent (10%) of the front wall area of the building fronting on the street.

6. No sign shall project above the roof level of any building.

7. All illuminated signs shall be submitted to the Building Commissioner for approval. The provisions of this bylaw shall be construed to mean that signs generally referred to as billboards are expressly prohibited.

7.624 Non-profit Educational and Recreational District

1. The total area of all signs visible from a public way for each property shall not exceed eighty (80) square feet.

7.63 Additional Standards for Specific Types of Signs

7.631 Awning Signs:

1. Awning Signs must be painted on or attached flat against the surface of the awning, but not extend beyond the valance or be attached to the underside.

2. A minimum of eight (8) feet above sidewalk level must be allowed for pedestrian clearance.

7.632 Construction Signs

One unlighted, temporary sign of an architect, engineer, or contractor erected during the period such person is performing work on the premises on which such sign is erected and shall be permitted, provided: it shall not exceed four (4) square feet in surface area; and, it shall be set back at least twenty (20) feet from the street lot line.

7.633 For Sale, Rent, or Lease Signs

Any temporary sign advertising property for sale or lease shall be permitted provided:

1. Only one unlighted sign shall be erected, it shall not exceed six (6) square feet, and it shall be set back at least 10 feet from the street lot line.

2. Such signs shall advertise only the property on which the sign is located.

3. The sign shall be removed by the owner or agent within thirty (30) days of rent, sale, or lease.

7.634 Special Event Signs

A special event sign is a temporary sign that is used in connection with a circumstance, situation, or event (i.e. church bazaar, grand opening, fair, circus, festival) that is expected to be completed within a reasonably short or definite period.

1. A maximum of one (1) temporary sign per lot is allowed.

2. Such signs may be erected no sooner than twenty (20) days before the event and must be removed not later than seven (7) days after the event.

7.64 Sign Bylaw Administration and Enforcement

7.641 Permits

1. No sign larger than two square feet shall be erected, altered, displayed, relocated, enlarged or created without first obtaining a permit from the Building Inspector or Sign Officer. Permits for special events signs shall be issued by the Board of Selectmen. At minimum, all applications shall include a scale drawing specifying dimensions, illumination, materials, and location on land or buildings.

2. The Building Inspector or Sign Officer shall issue a permit for a sign when an application therefore has been made and the sign complies with all applicable regulations of the Town and the State Building Code, Article 14. Such application may be filed by the owner of the land or building, or any persons who have the authority to erect a sign on the premises.

3. The Building Inspector or Sign Officer shall act within 30 days of receipt of said application together with the fee. The Building Inspector's or Sign Officer's action or failure to act may be appealed to the Board of Selectmen.

7.642 Fees

A schedule of fees for such permits may be established and amended from time to time by the Board of Selectmen.

7.65 Enforcement:

7.651 Designation of the Sign Officer

The Building Inspector (or any other qualified person) shall be appointed by the Selectmen as the Sign Officer. The Sign Officer is authorized to order the repair or removal of any sign and supporting structure which is erected or maintained contrary to this bylaw. Whenever a Sign Officer is designated, the Selectmen should notify the State Outdoor Advertising Board.

7.652 Maintenance and Removal

Every sign shall be maintained in good structural condition at all times. The Building Inspector or the Sign Officer shall inspect and shall have the authority to order the painting, repair, alteration or removal of a sign which shall constitute a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence.

7.653 Removal of Signs by the Building Inspector or Sign Officer

1. The Building Inspector or Sign Officer shall cause to be removed any sign that endangers the public safety, such as an abandoned, dangerous, or materially, electrically, or structurally defective sign, or a sign for which no permit has been issues.

2. The Building Inspector or Sign Officer shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that, if the sign is not removed or the violation is not corrected within 20 days, the sign shall be removed in accordance with the provisions of this section.

3. All notices mailed to sign owners or property owners by the Building Inspector or Sign Officer shall be sent by certified mail. Any time periods provided in this section shall be deemed to commence on the date of the receipt of the certified mail.

4. Any person having an interest in the sign or the property may appeal the determination of the Building Inspector or Sign Officer ordering removal or compliance by filing a written notice of appeal with the Hampden Board of Selectmen within 45 days after the date of mailing the notice, or 45 days after receipt of the notice if the notice was not mailed.

7.654 Penalties

Violation of any provision of this bylaw or any lawful order of the Sign Officer shall be subject to a fine of not more than $100 per offense. Each day that such violation continues shall constitute a separate offense.

7.655 Non-Conforming Signs

1. Replacement

Any sign replacing a non-conforming sign shall conform with the provisions of this Section, and the non-conforming sign shall no longer be displayed.

2. Abandonment
If a non-conforming sign associated with a permitted use or structure has been abandoned for no less than six months (i.e. the structure has not been occupied for six months) then the non-conforming sign shall be removed and its non-conformity shall not continue.

7.7 Development and Performance Standards

7.71 Purpose

The purpose of these Commercial Development Performance Standards is to promote well-designed commercial and industrial developments and to minimize the adverse impacts of such development on community character, traffic safety, environmental quality and neighboring properties.

7.72. General Application

All projects or uses requiring Special Permit, Special Permit with Site Plan Approval, or Site Plan Review – Administrative Review must demonstrate compliance with the commercial performance standards herein.

1. Access and Traffic Impacts
Applicants must demonstrate that the project will minimize traffic and safety impacts on roadways.

   a. The number of curb cuts on town roads shall be minimized. To the extent feasible access to businesses shall be provided via one of the following:
      (1) Access via existing side street.
      (2) Access via a cul-de-sac or loop road shared by adjacent lots or premises.

   b. One driveway per business shall be permitted as a matter of right. Where deemed necessary by the special permit granting authority, two driveways may be permitted as part of the Site Plan Approval process, which shall be clearly marked “entrance” and “exit”.

   c. Curb cuts shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed 24 feet in width.

   d. All driveways shall be designed to afford motorist exiting to roadways with a safe sight distance.

e. The proposed development shall issue safe interior circulation within its site by separating pedestrian and vehicular traffic.

f. In each case where a new building(s) or a new use of more than 3,000 square feet total floor area is proposed, or where any proposed enlargement of a building would result in a building having more than 3,000 square feet total floor area, a traffic impact statement shall be prepared. The traffic impact statement shall contain:

(1) A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent roads;
(2) A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, car pooling, or other appropriate means;
(3) An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

g. Adequate pedestrian and bicycle access shall be provided as follows:

(1) Sidewalks shall be provided to provide access to adjacent properties and between individual businesses within a development.

(2) If the property directly abuts a bikeway right-of-way, a paved access route to the bikeway shall be provided.

2. Parking
Proposed projects or uses must comply with Parking and Off-street Loading requirements in Section 7.5 and the following standards:

a. To the extent feasible, parking areas shall be located to the side or rear of the structure, and be shared with adjacent businesses.

b. Parking areas shall be located to the side or rear of the structure. No parking shall be permitted within the required front setback of the structure.

c. All off-street spaces shall have bumper and wheel guards where needed to protect abutting structures, properties or plantings. Parking areas shall be designed so that parked vehicles do not extend over pedestrian walkways or sidewalks.

d. Whenever feasible, pedestrian walkways shall be integrated into the design of the lot. Where a walkway crosses a vehicular path, the walkway shall be defined through the use of a different paving material or painted lines.

e. Parking Area Screening and Buffering

(1) Vegetative or structural screens shall be established on the perimeter of all parking areas to prevent direct views of parked vehicles from streets and sidewalks, avoid spill-over light, glare, noise, or exhaust fumes onto adjacent properties and to provide the parking area with a reasonable measure of shade when trees reach maturity.

(2) Vegetative or structural screens shall be no less than five (5) feet high and shall be visually impervious throughout the year. Screens may be a hedge, wall, fence, or combination of these choices. A land berm may be used to provide up to fifty (50) percent of the required height. The height of any screen shall decrease where driveways approach sidewalks, walking paths, and streets in order to provide adequate visibility of pedestrians from motor vehicles and to maintain a clear line of sight for vehicles entering the roadway.

f. Parking Area Landscaping

(1) No less than fifteen (15) percent of the area of a parking lot, not including the perimeter area, shall be permanently landscaped using planting strips, planting diamonds, hedges, bushes, groundcovers, trees, and other vegetation. Buffer and screen plantings shall only count toward the required landscaping when they occur in areas other than the perimeter of the parking lot.

(2) The applicant shall plant and maintain a minimum of one (1) deciduous tree per eight (8) parking spaces constructed. Trees shall have a minimum size of three (3) inch caliper at the time of planting.

(3) Plant materials used to meet the requirements of this Bylaw shall be of specimen quality and conform to the American Standard For Nursery Stock, American Standards Institute, Inc., 230 Southern Building, Washington, DC 20005 and shall be planted according to accepted horticultural standards.

(4) Planting strips shall be at least six (6) feet in width and shall respond to the needs of storing snow, locating light poles, and providing safe pedestrian access. When planting diamonds are utilized, they shall measure a minimum of six (6) feet on a side.

(5) Evergreen trees shall be a minimum of four (4) feet tall at the time of planting.

(6) Every effort shall be made to integrate existing mature trees on the site into the proposed landscape plan. Existing trees which are used to meet the requirements of this section shall be protected during construction using the following standards:

(a) Fencing or other protective barrier shall be used around trees on construction sites.

(b) Changes in the normal drainage patterns shall be avoided and appropriate protection shall be provided for trees if a grade change is necessary in the surrounding area.

(c) Vehicular (including construction machinery) and pedestrian traffic shall be kept away from trees to prevent soil compaction and destruction of the root system.

(d) If a tree is damaged during construction the applicant shall file a revised landscape plan with the Planning Board detailing an alternative planting schedule which shall meet the standards for landscaping set forth in this Bylaw.

3. Landscaping

a. A landscaped buffer strip at least 20 ft. wide, continuous except for approved driveways, shall be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, medium height shrubs, and shade trees (minimum 3-inch caliper, planted at least every 50 feet along the road frontage). At all street or driveway intersections, trees or shrubs shall be set back a sufficient distance from such intersection so that they do not present a traffic visibility hazard.

b. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms or wall or tight fence complemented by evergreen plantings.

c. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.

d. Landscaping shall be in conformance with existing town bylaws.

e. Completion of the landscaping requirements may be postponed due to seasonal weather conditions for a period not to exceed six (6) months from the time of project completion.

4. Appearance/Architectural Design

Architectural design shall be compatible with the rural/historic character and scale of building in the neighborhood and the Town of Hampden through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air circulation~~s~~, and separation between buildings.

