



TOWN OF HUDSON

Planning Board

Glenn Della-Monica, Chairman

Marilyn McGrath, Selectmen Liaison



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PUBLIC MEETING TOWN OF HUDSON, NH JANUARY 25, 2017

The Town of Hudson Planning Board will hold a regularly scheduled meeting on Wednesday, January 25, 2017 at 7:00 p.m. in the “Buxton Community Development Conference Room” at Town Hall. The following items will be on the agenda:

- I. CALL TO ORDER BY CHAIRPERSON AT 7:00 P.M.
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- IV. SEATING OF ALTERNATES

- V. **ELECTION OF OFFICERS**

- VI. MINUTES OF PREVIOUS MEETING(S)
- VII. CASES REQUESTED FOR DEFERRAL
- VIII. CORRESPONDENCE
- IX. PERFORMANCE SURETIES
- X. ZBA INPUT ONLY
- XI. PUBLIC HEARINGS
- XII. OLD BUSINESS/PUBLIC HEARINGS
- XIII. DESIGN REVIEW PHASE
- XIV. CONCEPTUAL REVIEW ONLY
- XV. NEW BUSINESS/PUBLIC HEARINGS

- XVI. OTHER BUSINESS
 - A. Review the Zoning Amendment Warrant Articles for the 2017 March Town Meeting.
 - B. Review Status and Take Action on Outstanding Sureties.
 - C. Develop Planning Board Action Plan for 2017, Including Review of the Zoning Ordinance Review Committee’s Ongoing Efforts to Update the Town’s Zoning Ordinance.

- XVII. ADJOURNMENT

All plans and applications are available for review in the Planning Office. Comments may be submitted in writing until 10:00 a.m. on the Tuesday prior to the day of the meeting.

The public is invited to attend.

John M. Cashell
Town Planner

POSTED: Town Hall, Library & Post Office – 01-13-16

ELECTION OF NEW OFFICERS FOR CALENDAR YEAR 2017

Chairman, Glenn Della Monica shall address the need to elect new officers for reorganization of the Board, and shall first ask for a nomination for the position of Chairman.

DRAFT MOTIONS FOR ELECTION OF OFFICERS:

MOTION FOR CHAIRMAN:

I move to nominate _____ to be Chairman.

Second: _____.

If there are no other nominations for this office, the next motion is:

MOTION:

There being no other nominations, I move to close the nominations and to elect _____ as Chairman by acclamation.

Motion by: _____ Second: _____ Motion carried/failed: _____.

MOTION FOR VICE-CHAIRMAN:

I move to nominate _____ to be Vice-Chairman.

Second: _____.

If there are no other nominations for this office, the next motion is:

MOTION:

There being no other nominations, I move to close the nominations and to elect _____ as Vice-Chairman by acclamation.

Motion by: _____ Second: _____ Motion carried/failed: _____.

MOTION FOR SECRETARY:

I move to nominate _____ to be Secretary.

Second: _____.

If there are no other nominations for this office, the next motion is:

MOTION:

There being no other nominations, I move to close the nominations and to elect

_____ as Secretary by acclamation.

Motion by: _____ Second: _____ Motion carried/failed: _____.

Review the Zoning Amendment Warrant Articles for the 2017 March Town Meeting

Staff Report
25 January 2017

This item is on the agenda for informational purposes only, i.e., at the meeting board members may choose to (or not) review and discuss the contents of the following items:

- The 4 attached Zoning Warrant Articles, i.e., Articles 2 – 5, together with the attached FINAL APPROVED copies of the subject 4 proposed Zoning Amendments, in their entirety. Please note, the attached Articles were authored by Town Counsel, Atty. Dave Lefevre, and each is presented as will appear in the 2017 March Town Meeting Warrant.

Warrant Article 4

Amend Zoning Ordinance § 334-60 Signs

Amend Article VII, Signs, by amending § 334-60, paragraph K, to provide that no inflatable, balloon or portable signs are allowed in any zoning district unless specifically authorized in a permit issued by the Board of Selectmen for a fair, festival, limited duration performance or other event of a temporary nature.
(Approved by the Planning Board by a vote of 7-0)

Warrant Article 5

Amend Zoning Ordinance § 334-73 Accessory Living Units

Amend Article XIII.A, Accessory Living Units, by deleting § 334-73.1, § 334-73.4, and § 334-73.8, and amending § 334-73.2, § 334-73.3, § 334-73.5, and § 334-73.6. The purpose of the amendments is to address recent changes under New Hampshire state law, RSA §§ 674:71-73, relative to accessory dwelling units.
(Approved by the Planning Board by a vote of 6-1)

Warrant Article 2

Amend Zoning Ordinance § 334-5 & 6 Terminology

Amend Article II, Terminology, by amending § 334-5 and § 334-6, relative to word usage, interpretation, and definitions. The amendment proposes comprehensive amendments to these sections of the Zoning Ordinance which define the meanings of various terms used throughout the Zoning Ordinance; the term's usage and interpretation.
(Approved by the Planning Board by a vote of 7-0)

Warrant Article 3

Amend Zoning Ordinance § 334-14 Building Height

Amend Article III, General Provisions, by amending § 334-14, to permit a maximum building height of fifty (50) feet for buildings used for manufacturing, warehouses, distribution, and office space ancillary to said principal uses, and specific to certain Industrial (I), General (G), and General-One (G-1) zoning districts.
(Approved by the Planning Board by a vote of 5-2)

PUBLIC HEARING

Please take notice, in accordance with NH RSA 675:3, the Town of Hudson, New Hampshire, Planning Board will hold a public hearing on Wednesday, December 14, 2016, at 7:00 P.M. in the Buxton Meeting Room (lower level) of Town Hall at 12 School Street, Hudson to consider the following amendment to the Town's