5. Storm Water Run-off

a. The rate of surface run-off from a site shall not be increased after construction. If needed to meet this requirement and to maximize groundwater recharge, increased run-off from impervious surfaces shall be recharged on site by being diverted to vegetated surfaces for infiltration or through the use of detention ponds. Dry wells shall be used only where other methods are infeasible and shall require oil, grease, and sediment traps to facilitate removal of contaminants.

b. Neighboring properties shall not be adversely affected by flooding from excessive run-off.

c. The use of proven, alternative paving systems, such as porous paving, is highly encouraged to reduce the amount of impervious surface on developed sites.

d. The use of shared stormwater management structures and facilities is highly encouraged.

6. Erosion Control

Erosion of soil and sedimentation of streams and waterbodies shall be minimized by using the following erosion control practices:

a. Exposed or disturbed areas due to stripping of vegetation, soil removal, and regrading shall be permanently stabilized within six months of occupancy of a structure.

b. During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is permanently stabilized, sediment in run-off water shall be trapped by using staked hay bales or sedimentation traps.

c. Permanent erosion control and vegetative measures shall be in accordance with the erosion/sedimentation/vegetative practices recommended by the Natural Resources Conservation Service (NRCS).

d. All slopes exceeding 15% resulting from site grading shall be covered with four (4) inches of topsoil and planted with a vegetative cover sufficient to prevent erosion.

e. Dust control shall be used during grading operations if the grading is to occur within 200 feet of an occupied residence or place or business. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water.

7. Water Quality

All outside storage facilities for fuel, hazardous materials or waste, and potentially harmful raw materials shall be located within an impervious, diked containment area adequate to hold one hundred ten (110) percent of the total volume of liquid kept within the storage area.

8. Explosive Materials

a. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are located in anchored tanks at least seventy-five (75) feet from any lot line, town way, or interior roadway or forty (40) feet from lot line for underground tanks; plus all relevant federal and state regulations shall also be met.

b. Propane gas tanks in 250 pound cylinders (or smaller) shall be exempt from these safety regulations.

9. Lighting

a. Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries.

b. No light post shall be taller than sixteen (16) feet, except that the Planning Board may waive this requirement upon finding that the use of taller light standards – up to twenty-five (25) feet in height – results in a more functional site configuration.

10. Noise

a. The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any use or activity shall not exceed the following limits at the property line of the sound source:

District	**7AM – 10PM**	**10PM – 7AM**
General Business	65	60
Commerical & Industrial	70	65
Multi-Unit & Residential	55	45

Source Pressure Level Limits Measured in dB (A's)

Sound pressure level shall be measured at all major lot lines, at a height of at least four feet (4') above the ground surface. Noise shall be measured with a sound level meter meeting the standards of the American Standards Institute, ANSI SI.4-1961 "American Standard Specification for General Purpose Sound Level Meters." The instrument shall be set to the A-weighted response scale. Measurements shall be conducted in accordance with ANSI SI.2-1962 "American Standard Meter for the Physical Measurement of Sound".

c. Sound levels specified shall not be exceeded for more than 15 minutes in any one day, except for temporary construction or maintenance work, agricultural activity, timber harvesting, traffic, church bells, emergency warning devices, parades, or other special circumstances.

d. No person shall engage in or cause very loud construction activities on a site abutting residential use between the hours of 9 P.M. of one day and 7 A.M. of the following day.

11. Utilities

Electric, telecommunications, and other such utilities shall be underground where physically and environmentally feasible.

12. Additional Standards in the Light Industrial District

a. This space purposely left blank after Attorney General approval.

b. Odor, dust, and smoke:
No such emission shall be discernible beyond the property line or, in the case of an industrial park development, or of a multiple use of the property, beyond one hundred (100) feet of the building generating the emission, except that in no case shall the discharge from any source exceed the following limits.

(1) Smoke measured at the point of discharge into the air shall not exceed a density of No. 1 on the Ringleman Smoke Chart as published by the U.S. Bureau of Mines, except that a smoke of a density not darker than No. 2 on the Ringleman Chart may be emitted for not more than three (3) minutes in any one (1) hour.

(2) Lime dust, as CaO, measured at the property line of any lot on which the activity creates such dust, shall not exceed ten (10) micrograms per cubic meter of air.

(3) Total particulate matter measured at all stacks or other points of emission to the air shall not exceed thirty (30) grams per hour per acre of land included in the lot.

(4) All measurements of air pollution shall be by the procedures, and with equipment approved by the Building Commissioner, which procedures and equipment shall be of the latest generally recognized development and design readily available.

(5) No open burning is permitted.

c. Noise:

All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness, and as measured at any property line of the lot shall not exceed the following intensity in relation to sound frequency.

Frequency (Cycles per Second)	Maximum Sound Level above Zero Decibels Permitted (Reference: .0002 dynes/cm)
0 to 74	74
75 to 149	59
150 to 299	52
300 to 599	46
600 to 1199	42
1200 to 2399	39
2400 to 4799	36
4800 and above	33

(1) Such sound levels shall be measured with a sound level meter and octave band analyzer approved by the Building Commissioner.

(2) Noise making devices which are maintained and are utilized strictly to serve as warning devices are excluded from these regulations.

d. Heat, glare, vibration and radiation:
No heat, glare, or vibration shall be discernible from the outside of any structure, and all radiation shall be contained within a structure.

e. Storage:
All materials, supplies and equipment shall be stored in accordance with Fire Prevention Standards of the National Board of Fire Underwriters and shall be screened from view from public ways or abutting properties.

f. Waste disposal and water supply:
Regulations of the State Board of Health shall be met and shall be as indicated on the approved site plan.

7.8 Earth Removal: Approved 1992

Except as otherwise provided in this section, there shall be no removal from the premises in any district of earth, loam, sand, gravel, clay or quarry stone, except as follows:

1. Town Uses: In all districts, except for the Flood Plain and Recreational districts, the Building Inspector may issue permits for the removal of earth, loam, sand, gravel, clay or quarry stone from the premises in cases where such material is for use by the Town.
2. Residential District - Limited: In residential districts, the Building Inspector may issue a permit for removal of no more than 250 (Amended 4/24/06) cubic yards of fill from the premises, provided such fill results from construction of a foundation, swimming pool, or driveway, for which a building permit has been issued. A permit issued under this provision shall be valid for one month.
3. Residential District: The Board of Appeals may, after a public hearing, issue a special permit for the removal of surplus material resulting from bona fide construction, landscaping, or agricultural land improvement being executed on the premises, providing that no rock crushing will be permitted in a Residential District, and also provided that permits filed for a Residential District for a stated purpose shall not exceed one year with repetitive petitions permitted only after a concurring vote of a majority of the members of the Planning Board and a concurring vote of four members of the Board of Appeals. Such permits shall be subject to the provisions of Section 7.8.5.
4. Districts Other than Residential: The Board of Appeals may, after a public hearing at which the Planning Board may submit a report, issue a special permit for the removal of earth, loam, sand, gravel, clay or quarry stone in any zone, other than Residential, subject to the provisions of Section 7.8.5.
5. Permits issued by the Board of Appeals (those under sections 7.8.3 and 7.8.4) shall be subject to the following requirements:
    1. The applicant shall submit a plan prepared by a registered Professional Engineer or registered Land Surveyor. This plan must show existing grades on the parcel of land, together with proposed grades at the conclusion of the operation. The plan shall provide for proper drainage of the area during and after the period of operation and for restoration of the site upon

completion of the operation.

2. In all districts, every slope and bank above or below natural grade must be prepared at the end of each working day so that it does not exceed one (1) foot of vertical distance in each two (2) feet of horizontal distance.
3. The Board of Appeals shall impose such additional conditions as may in its judgment be for the protection of health, safety, and welfare of the inhabitants of the Town. Such conditions may include, but not be limited to, restrictions on use of roads and routing of vehicles; hours of operation; storage of operating equipment; restrictions on impoundment of water and slopes of banks; minimum distance of operation from any residential lot line; fences, streams and other safety measures required during this period of operation, and the restoration of the area where necessary.
4. The Building Inspector or other agent designated by the Board of Appeals shall inspect each operation at least once a month or as otherwise required, and report on his inspection to the Board of Appeals. The cost to the Town of such inspections shall be billed to and paid for by the holder of the permit.

5. Before endorsement of approval of any plan under Section 7.8., the Board of Appeals may require the petitioner to contract with the Town of Hampden, to complete all the requirements as set forth by the Board, such completion to be secured by the petitioner either filing a performance bond or a deposit of money or negotiable securities in an amount determined by the Board of Appeals, to be sufficient to cover the cost of all or any part of the requirements specified by the Board of Appeals. Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by the Town Counsel and as to securities by the Town Treasurer and shall be contingent on the completion of such requirements within one (1) year of the date of such bond.
6. Earth Removal Permits shall be issued for a period not to exceed one year. A public hearing shall be held before a permit is renewed by the Board of Appeals.

7.9 Illumination:
All exterior lighting, other than street lighting approved by the Selectmen shall be shielded so as to prevent direct rays from shining beyond lot lines.

7.10 Landscaped Buffer Strip:
Screening, in accordance with the approved site plan, shall be provided, erected and maintained to shield the business, commercial and industrial uses of land and buildings from any adjoining residential property.
To provide a visual barrier between different land uses along all boundaries of the area developed for business, commercial and industry, except along any portion of such area which is common to business, commercial and industry, there shall be a continuous strip at least twenty (20) feet in width suitably landscaped with grass, and shrubs and trees, broken only where necessary to provide appropriate access and egress. Where the developed area adjoins land developed for a residential use, suitable landscaping shall be interpreted as requiring a substantial sight-impervious screen of evergreen foliage at least eight (8) feet in height, or less dense planting of shrubs or trees complimented by a sight-impervious fence at least five (5) and not more than eight (8) feet in height. Proper maintenance of the required landscaped buffer strip of fence shall be the responsibility of

the owner and shall be a condition of conformance with this zoning bylaw.

7.11 Trailers: Amended 1999

No trailer or mobile home as defined in Section 2. of this by-law shall be permitted in any district, except as provided below .

1. The Building Commissioner may grant a permit for temporary parking of a construction trailer at the site of any approved construction project.

2. Travel or camping trailers owned or rented by the owner or resident only of the property may be stored upon the premises. Such travel or camping trailer shall not be used for living purposes, except when a residence has been destroyed as described in M.G.L., Ch 40A, Section 3.

7.12 Home Occupations

7.121 Professional Office or customary home occupation uses are permitted by Site Plan Review, or by Special Permit (as listed in the Table of Uses, Table 6.0), in residential structures provided that:

1. The professional or customary home occupation is conducted by a resident of the premises.
2. The use is clearly incidental and secondary to the use of the premises as a residence.
3. Not more than one (1) person, other than residents of the premises, is regularly employed in connection with such use.
4. No noise, vibration, smoke, dust, odors, heat, glare, unsightliness or other nuisance is produced.
5. There is no public display of goods or wares and there are no signs except as permitted by the sign regulations in this bylaw.
6. There is no exterior storage of materials or equipment and no exterior evidence of non-residential use of the premises, except signs as permitted by the sign regulations in this bylaw.
7. There is adequate off-street parking for any employees or visitors in connection with such use.
8. No more traffic shall be generated by such home occupation than would normally be generated in a residential district.

7.122 Professional Office or customary home occupation use in an accessory structure is allowed by Special Permit with Site Plan Approval from the Planning Board (as listed in the Table of Uses, Table 6.0) provided that:

1. The proposal meets the standards listed in Section 7.121.

2. The use shall not cause any external effect associated with the home occupation such as increased noise, excessive lighting, or offensive odor, which is incompatible with the characteristics of the residential neighborhood. There shall be no illegal discharge of any materials, fluids or gases into a private septic system or storm sewer system or any other manner of discharging such material in violation of any applicable governmental regulation.

3. The Planning Board may require that all off-street parking areas are screened from adjacent residential properties by a vegetative buffer. This buffer shall be capable of continuous, year-round screening to a height of at least three (3) feet within four (4) years of planting. Solid, opaque fencing or other alternatives may be substituted for plant material with the approval of the Planning Board. This requirement may be waived by the Planning Board.

7.13 Planned Unit Residential Development (PURD)

The Planning Board, acting as the Special Permit Granting Authority, may authorize a Planned Unit Residential Development (PURD) as defined by Section 2 by special permit with site plan approval in conformance with the procedures specified in Section 7.13 and Section 10. Such PURD shall be subject to rules, regulations and criteria as officially promulgated by the Planning Board.

7.131 Purpose

It is the purpose of this section to allow for greater variety and flexibility in the development of housing types for persons of age 55 and older and to facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner while at the same time conserving important natural site features and permanently preserving open space.

1. To provide housing people 55+. All occupants must be age 55 or older. This will minimize the potential impacts in terms of noise, traffic, parking, environmental impacts and related issues of such multifamily housing on surrounding properties.

7.132 Application

1. The applicant for a PURD special permit shall submit to the Planning Board a written application on the prescribed form containing all the information required hereafter including the following materials:

a. A Development Statement listing the development team, setting forth the development concept, including in tabular form the number of units, type, size (number of bedrooms, amount of living space, gross floor area), ground coverage and summary showing the area of residential development and common open space as percentage of the total area.

b. A Development Site Plan of the entire tract in accordance with the requirements of this section and Section 7.133 and meeting, to the extent applicable and with modifications approved by the Planning Board, the requirements set forth for a definitive plan in the Hampden Subdivision Regulations.

c. Architectural rendering of the site plans and typical structures including floor plans and elevations.

d. A traffic study of the area as it may be affected by the proposed development, including present and anticipated traffic counts, flow patterns, and capacity analysis of present and proposed intersections and entrances serving the development. If appropriate, internal traffic patterns should also be shown.

e. An engineering report regarding the adequacy of sewage disposal, water supply and storm water drainage as the proposed design relates to existing utilities of the Town and Title V, with Board of Health approval.

f. A project description including anticipated number of residents in each residential unit; unit selling prices; pre- and post-construction management methods including drafts of supporting documents and contracts; construction schedule and phasing schedule.

g. Affirmation of the proposed use of the parcel by a positive endorsement with a two-thirds (2/3) majority vote at a Town Meeting.

2. Said application shall contain sufficient information so that the Planning Board can determine the applicability of said application for the following items:

a. Is consistent with the Master Plan of Development of the Town;

b. Preserves and protects the character of the Town and especially the immediate neighborhood, giving due consideration to such features as public safety, including traffic control and traffic impact upon surrounding roads; development of adequate recreational facilities for the use of the residents of said proposal and/or the community; adequate fire protection; public health including sewerage disposal, drainage and water supply; and the compatibility of the size, location, and landscaping of said project with the adjacent neighborhood and the Town;

c. Minimizes potential adverse environmental impacts upon the Town;

d. Conforms to the specific provisions of this bylaw, including the performance standards of this section.

3. Said special permit shall not be issued unless the Planning Board affirmatively determines that each of the above listed criteria is met by said applicant.

7.133 Use Regulations: The following uses shall be permitted in a PURD:

1. One family detached dwellings;
2. Two family detached dwellings;
3. Townhouses;
4. Multiple dwellings not exceeding four (4) units per building;
5. Recreational uses and community facilities such as parks, gardens, swimming pools, tennis courts, clubhouses and community buildings;
6. Accessory uses customarily incidental and subordinate to the principal uses listed above, but expressly excluding any commercial or retail enterprises.

7.134 Dimensional Regulations - Property for PURD use shall comply with the following dimensional requirements:

1. Minimum Parcel Size. The total parcel shall have a minimum area of ten (10) acres. No more than 50% shall be wetland or encumbered by easements or be unusable.

2. Minimum Parcel Frontage. The total parcel shall have a minimum frontage on a public way of at least fifty (50) feet. There shall be no frontage requirements within the PURD.

3. Front, Side and Rear Yards. The minimum front yard(setback) shall be one hundred fifty (150) feet, the side yard and rear yard requirements shall be eighty (80)feet and each setback requirement shall pertain only to the periphery of the PURD.

4. Buffer Area. A landscaped buffer strip not less than thirty (30) feet wide, as described in Section 10.2, shall be provided along the perimeter of the property. Additional buffering may be required in sensitive areas at the discretion of the Planning Board. The Planning Board may modify or waive the buffering requirement where variations in topography, natural features, or compatible land uses obviate the need for such a buffer.

7.135 Density Regulations: The maximum number of dwelling units permitted within the PURD is one (1) dwelling unit per 35,000 square feet in the R-4 District, and one (1) dwelling unit per 52,000 square feet in the R-6 District.

7.136 Net Developable Area

1. The net developable area of a parcel for PURD development be the total area of all lots shown to be developable under Town of Hampden Subdivision Regulations and zoning, and shall be calculated by the following procedure:

a. Percolation tests, in conformity with Title V, 310 CMR 15.00-15.99 as amended, shall be conducted under the supervision of the Board of Health, for all lots in the total acreage of the property which would be developed in a standard subdivision layout. The area of those lots which is determined to be not suitable for on-site sewage disposal shall be subtracted from the developable area of the total parcel.

b. Under the supervision of the Conservation Commission, the total acreage of all wetlands, in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, shall be identified and their area subtracted from the developable area of the total parcel.

7.137 Building Requirements

1. Building Character: Buildings shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the town through the use of appropriate building materials, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings.

2. Building Location. Building location and orientation shall reflect:

a. Relationship to the street line and to other buildings in the development if in close proximity, in order to protect privacy and create visual coherence;
b. Views, solar access, and access to common open space, in order to enhance occupant's interests;
c. Organization of large developments into recognizable sub-areas in order to provide scale and identity;
d. Avoidance of major topographic change and destruction of significant natural site features including removal of native trees and vegetation in order to preserve and protect the environment; Reduction of visual intrusion into abutting properties in order to protect existing character. To the extent practicable, the multifamily units of the PURD shall be developed more towards the interior rather than the periphery of the tract so that the one family and two family detached residences, if any, border adjacent properties, acting as a buffer between the development and pre-existing one family neighborhoods. The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall to the extent feasible: (1) minimize use of wetlands, steep slopes, floodplains, hilltops; (2) minimize obstruction of scenic views from publicly accessible locations; (3) preserve unique natural or historical features; (4) minimize tree, vegetation and soil removal and grade changes; and (5) maximize open space retention and (6) screen objectionable features from neighboring properties and roadways. Where appropriate, the provisions of Section 7.12, Ridgeline and Hillside Bylaw, shall be followed.

More than one structure may be placed on a lot, but no residential structures shall be placed closer to each other than 10 feet and must be visually separated by trees and plantings. In addition, each dwelling must be provided with access, drainage and utilities functionally equivalent to that provided under the Planning Board's Subdivision Rules and Regulations.

3. Maximum Building Height. The maximum height of structures shall be two (2) stories and thirty-five (35) feet above the ground.

4. Maximum Number of Bedrooms. The maximum number of bedrooms or rooms used primarily for sleeping purposes per dwelling unit shall be two (2).

7.138 Utilities

1. Each dwelling in a PURD shall be provided with access, drainage and utilities that are functionally equivalent to that provided under the Planning Board's Subdivision Regulations. All utilities shall be placed underground.

2. All structures which require plumbing shall be connected to a private well or public water supply, if available, and shall meet the requirements of Title V and the Subdivision regulations, and have Board of Health approval.

7.139 Parking and Circulation Requirements

1. There shall be an adequate, safe, and convenient arrangement of pedestrian circulation, roadways, driveways and parking.

2. Vehicular access to the PURD shall be provided from an existing public way which in the opinion of the Planning Board is adequate to service the proposed development. As a matter of public safety, an alternate emergency access may be required.

3. Roads within the PURD shall be privately owned and maintained and shall be designed with sufficient width, suitable grade and adequate construction to safely provide for the needs of vehicular traffic generated by the development. Access roads shall be designed and constructed according to the requirements of the Hampden Subdivision Regulations or as otherwise modified by the Planning Board.

4. Garages or off-street parking spaces, or a combination thereof, shall be provided for all occupants, employees, and visitors, and shall be not less than two (2) spaces per dwelling unit in accordance with Section 7.5.

7.1310 Landscaping Requirements

1. A coordinated landscape design for the entire project area, including landscaping of structures, parking areas, driveways and walkways, and buffer strips, shall be submitted for approval by the Planning Board.

2. Wherever possible, existing trees and vegetative cover shall be conserved and integrated into the landscape design.

3. Proper maintenance of the landscaping, including the buffer strip, shall be the responsibility of the owner, and shall be a condition of conformance with the Zoning bylaw.

4. No building shall be floodlit. Drives, parking areas, walkways and entrance ways shall be illuminated only by shielded lights not higher than fifteen (15) feet.

7.1311 Common Open Space Requirements

1. All land within the PURD which is not covered by buildings, roads, driveways, parking areas or other development, or which is not set aside as private yards, patios or gardens for the residents, shall be common open space. The area of the common open space shall equal at least forty percent (40%) of the total area of the PURD tract. Such land shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation, or agricultural purposes by all the residents of the development. At least 70% of the common open space shall be retained in contiguous areas, unless approved by the Planning Board.

2. Suitable and usable outdoor recreational area or areas shall be provided for the use of tenants. At least 2,000 square feet per dwelling unit must be usable open space for active and passive recreation. Such space shall not include wetlands as determined by the Conservation Commission. Usable open space shall be defined to include land for community gardens, hiking/jogging paths, tennis courts, swimming pools, or similar facilities. Structures or buildings accessory to recreation, conservation or agricultural uses may be erected but shall not exceed two (2) percent coverage of the common open land.

3. Further subdivision of common open land or its use for other than recreation, conservation, or agriculture, except for easements for underground utilities shall be prohibited. Provision shall be made that so that the common open space shall be owned in common and readily accessible to the owners and residents of all units in the development, or by membership corporation, trust or association whose members are the owners and residents of the units, or by the Town, or otherwise as the Board may direct. In all cases, the common open space shall be subject to a perpetual restriction running to or enforceable by the Town which shall be recorded in respect to such land. Such restriction shall be in such form and substance as the Board shall prescribe and may contain such additional restrictions on development and the use of common open space as the Planning Board may deem appropriate.

7.1312. Community Association

1. An owners' association shall be established, requiring membership of each lot or unit owner in the PURD. The association shall be responsible for the permanent maintenance of communal water, sewage, recreational and thoroughfare facilities. An association agreement or covenant shall be submitted with the Special Permit application guaranteeing the continuing maintenance of such common utilities, land and facilities, assessing each unit a share of maintenance expenses. Such agreement shall be subject to the review and approval of Town Counsel and the Planning Board as part of the Special Permit, and shall be recorded in the Hampden County Registry of Deeds.

2. Such agreements or covenants shall provide that in the event that the association fails to maintain the common facilities in reasonable order and condition in accordance with the agreement, the Town may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve the taxable value of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the Town shall be assessed ratably against the properties within the development.

7.1313 Project Identification

1. As a condition of its approval, the Planning Board may permit a sign showing the project name to be permanently affixed at each entrance to the development. Each sign shall be of a size and design to be approved by the Planning Board provided that no such sign shall exceed twenty (20) square feet in size.

2. All streets shall be posted with standard street signs and all street names shall be approved by the Planning Board. Dwelling Units shall be assigned street numbers as assigned by the Building Commissioner.

7.1314 Enforcement

1. As a condition of its approval, the Planning Board may establish time limits for any development or phases thereof.

   Before any building permits are issued for buildings in a given phase, the developer may be required to provide the Town with performance security in a form and amount satisfactory to the Planning Board to guarantee the construction of required site improvements.

7.14 Wireless Communications Bylaw Approved October 28, 1998

Wireless Communications Facilities are allowed by Special Permit.

1. PURPOSE/ INTENT

The purpose of the bylaw is to: establish appropriate siting criteria and standards for communications towers and facilities (locations), minimize adverse visual impacts, maintain the residential character of the town, preserve scenic views, minimize the overall number and height, promote shared use of existing facilities, and provide maximum wireless coverage as mandated by Section 704 of the Federal Telecommunications Act of 1996, while protecting the general welfare and aesthetic integrity of the Town of Hampden.

2. USE/ GENERAL REQUIREMENT

A. Wireless Communication Facility Other than a Tower

No facility shall project more than ten feet above the existing roof line of the building, or more than ten feet above the top of the existing structure upon which it is mounted, or more than five feet out from the plane of the existing wall or facade to which it is attached, provided that such projections do not otherwise violate existing yard dimensions or set-back requirements.

Any proposed addition of cells, antennae or panels, or replacement of a facility shall be the subject of a new application for an amendment to the special permit.

All building-mounted facilities shall be designed and located so to appear as an integral part of the existing architecture of the building.

All Wireless Communication Facilities shall be protected against unauthorized access by the public.

B. Wireless Communication Facility Tower

A Wireless Communication Tower, including antennae and accessory structures, is subject to all of the following conditions:

1. Wireless Communications Facilities shall be designed to accommodate the maximum number of users technologically feasible. Service providers shall co-locate on a single tower to the extent possible. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.
2. New towers shall be considered only upon finding by the Board of Appeals that existing or approved towers cannot accommodate the wireless communication equipment planned for the proposed tower. Ideally, new towers should be located on sites abutting existing electric/gas line/utility right of ways and other public utilities such as water towers, fire towers, telephone towers. The objective is to create tower fields.
3. All towers shall be located a minimum of 250 feet from the nearest residential structure. (Amended April 29, 2002)
4. Tower height shall not exceed one hundred fifty feet above mean grade at existing terrain.
5. The height of antennae or dishes located in the yards of residential structures shall not exceed the tree-line in the lot.
6. The base of the tower shall be a distance of at least equal to the tower's height from any property line.
7. Accessory structures housing support equipment for towers shall not exceed four hundred square feet in area and fifteen feet in height.

8. The Board of Appeals may impose conditions to ensure that Wireless Communications Facilities are as visually unobtrusive as possible from all views. These conditions may include but are not limited to structural design, painting, lighting, and landscaping standards.
9. Any proposed extension in the height, addition of cells, antennae or panels, construction of a new facility, or replacement of a facility shall require a new application for amendment of the special permit.
10. Fencing shall be installed to control access to Wireless Communications Facilities and shall be compatible with the scenic character of the town and shall not be razor-wire.
11. Lighting shall be limited to the lighting required for emergency and for FAA compliance.
12. There shall be a minimum of one parking space per facility for use in connection with the maintenance of the site, and shall not be used for storage of vehicles or equipment.
13. Announcement signs, "No Trespassing" signs, and a sign with the owner's name and telephone number are required. The location of these signs will conform to the Zoning bylaw, Section 7.6.

3. EXEMPTIONS:

The following type of wireless communications towers are exempt from this section:

1. Amateur radio facilities used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission provided that the tower is not used or licensed for any commercial purpose.
2. Existing towers will be granted the first Special Permit without application fee. Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this Bylaw may be reconstructed, altered, extended or replaced on the same site by Special Permit, provided that the Board of Appeals finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the Board of Appeals shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

4. CESSATION OF USE AND OBSOLESCENCE

The Building Commissioner may annually require proof of certification demonstrating compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, and the American National Standards Institute and required maintenance.

All unused towers or parts thereof, or accessory facilities and structures which have not been used for one year, shall be dismantled and removed at the owner's expense.

Prior to issuance of a building permit for a Wireless Communication Tower, the applicant shall post with the Town Treasurer a bond in the amount set by the Building Inspector. The amount shall be suitable to cover demolition, removal and disposal of the tower and its accessories in the event the Building Inspector condemns the tower, parts of the tower or any parts of the tower's accessories, or deems it unused for more than one year. The Building Inspector shall give the tower's owner 45 days written notice by registered mail before demolition commences. All demolition and removal costs will be billed to the tower's owner and any unpaid amounts will become an encumbrance on the property.

5. AUTHORITY

After notice and public hearing in accordance with Section 9 of the Zoning Act (M.G.L., Ch. 40A, S. 9), the Board of Appeals shall consider the reports and recommendations of

the Conservation Commission, Town Engineer and Building Inspector; and may grant a special permit provided that all conditions in this Section and any Special Conditions placed by the Board of Appeals have been adequately met.

1. The Board of Appeals shall be the Special Permit Granting Authority for all purposes under this section.
2. The Board of Appeals may waive strict compliance with such requirements of this bylaw, as provided in M.G.L., Ch. 40A, S. 9, where such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Act.
3. Waiver requests shall be submitted in writing with the application for a wireless communication facility.

6. SPECIAL USE PERMIT REVIEW AND APPROVAL

1. Applications for Special Use Permits shall be approved with conditions if the petitioner can fulfill the requirements of these regulations to the satisfaction of the Board.
2. Applications for Special Use Permits may be denied if the petitioner cannot fulfill or address the requirements of these regulations to the satisfaction of the Board.
3. When considering an application for a Wireless Communication Facility, the Board shall place great emphasis on the proximity of the facility to residential dwellings and the impact on these residences.
4. New facilities shall only be considered after finding that existing (or previously approved) facilities cannot accommodate the proposed use(s).
5. When considering an application for an antennae or dish proposed to be placed on a structure, the Board shall place great emphasis on the visual impact of the unit from the abutting neighborhoods and streets.
6. The Special Permit Granting Authority shall review all applications for communications towers and shall find:
    - a: that the location of the tower or device is suitable and that the size, height, and design is the minimum necessary for that purpose.
    - b: that the proposed tower or devices will not adversely impact historic structures or scenic views.
    - c: that the proposed tower or device is in compliance with federal and state requirements. Applicants are required to provide certification of compliance for proposed services.
    - d: that satellite dishes and antennae be so situated to preferably not be visible from abutting streets. Free standing dishes or antennae shall be located to minimize visibility, and limit removal of existing vegetation.

   The Board shall also impose, in addition to any applicable conditions specified in the Bylaw, such applicable conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise service the purposes of this Bylaw, including, but not limited to: screening, buffering, fencing, modification of the exterior appearances of structures, limitation upon the size, method of access or other traffic features, parking, removal or cessation of use, or other requirements. Such conditions shall be imposed in writing and the applicant may be required to Post bond or other surety for compliance with said conditions in an amount satisfactory to the Board.
8. The Special Permit is granted for a period of two (2) years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown. And provided that further construction, once begun, shall be actively and continuously pursued to completion within reasonable time. Any extension, addition of cells or construction of new or replacement towers shall be subject to amendment of the Special Permit following the same procedure as for an original grant of a Special Permit.

7. APPLICATION PROCESS

All applications for Wireless Communication Facilities, Antennae, or Satellite Dishes shall

be made and filed on the applicable application form in compliance with the Zoning Board of Appeals Application Instructions. For an application to be considered complete, three copies of the following information must be submitted:

1. A locus plan at a scale of 1"=40' which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential dwellings and neighborhoods and all buildings within five hundred feet of the facility.
2. A color photograph or rendition of the proposed tower with its antennae and panels. For satellite dishes or residential antennae, a color photograph or rendition illustrating the dish at the proposed location is required. A rendition shall also be prepared illustrating a view of the monopole, dish or antennae from the nearest street or streets.

3. The following information prepared by one or more professional engineers:
   - a: a description of the tower and the technical, economic and other reasons for the proposed location, height and design
   - b: certification that the monopole complies with all applicable state and federal standards
   - c: a description of the capacity of the tower including the number and type of panels, antennae and transmitter receivers that it can accommodate and the basis for these calculations (include all assumptions).
4. The applicable review and advertising fees as noted in the application guidelines.

8. GENERAL REQUIREMENTS

Within thirty days after filing the application for any new tower or extension in height thereto, the applicant shall arrange to fly a balloon at the primary and an alternate site at the maximum height of the proposed installation on a weekend day between noon and sunset. The balloon shall be of size and color that can be seen from every direction for a distance of one mile. The date and location of the flights shall be advertised at least 14 days but not more than 21 days, before the flights in at least two different issues of newspaper with a general circulation in the Town of Hampden.

The invalidity, unconstitutionality, or illegality of any provision of this bylaw shall not have any effect upon the validity, constitutionality or legality of any other provision of this bylaw.

7.15 Flexible Residential Open Space Development (Amended April 30, 2007)

7.15.1 FROSD Right

Flexible Residential Open Space Development (FROSD) in accordance with this bylaw shall be allowed by right in Residence Zones R-4 and R-6, except not in the Floodplain District and not in the Interim Wellhead Protection Area (IWPA) or Zone II areas for water supply wells in Hampden. Flexible residential open space development (FROSD) shall mean a residential development in which single family residences are clustered together, adjacent to permanently preserved open space, which shall, to the extent feasible, be located along public roads or on farmland. Any person creating five or more lots available for residential use in the R-4 or R-6 Districts, may apply for Definitive FROSD Subdivision Plan approval under this section. FROSD shall be encouraged within the town.

7.15.2 Purposes

The purposes of flexible residential open space development are to:

1. Allow for greater flexibility and creativity in the design of residential subdivisions, provided

that the overall density of the development is no greater than what is normally allowed in the district;

2. Encourage the permanent preservation of open space, agricultural lands and other natural resources and encourage a less sprawling form of development that consumes less open land;

3. Maintain the traditional New England rural character and land use pattern in which small villages contrast with open space and farmlands;

4. Facilitate the construction of streets, utilities and public services in a more economical and efficient manner;

5. Ensure that residential developments respect the natural features of the land, including wetlands, watercourses, forests, prime agricultural land, steep slopes, plants, wildlife, historic sites, scenic areas, and rural character;

6. Encourage development out of view from the road, and promote alternatives to strip residential development lining roadsides in the town.

7. Provide wildlife corridors connecting open spaces, needed by wildlife to ensure their survival.

7.15.3 Net Developable Area

1. The net developable area of a parcel for FROSD development shall be the total area of all lots shown to be developable under the Town of Hampden Subdivision Regulations and Zoning Bylaw, and shall be calculated by the following procedure:

    a. Percolation tests, in conformity with Title V, 310 CMR 15.00-15.99 as amended shall be conducted under the supervision of the Board of Health, for all lots in the total acreage of the property which would be developed in a standard subdivision layout. The area of those lots which is determined to be not suitable for on-site sewage disposal shall be subtracted from the developable area of the total parcel.

    b. Under the supervision of the Conservation Commission, the total acreage of all wetlands, in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, shall be identified and their area subtracted from the developable area of the total parcel.

7.15.4 Flexible Area in FROSD

1. Individual lot areas may be as small as the minimum lot sizes shown for FROSD in Table 1 of this section, provided that the average size for all FROSD lots created, including any land reserved as open space, shall be no smaller than the required average FROSD lot size, shown in Table 1 of this section.

2. The total number of building lots which can be created from any parcel shall be determined by dividing the net developable area (see Section 7.15.3) by the required average FROSD lot size shown in Table 1.

3. All land not used for building lots shall be placed in permanent open space in accordance with Section 7.15.3 of this bylaw, but not less than 40% of the net developable area.

7.15.5 Flexible Frontage in FROSD

1. The minimum frontage for a tract on which a FROSD is proposed shall be a contiguous one-hundred (100) feet and provide safe access for a right-of- way of at least fifty (50) feet.

2. Provided that all other requirements of this bylaw are met, there shall be no frontage required for individual lots within a FROSD, with the exception described in Section 7.15.5-3 below. Each lot shall have adequate access on a public way or a common driveway which meets the standards in this Section.

3. To the extent feasible, all buildings shall be located out of view from any road, and protected open space shall be located adjacent to public ways. Any building lot which fronts on an existing public road shall have the frontage normally required in the zoning district, as noted in the Table 7.2, "Lot Area, Frontage, Set-back and Building Coverage".

7.15.6 Other Dimensional Requirements

1. All lots within a FROSD shall meet the front, rear and side yard requirements specified in Table 1 of this section.

2. All residential structures and accessory uses shall be set back from the boundaries of the development by a buffer strip of at least fifty (50) feet in width which shall include trees and shall be kept in a natural or landscaped condition.

7.15.7 Site Design Standards

1. Each structure shall be integrated into the existing landscape on the property so as to minimize its visual impact through use of vegetative and structural screening, landscaping, grading, and placement on or into the surface of the lot.

2. Lots shall be laid out and designed, to the greatest extent feasible, to preserve and protect historic and archaeological sites, farmland, wooded stream corridors, forested areas and large trees, scenic views particularly as seen from public roads, ridgelines and hilltops,

3. All buildings, roads and driveways shall be located away from soils which are most suitable for agriculture (based on U.S. Natural Resources Conservation Service classifications for prime farmland soils and soils of state and local importance) to the maximum practical extent. This provision does not apply to the location of on-site septic disposal facilities which must be placed in soils meeting the Massachusetts Environmental Code.

4. All buildings, homes, and structures shall be located a minimum of 100 feet from agricultural land and shall be separated from agricultural uses by a 75-foot wide buffer strip of trees and fencing sufficient to minimize conflicts between farming operations and residences. If needed, this buffer area may be used for septic systems, as noted in Section 7.15.8-1.

7.15.8 Utility Requirements

1. On-site Sewage Disposal

The following standards shall apply to developments requiring on-site sewage disposal:

a. The applicant shall submit a septic system design prepared by a certified engineer and approved by the Board of Health and a plan illustrating the location of water supply wells with the FROSD application.

b. All FROSD developments must meet the minimum state Environmental Code (Title V) requirements for minimum setbacks between private water supply wells and septic tanks or soil absorption systems (310 CMR 15.211). In order to meet Title V setback requirements, private water supply wells may be located on common open space, in accordance with the requirements in Section 7.15.8-2.

c. All FROSD developments must meet the minimum state Environmental Code (Title V) requirements for nitrogen loading limitations (310 CMR 15.214-15.217). For FROSD developments with individual lot sizes less than 40,000 square feet, applicants must meet the following standards:

(1) Applicants must designate, on a plan, specific areas of common open space as "nitrogen credit land", based on the following equation: (40,000 square feet x number of lots) - total square feet in proposed FROSD lots = square feet of required nitrogen credit land in common open space

(2) Nitrogen credit land must meet DEP qualifications contained in "Guidelines for Title 5 Aggregation of Flows and Nitrogen Loading 310 CMR 15.16" including, but not limited, to the following qualifications:
- Must be restricted to prohibit man-made sources of nitrogen, including sewage discharge, nitrogen-based fertilizer or raising and grazing of livestock;
- Must be restricted to prohibit artificially rendered imperviousness (i.e. paved streets, paved parking lots, buildings, structures, etc.);
- Not within a Velocity Zone or Regulatory Floodway identified by FEMA;
- Not under surface water;
- Not already being used as nitrogen credit land.

(3) All designated nitrogen credit land must be permanently restricted from further development under a "Grant of Title 5 Nitrogen Loading Restriction and Easement on Nitrogen Credit Land.

After approval of a Definitive FROSD Subdivision Plan under this bylaw, applicants must apply to the Board of Health and the Mass. Department of Environmental Protection (DEP) for an aggregate determination of nitrogen loading under 310 CMR 15.216.

d. It is required that septic systems be installed on individually-owned lots.

2. Water Supply

a. In order to meet state requirements for separation distances between drinking water wells and septic systems, drinking water supply wells may be located in the common open space for a FROSD, provided that the provisions of Section 7.15.10 for a homeowner's association are met.

7.15.9 Common Open Space

1. Common Open Space Requirements

a. A minimum of 40% of the total development parcel must be permanently protected as common open space. At least 70% of the common open space shall be retained in contiguous areas, unless approved by the Planning Board.

b. Watercourses, lakes, ponds, wetlands and steep slopes over 25% may not be \ included in common open space calculations.

2. Land Protection Methods for Common Open Space

a. All land not devoted to buildings, lots, roads and other development shall be permanently protected as common open space for recreation, conservation, forestry or agricultural uses which preserve the land in essentially its natural condition, by the following method:

(1) The land shall be owned by a homeowner's association, with a permanent conservation easement or deed restriction must be conveyed to the Town with Town approval or to a non-profit trust or conservation organization whose principal purpose is to conserve farmland or open space. At a minimum, such an easement or restriction shall require the use of management practices that ensure existing fields or pastures, if any, will be plowed or mowed at least once every year.

b. Further subdivision of common open land or its use other than recreation, conservation, forest or agriculture, except for easements for underground utilities or drinking water supply wells, shall be prohibited. Structures or buildings accessory to recreation, conservation, or agricultural use may be erected but shall not exceed five percent coverage of such common open space.

7.15.10 Homeowner's Association

1. A non-profit, homeowners association shall be established, requiring membership of each lot owner in the FROSD. The association shall be responsible for the permanent maintenance of all common lands, common open space, recreational and thoroughfare facilities, except drinking water wells. If any drinking water well is located on common open space, the homeowners shall own the well and be responsible for any maintenance or related costs associated with their well. A homeowner's association agreement or covenant shall be submitted with the application guaranteeing continuing maintenance of such common utilities, land and facilities, and assessing each lot a share of maintenance expenses. Such agreement shall be subject to the review and approval of Town Counsel and the Planning Board, and shall be recorded in the Hampden County Registry of Deeds. Such agreements or covenants shall provide that in the event that the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement, the town may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the town shall be assessed equally against each of the properties within the development.

7.15.11 Subdivision Approval Procedures

1. Applicants for FROSD shall follow the procedures specified in the Hampden Subdivision Regulations.

2. Preliminary and Definitive Subdivision Plan

a. To promote better communication and avoid misunderstanding, applicants are encouraged to submit a Preliminary Subdivision Plan for review by the Planning Board prior to application for a Definitive Subdivision Plan. Such Preliminary Plans shall comply with the Town's Subdivision Control regulations. The applicant is strongly encouraged to submit a FROSD preliminary subdivision plan.

b. Applicants are required to submit five (5) copies of a preliminary plan and a definitive plan for the entire tract to be considered for a FROSD, containing the information required under the Subdivision Rules and Regulations of the Planning Board of the Town of Hampden.

3. Application Contents

The application shall include a description of all proposed dwelling units, amenities, and the proposed ownership and use of open space.

4. Environmental Impact Statement

The Planning Board may require the submittal of an environmental impact statement (EIS), in accordance with of this bylaw, at the time that the Definitive FROSD Subdivision Plan application is filed.

5. Reviewing agencies

The Planning Board shall submit copies of the application and related documents to the Board of Health, the Conservation Commission and the Town Engineer for an advisory opinion in accordance with MGL C.40A, to the extent possible.

6. Additional Criteria for Evaluation of FROSD Applications

No approval for FROSD shall be issued unless the application therefore complies substantially with the following additional criteria:

a. The FROSD shall create permanent open space. All land within the FROSD not in use, for building lots shall be protected as permanent open space.
b. The portion of a parcel placed in open space shall, to the greatest extent possible, be that which is most valuable or productive as a natural resource, wildlife habitat, farmland, or forestry land.
c. The FROSD shall result in the creation of less curb cuts or vehicular access points to a public way than would reasonably be expected to occur under Standard ANR or Subdivision Development.
d. The FROSD shall result in no net increase in density of dwellings on the parcel over the density which could reasonably be expected to occur on the parcel under Standard ANR or Subdivision Development.
e. The FROSD shall have no more impact on immediate abutters and the surrounding neighborhood than would a conventional subdivision plan.
F .All dwellings shall, to the greatest extent possible, be located out of view from any road unless valuable natural resources or farmland located to the rear of the property render building in view of the road more desirable.

7. Additional Conditions

The Planning Board may set forth conditions in its decision, including, but not limited to the following:

a. Granting of a covenant or easement to ensure that existing fields or pastures will be plowed or mowed periodically with attention given to the requirements of existing animal and plant species.
b. Granting of an easement providing and defining rights of public access.
c. Measures to ensure the maintenance of scenic views and vistas.
d. Specific approval of the uses allowed in designated open space and recreational areas, including the requirement that, before construction of any recreational structures such as tennis courts, swimming pools or accessory clubhouses, plans shall be submitted to the Planning Board for site plan approval. Recreational structures shall not exceed two percent (2%) of the total required common open space.
e. Changes to site designs to better protect natural resources.

8. Terms of ***FROSD Approval***

Any approval for FROSD shall state clearly the terms by which the development shall meet the above-listed criteria. The approval granted shall state the acreage and location of open

space provided, shall identify the natural resources or farmland to be protected and any specific measures to be taken for their protection; shall specify the number and location of dwellings and curb cuts.

Table 1:
Dimensional and Density Requirements
Flexible Residential/Open Space Development
Town of Hampden

Zone	Min. Lot Area for Standard Subdivision (sq. ft.)	FROSD Min. Lot Area (sq. ft.)	FROSD Average Lot Area (sq. ft.)[2]	FROSD Min. Open Space (percent)	Min. Frontage for Standard Subdivision (ft.)	FROSD Min. Frontage for Individual Lots (ft.)	FROSD Min. Frontage for Total Dev. Parcel (ft.)[3]	FROSD Min. Front Setback (ft.)	FROSD Min. Rear Setback (ft.)	FROSD Min. Side Setback (ft.)	FROSD Min. Distance Between Buildings (ft.)	FROSD Maximum Impervious Surface Coverage of Buildable Land (percent)	Maximum Building Height (ft.)
R-4	40,000	24,000[1]	40,000	40	170	None	***100***	40	40	10	20	25	35
R-6	60,000	36,000[1]	60,000	40	200	None	***100***	40	50	10	20	25	35

1 All FROSD developments must meet minimum state Environmental Code (Title V) requirements, as described in Section 7.15.8.
2 Calculations for average lot areas shall include common open space, as described in Section 7.15.4.

7.16 Solar Energy System(s) (Added 4/27/15)

Solar Energy System(s) are permitted as an accessory use to the principal use subject to the following requirements. Solar Energy Systems with solar energy collector panels occupying a total footprint of more than 3,500 square feet of land area shall require special permit approval from the Planning Board and the Planning Board may impose conditions reasonably appropriate to improve site design, protect the public health, safety and welfare and/or otherwise serve the purpose of this section. For the purpose of this regulation, such footprint shall be measured as the total area of the vertical projection on the ground of all panels in the installation's most horizontal tilt position including all spaces between the panels.

The Solar Energy System(s) shall be designed for the primary purpose of supplying electrical or thermal power for the principal use and/or accessory use of the property on which the system is located, although this provision shall not prohibit a net metered solar energy system to be installed for the purpose of generating electricity on-site that is interconnected with the electric grid and which allows the on-site consumer to feed surplus electricity into the electrical grid with the approval of the local utility company. Solar Energy System may only be constructed or materially modified after the issuance of a building permit by the Building Inspector.

The Solar Energy System may be integrated into or attached to the principal structure and/or accessory building or mounted on the ground in accordance with the requirements of this bylaw and all other applicable building and electrical codes.

Roof-Mounted Solar Energy Systems shall conform to height regulations specified for the applicable principal or accessory building type in the underlying zoning district or to such other height as is determined by the Building Inspector to be essential for proper system operation provided that such height will not present any undue hardships on abutting properties. A structural engineering report may be required by the Building Inspector documenting the structural integrity of the structure and its ability to support the proposed roof-mounted solar facility.

Ground-mounted Solar Energy Systems shall be considered structures which must comply with the following standards:

Ground-mounted Solar Energy Systems must comply with all minimum setback requirements for the Zoning District where it is to be installed except that the rear yard setback for such Systems can be reduced by one-half of the required setback in the Zones.

Ground-mounted Solar Energy Systems shall be installed as close to the ground as practicable and shall not exceed twelve (12) feet in height.

Ground-mounted Solar Energy Systems shall be designed and located to minimize adverse visual impacts on surrounding properties and, if necessary, the Building Inspector may require that the property owner make reasonable efforts to screen the system from the view of streets and abutting property.

Cessation of Use & Obsolescence: Upon Building Inspector's notice to Planning Board of cessation of Use of a Solar Energy System, said Solar Energy System shall be deemed in Decommission. At that time, said Solar Energy System shall be dismantled and removed from property, including but not limited to all unused parts thereof, accessory facilities and structures which have not been used shall be dismantled and removed at owner's expense.

7.16 Wind Energy Conversion System(s) (Added 4/27/15)

Wind energy conversion system for the on-site use of and/or credit distribution of excess electricity to an electric utility, designed pursuant to applicable Town, State and Federal codes, regulations and statutes. Height limitations shall not apply to wind energy conversion systems if such systems are in no way used for living purposes.

Cessation of Use & Obsolescence:

Upon Building Inspector's notice to the Planning Board of Cessation of Use of a Wind Energy System, said Wind Energy System shall be deemed in Decommission. At that time, said Wind Energy System shall be dismantled and removed from property, including but not limited to, all unused parts thereof, accessory facilities and structures which have not been used shall be dismantled and removed at owner's expense.

SECTION 8

ADMINISTRATION

Section 8 approved 1973, unless otherwise noted

The provisions of this bylaw and any amendments thereto shall be administered and enforced by the Selectmen acting as Building Commissioner, or by the Building Commissioner appointed by the Selectmen.

8.1 Building Permits:

1. No construction for a building or structure shall be started, and no building or structure shall be erected, moved, altered, or changed until a building permit for the proposed work or change shall be applied for and granted.
2. No permit shall be granted for the construction, alteration, relocation, or use of any building, structure or premises in violation of any provisions of this bylaw. Whenever any permit or license is refused because of some provision of this bylaw, the reason therefore shall be clearly stated in writing.
3. An application for a building permit for a new or altered use of land or structure, or for construction, alteration, reconstruction or relocation of a building shall be made by the owner or his agent, in writing, on a form approved by the Building Commissioner and shall be accompanied by two (2) copies of a plot plan prepared by a registered engineer or land surveyor showing the site and size and shape of the lot, the names of the owners of record, the exact location of existing streets and buildings or structures, and of proposed buildings, structures or additions thereto. The Building Commissioner shall send one (1) copy of the plot plan to the Planning Board. (Amended April, 29, 2002)
4. A building permit shall become void unless construction is commenced within six (6) months of the date of issue and completed within three (3) years of the date of issue, unless such time shall have been extended by the Building Commissioner in writing.
5. A record of applications herein referred to, and the action taken thereon, shall be kept on file in the Town Offices.
6. The Building Commissioner shall issue the building permit only after he has viewed the premises and determined that the contemplated use, change, construction or alteration would not be in violation of the Hampden bylaws. After issuance of the building permit the Building Commissioner shall make at least one (1) inspection while the work or construction is in progress to ascertain that there is no violation of said bylaws as a result of any change or deviation made during the period of construction or alteration. Upon completion of the construction, alterations, or change of use for which the permit as originally granted and before occupancy by the owner, his agents, servants, tenants, lessees or assigns, the Building Commissioner shall make a final inspection to determine if the completed construction, alteration, or change in use conforms to the permit and is not in violation of this bylaw.
7. The fee required for a building permit shall be established by the Selectmen.
8. Any person, officer, official or board aggrieved by reason of his inability to obtain a permit, or by any order or decision of the Building Commissioner or other administrative official shall file his written appeal with the Chairman of the Board of Appeals not later than thirty (30) days after the order or decision causing the

grievance or the refusal to issue such permit.

8.2 Occupancy Permits:

No building hereafter erected, altered or relocated shall be used, and no change shall be made of the use of any building or of any parcel of land, unless a permit has been issued or an occupancy permit signed by the Building Commissioner has been granted to the owner or occupant of such land or building. Such permit shall not be granted unless the proposed use of the land or building and uses comply in all respects with this bylaw, Health Department regulations and other pertinent ordinances, and no use shall be made of such land or building except the use or uses authorized by said permit.

8.3 Enforcement (Amended April 30, 2001)

If the Building Commissioner shall be informed or have reason to believe that any provision of this bylaw or any permit or decision hereunder has been, is being or is about to be violated, he shall make an investigation of the facts, including an inspection of the premises where the violations may exist. Where written complaint is made to the Town Clerk or Building Commissioner, the Commissioner shall take action upon such a complaint within fifteen (15) days of receipt thereof and shall report such action in writing to the complainant. If the Building Commissioner shall fail to report his action to the complainant within fifteen (15) days, the Board of Selectmen, upon written petition of the complainant, shall cause an investigation of the alleged violation to be made and shall see that a written report be made to the complainant with ten (10) days of notification by the complainant that the Building Commissioner has not made the said inspection.

If the Commissioner finds no violation or prospective violation, any person aggrieved by his decision, or any officer or board of the Town, may within thirty (30) days appeal to the Board of Appeals.

If the Commissioner finds a violation or prospective violation, he shall give immediate written notice to the owner and to the occupant of the premises, and shall order him to cease and desist and refrain from such violation.

If, after such notice, the premises are continued to be used in a manner contrary to the provisions of this bylaw, or if any such owner or occupant shall fail to obey any lawful order of the Building Commissioner in respect to any violation or use contrary to the provisions of this bylaw, the Building Commissioner shall institute appropriate legal proceedings to enforce the provisions of this bylaw or to restrain by injunction any violation thereof, or both, and shall revoke the permit for occupancy to the extent permitted by State Law or regulation, and institute and take such action as may be necessary to enforce the provisions of this bylaw. (Amended October 29, 2001)

Any person violating any provisions of this bylaw, any of the conditions under which a permit is issued, or any decision by the board of Appeals, may be subject to a monetary fine for each offense. Each day, or portion thereof, that such violation continues shall constitute a separate offense. The amount of each fine shall be established by the Board of Selectmen.

In the alternative to criminal prosecution, the Building Inspector may elect to utilize the non-criminal disposition procedure known as the “ticketing” approach set forth in M.G.L. Chapter 40 Section 21D and set forth in the Town of Hampden General By Laws Chapter XI. The fine for any violation disposed of through this procedure shall be a sum of money for the first offense, a sum of money for the second offense and a sum of money for the third offense. Each day , or portion thereof , that such violation continues shall constitute a separate offense

In any case where the Building Commissioner refuses to carry out the terms of the above sections of this bylaw, the Board of Selectmen shall act in his stead, and in that case all references to the Building Commissioner shall refer to the Board of Selectmen, or their agent.

8.4 Planning Board (Adopted April 26, 2004)

8.4.1 There shall be a Planning Board consisting of five (5) members, one of whom shall be elected each year for a term of five (5) years.

8.4.2 There may also be appointed one (1) associate member authorized to serve as an alternate voting member on special permit applications.

8.4.2.1 The associate member shall be appointed by the Planning Board and the Board of Selectmen in accordance with the provisions of Chapter 41, Section 81-A of the General Laws of the Commonwealth.

8.4.2.2 The Associate member shall be appointed for a one (1) year term, or, in the case of an unexpired term, for the balance of said term. The associate member shall be reappointed or replaced as provided for in Section 8.4.2.1.

8.4.2.3 The associate member shall serve on the Board only as alternate voting member on special permit applications in the case of absence, inability to act, conflict of interest on the part of any regular member of the Board, and/or in the event of a vacancy.

8.4.2.4 The Planning Board Chair shall authorize the associate member to sit on the board when necessary and in accordance with the above circumstances.

8.5 Board of Appeals (Approved April 26, 1999 / renumbered April 26, 2004)

A Board of Appeals as established in accordance with Chapter 40A of the General Laws of the Commonwealth of Massachusetts shall exercise all the duties and functions granted to it thereunder.

The Board of Appeals shall consist of five members and three associate members

SECTION 9

BOARD OF APPEALS

Approved April 26, 1999

Renumbered to Section 8.5 April 26,2004

SECTION 10

SPECIAL PERMITS, SPECIAL PERMITS WITH SITE PLAN APPROVAL, AND SITE PLAN REVIEW – ADMINISTRATIVE REVIEW

10.1 Special Permit Use Regulations

10.11 Pursuant to Massachusetts General Laws Chapter 40A, s. 9, 9A and 9B, special permit and Special Permits with Site Plan Approval shall be issued for uses listed in the Zoning Bylaws of the Town of Hampden. The Special Permit Granting Authority (SPGA) shall be that board designated in the Table of Use Regulations (Section 6.0). The SPGA shall adopt reasonable rules and regulations relative to the issuance of special permits and shall file said rules and regulations with the Town Clerk. The same will serve as the guidelines for special permit and special permit with site plan approval applications. Exceptions may be listed in certain sections. Certain permitted uses may require Site Plan Review-Administrative Review by the Site Plan Review Authority (SPRA). This is an administrative review and does not require the filing of a Special Permit application.

10.2 Purpose

10.21 The purpose of this section is to provide a comprehensive review procedure for projects which may have significant impacts on the Town of Hampden, to minimize the impacts of such development, and to ensure compliance with the following goals of the Town:

1. To promote the safety of vehicular and pedestrian movement within the site and in relation to the adjacent areas and to protect the capability of state and local roads to conduct traffic smoothly and efficiently;

2. To promote attractive and viable commercial and industrial districts;

3. To protect the rural character, aesthetic qualities, natural, environmental, and historical features, and property values of neighboring properties and the Town;

4. To discourage unlimited commercial "strip development" and curb cuts along highways, and encourage compact commercial growth in nodes and clusters;

10.3 Projects Requiring Special Permit, Site Plan Approval, or Site Plan Review

10.31 Certain uses, structures, or conditions are designated within the Table of Use Regulations, Section 6.0, as requiring a Special Permit, Special Permit with Site Plan Approval, or Site Plan Review-Administrative Review. A Special Permit shall be granted only after written application to, and a hearing by, the Special Permit Granting Authority (SPGA) and shall be subject to the provisions of Chapter 40A of the Massachusetts General Laws and this bylaw. A Site Plan Review-Administrative Review shall be endorsed only after written application to, and review by, the Site Plan Review Authority (SPRA). The Special Permit Granting Authority or Site Plan Review Authority responsible for hearing a particular proposal shall be that board or other entity designated by the coding in the Table of Use Regulations, Section 6.0.

10.4 Applications - Special Permits/Site Plan Reviews

10.41 For uses requiring a Special Permit, Site Plan Approval or Site Plan Review the current owner of record shall file an application and the required fee with the appropriate Special Permit Granting Authority (SPGA) or Site Plan Review Authority (SPRA), specified in Table 6.0. For Special Permits and Special Permits with Site Plan Approval, the applicant shall file nine (9) copies of the application and any required supporting materials with the SPGA, on forms provided by the authority. For Site Plan Review – Administrative Reviews, the applicant shall file one (1) copy of the application and any required supporting materials with the SPRA, on forms provided by the authority. The SPGA/SPRA may request additional copies as it deems necessary. Specific rules governing the application and fee shall be adopted by each authority along with its rules of procedure and shall be applicable to those applications which are under its jurisdiction. When the application has been received in a complete form as defined by said rules a copy shall be forwarded to the Town Clerk. The stamp of the Town Clerk shall designate the date of filing.

10.5 Application Requirements for Special Permit

10.51 The following contents are required for all Special Permit applications:

1. All plan drawings and supporting documentation illustrating the proposed project, and including the following information:

2. Name of the project, locus, date and scale plan;

3. Name and address of the owner of record, developer, and original seal of the engineer, landscape architect, architect, or surveyor;

4. A single-sheet locus plan at a scale of 1" = 100' showing the location and owner's names of all adjacent properties and those within 300 feet of the property line, and all zoning district boundaries;

5. Existing and proposed topography at a two foot contour interval, the location of wetlands, streams, waterbodies, drainage swales, areas subject to flooding and base flood elevations and unique natural land features;

6. Existing and proposed structures, including dimensions and elevations; and all exterior entrances and exits;

7. The location of parking and loading areas, public and private ways, driveways, walkways, access and egress points;

8. The location and description of all proposed septic systems, percolation tests when necessary, water supply, storm drainage systems including existing and proposed drainlines, culverts, drainage swales, catchbasins, utilities, hydrants, manholes and lighting fixtures;

9. Drainage calculations and subdrainage along with soil logs;

10. Refuse and other waste disposal methods;

11. Proposed landscape features including the location and description of buffers, screening, fencing, and plantings, including the size and type of plant materials;

12. The location, dimensions, height, color, illumination and characteristics of existing and proposed signs;

13. For alterations to any existing or new business, commercial, or industrial uses a table containing the following information:

    a. Maximum area of building to be used for sales offices, business, industrial or other uses.

    b. Maximum number of employees, where applicable.

    c. Maximum seating capacity, where applicable.

    d. Number of parking spaces existing or required for the intended uses.

14. Elevation plans at a scale of 1/4" = 1'0" for all exterior facades of the proposed structure(s) and/or existing facades plus addition(s) showing design features and indicating the type and color of materials to be used.

15. Plans for clearing, stockpiling or removal of topsoil on the site, including whether such topsoil is to be permanently removed from the site.

10.52 The SPGA/SPRA may waive any information requirements it judges to be unnecessary to the review of a particular plan.

10.6 Application Requirements for Special Permit with Site Plan Approval or Site Plan Review

10.61 For all projects requiring Special Permit with Site Plan Approval or Site Plan Review, the site plan submitted to the SPGA/SPRA shall comply with all requirements in Section 10.8 and with the following additional requirements:

1. The plan shall contain evidence of compliance with the Commercial and Industrial Development Performance Standards in Section 7.7.

2. The plan shall describe estimated daily and peak-hour vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site.

3. A detailed Traffic Impact Statement is required in each case where a proposed new building, use or project will contain more than 10,000 square feet, or will include one of the following uses which generates high volumes of trips; automobile service station, convenience store, bank, or post office. The Traffic Impact Statement shall contain:

    a. Traffic flow patterns at the site including entrances and egresses, loading, and unloading areas, and cub cuts on site and within one hundred feet of the site.

b. A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities, and impacts on intersections.

c. A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means;

d. An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

4. The plan shall illustrate the location and contain a description of any proposed open space or recreation areas;

5. A plan for the control of erosion, dust and silt, both during and after construction, temporary and permanent erosion control, and protection of water bodies is required.

6. All site plans shall be prepared by a registered architect or landscape architect, or a professional engineer or land surveyor unless this requirement is waived by SPGA/SPRA because of unusually simple circumstances. Any plan presenting a determination of a property line must be prepared and endorsed by a registered Professional Land Surveyor. Any plan presenting design by a civil engineer, such as that of a drainage or sewer system, must be prepared and endorsed by a registered Professional Engineer. All site plans shall be at a scale of 1 inch equals 40 feet, with additional narrative as necessary.

10.62 The SPGA/SPRA may waive any information requirements it judges to be unnecessary to the review of a particular application.

10.7 Procedures for Review of Special Permits and Site Plans

10.71 The Special Permit Granting and Site Plan Review Authorities may adopt and revise reasonable regulations for the administration of this section.

10.72 Technical Review Fees for Special Permits and Special Permits with Site Plan Approval:

1. If, after receiving an application, the Special Permit Granting Authority determines that in order to review that application it requires technical advice unavailable from municipal employees, it may employ outside consultants. Whenever possible the authority shall work cooperatively with the applicant to identify appropriate consultants and to negotiate payment of part or all of the consultant fees by the applicant. The authority may, by majority vote, require that the applicant pay a reasonable review fee for the employment of outside consultants chosen by the authority alone.

2. A review fee may be imposed only if the work is in connection with the applicant's specific project and all written results and reports are made part of the record before the authority.

3. Referral to Town Boards and Departments (Amended 4/27/15)

a. The SPGA/SPRA shall within ten (10) days of receiving a Special Permit/Site Plan Approval/Site Plan Review application, transmit one copy each to: the Building Inspector, Board of Health, Conservation Commission, Highway Department, Historical Committee, Fire Department, Police Department, and Planning Board, who shall review the application and submit their recommendations and comments to the SPGA/SPRA concerning:

(1) the adequacy of the data and methodology used by the applicant to determine the impacts of the proposed developments;

(2) the impacts of the proposed development, and;

(3) recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.

b. Failure of a board or department to make recommendations within 30 days of the referral of the application shall be deemed to be lack of opposition.

4. Public Hearing and Public Meeting

a. A public hearing shall be held within 65 days after the filing of a Special Permit application, in accordance with the procedures in Massachusetts General Laws, Chapter 40A, Section 9, and this bylaw.

b. In cases where Site Plan Approval is required with the Special Permit, a joint public hearing to address both the Special Permit application and the Site Plan Approval application shall be held within sixty-five (65) days of the filing of the applications with the Special Permit Granting Authority, however, a public hearing shall not be held until a response has been received from the Boards/Departments as required under Section 185-37.G.3., or the required comment period has elapsed.

c. Site Plan Review-Administrative Review applications shall be reviewed and acted upon at any regular meeting of the SPRA. A public hearing shall not be required, however the SPRA shall notify all abuttors within three hundred feet of the application property and shall make its determination within sixty-five (65) days of the filing of the application with the authority.

5. Public Hearing Notice Requirements

a. In all cases when notice of a public hearing is required, the board holding such hearing shall post notice of the hearing by publication in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing, and by posting such notice in a conspicuous place in the town hall for a period of not less than 14 days before the date of such hearing. In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid. The assessors maintaining any applicable tax list shall certify to the board holding the hearing the names and addresses of parties in interest, as defined in this Bylaw and such certification shall be conclusive for all purposes. The board holding the hearing may accept a waiver of notice from, or an affidavit or actual notice to any party in interest, or in his stead, any successor owner of record who may not have received a notice by mail, and may order special notice to any such person, giving not less than 5 or more than 10 additional days to reply.

b. Publications and notices required by this section shall contain the name of the petitioner, a description of the area or premises, street address, if any, or other adequate identification of the location of the area or premises which is the subject of the petition, the date and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested if any. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in the town.

6. Special Permit with Site Plan Approval and Site Plan Review Criteria

a. In reviewing and evaluating the site plan, and in making a final determination regarding site plan approval/site plan review, the reviewing authority shall consider the following criteria:

(1) The site plan complies with the Performance Standards in Section 7.7, where applicable;

(2) For non-residential projects, the site plan shall address, to the extent feasible and practical, the recommendations of any Design Guidelines accepted by the Planning Board;

(3) The site plan minimizes traffic and safety impacts of the proposed development on adjacent highway or roads, and maximizes the convenience and safety of vehicular and pedestrian movement within the site;

(4) The proposed development, to the extent feasible:

(a) is integrated into the existing landscape and protects abutting properties;
(b) minimizes adverse environmental impacts on such features as wetlands, floodplains, and aquifer recharge areas;
(c) minimizes obstruction of scenic views from publicly accessible locations;
(d) preserves unique natural or historical features;

(e) minimizes tree, vegetation and soil removal and grade changes;
(f) maximizes open space retention; and
(g) screens objectionable features from neighboring properties and roadways.

(5) The architectural design, layout and landscaping of the proposed development is in harmony with the historic, rural character of the neighborhood and the Town of Hampden. The neighborhood shall be considered an area within 1500 feet of the proposed development.

(6) The proposed development is served with adequate water supply and waste disposal systems and will not place excessive demands on Town services and infrastructure.

(7) The site plan shows adequate measures to prevent pollution of surface or groundwater to minimize erosion and sedimentation, minimize changes in groundwater levels, and assure no increase in run-off or potential for flooding.

(8) The site plan shows that, to the extent feasible, adequate measures have been taken to protect historic structures and sites at the location of the proposed development.

(9) Electric lines, telecommunications lines and other such utilities shall be underground.

7. Decision on Special Permit

a. The Special Permit Granting Authority shall make a decision on the special permit within 90 days following the public hearing. Failure to take final action upon an application for a special permit within said 90 days shall be deemed to be a grant of the permit applied for.

(1) The required vote to approve a Special Permit shall be as required in Massachusetts General Laws, Chapter 40A, Section 9.

(2) No Special Permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed; or is such appeal has been filed, that it has been dismissed or denied, is recorded in the Hampden County Registry of Deeds.

(3) Any extensions, modifications or renewals of a Special Permit shall follow the same procedures as are required for the original granting of a special permit.

8. Decision on Special Permit with Site Plan Approval

a. The SPGA's final action on applications for Special Permit with Site Plan Approval shall consist of either:

(1) A written approval of the application based on a determination that the proposed project will constitute a suitable development and is in compliance with the criteria and standards set forth in this bylaw;

(a) A written denial of the application based on a determination that the proposed project does not meet the standards for review set forth in this bylaw, stating the reasons for such denial, or;

(b) Approval subject to any conditions, modifications and restrictions, which will ensure that the project meets the standards and criteria in this bylaw.

(c) No Special Permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed; or is such appeal has been filed, that it has been dismissed or denied, is recorded in the Hampden County Registry of Deeds.

(d) Any extensions, modifications or renewals of a Special Permit shall follow the same procedures as are required for the original granting of a special permit.

9. Decision on Site Plan Review-Administrative Review

a. The SPRA's final action on applications for Site Plan Review-Administrative Review shall consist of either:

(1) A written determination that the proposed project will constitute a suitable development and is in compliance with the criteria and standards set forth in this bylaw; or

(2) A written statement of any conditions, modifications and restrictions, which will ensure that the project meets the criteria and standards in this bylaw.

10. Separate Actions of the SPGA

a. For applications requiring a Special Permit and a Site Plan Approval, the SPGA shall render separate and distinct decisions for each. Each vote of the board shall be taken and recorded separately for the purpose of maintaining a clear record of actions.

10.8 Criteria - Special Permit and Special Permit with Site Plan Approval

10.81 The Special Permit Granting Authority shall not grant any special permit unless it finds the following criteria are met:

1. The use requested is designated in these zoning bylaws as a special permit in the District for which application is made.

2. The use is in harmony with the purpose of this Bylaw.

3. The requested use is not detrimental to the public convenience or welfare.

4. The requested use will not create traffic congestion or impair pedestrian safety.

5. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting health, safety or the general welfare.

6. Any provisions for the use, set forth in these zoning bylaws, are fulfilled.

7. The requested use will not impair the integrity or character of the district or adjoining zones, not be detrimental to the health, safety or welfare.

8. If Site Plan Approval is required, it must be approved prior to the issuance of a Special Permit.

9. That the use will not constitute a nuisance by reason of an unacceptable level of air or water pollution or excessive noise.

10. The proposed project shall not create a significant adverse impact to the quality of surface water or groundwater during and after construction, and provision shall be made for ensuring groundwater recharge.

11. The design of the project shall provide for adequate methods of disposal and recycling of sewage, refuse or other wastes generated by the proposed use.

12. The design of the project shall minimize the visibility of visually degrading elements and protect the neighboring properties from potentially detrimental or offensive uses of screening or vegetated buffer zones.

10.9 Conditions, Safeguards, and Limitations - Special Permit and Special Permit with Site Plan Approval

10.91 The Special Permit Granting Authority may also impose in addition to any applicable conditions in this Bylaw such conditions and safeguards as it finds or otherwise serve the purposes of this Bylaw, including, but not limited to, the following:

1. Requirement of screening, buffers or planting strips, fences or walls.

2. Modification of the exterior appearance of the structure(s).

3. Limitations of signs or other advertising features beyond the minimum established under the Zoning Bylaw.

4. Limitations of number or density of occupants, times or nature of operations, size, scale, or other characteristics of the use or facility.

5. Time duration of permit or extent of facilities.

6. Regulation of the number, design and location of access drives or circulation facilities.

7. Requirements of off-street parking, loading or other features beyond the minimum otherwise required by the Zoning Bylaw.

8. Traffic features in accordance with regulations of loading or other special features different from the minimum required by this Ordinance.

9. Requirements of front, side or rear yards greater or less than the minimum otherwise prescribed by the Zoning Bylaw.

10. Any other conditions, safeguards, and limitations in time and use which are consistent with the purpose of the Zoning Bylaw and which are appropriate to the safeguarding of any neighborhood. Such conditions shall be imposed in writing and the applicant may be required to post bond or other security for compliance with said conditions in any amount satisfactory to the Special Permit Granting Authority.

10.10 Filing and Enforcement of Special Permit or Special Permit with Site Plan Approval

10.101 The decision of the Special Permit Granting Authority shall be filed with the Town Clerk along with detailed reasons therefore and all plans as finally approved. Certified copies shall be sent to the Building Inspector or enforcement officer and to the applicant in accordance with the Zoning Act. Issuance of a special permit does not constitute issuance of a building permit.

10.102 Once a special permit has been issued, the application for a building permit shall be filed with the Building Inspector. The building permit application shall include the plan, if any, approved by the Special Permit Granting Authority and an application indicating all conditions set forth by the Special Permit Granting Authority when approving the plan. In cases where the setbacks of single-family houses have been prescribed in the special permit, the Building Inspector shall verify that the building permit application for each lot is in conformity with the special permit.

A special permit granted under this Bylaw shall lapse within 2 years of the date of approval if a substantial use thereof has not sooner commenced except for a good cause or in the case of a permit for construction if construction has not begun by such date except for a good cause. (Amended April 26, 2004)

10.104 The Special Permit Granting Authority may require the posting of a bond or other adequate security to assure compliance with the Special Permit, site plan and conditions and may suspend any permit or license when work is not performed as required.

10.11 Filing and Enforcement of Site Plan Review-Administrative Review Determination

10.111 The decision of the Site Plan Review Authority shall be filed with the Town Clerk along with all plans reviewed by the SPRA. Certified copies shall be sent to the Building Inspector and to the applicant. Issuance of a Site Plan Review Determination does not constitute issuance of a building permit.

10.112 Once a Site Plan Review Determination has been issued, the application for a building permit shall be filed with the Building Inspector. The building permit application shall include the plan, if any, reviewed by the SPRA and an application indicating all conditions set forth by the SPRA when making its determination.

10.113 All conditions of the SPRA determination must be satisfied prior to the issuance of a building permit. The Zoning Enforcement Officer shall determine if the SPRA conditions have been satisfied by the applicant.

10.114 Special permits may run with the land or be limited to the applicant.

10.115 A special permit must be filed with the Registry of Deeds to be in effect and before work may begin and before any other permits may be issued.

SECTION 11

AMENDMENT

Section 11 approved 1978 and amended April 26, 1999, unless otherwise noted

This bylaw may from time to time be changed by amendment, addition or repeal by a Town Meeting in the manner provided by Section 6, Chapter 40A of the General Laws of the Commonwealth of Massachusetts.

SECTION 12

VALIDITY

Section 12 approved 1978, amended April 26,1999, unless otherwise noted

Where this bylaw imposes a greater restriction upon the use, height and area of structure or the use of premises than is imposed by other bylaws, the provisions of this bylaw shall control. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

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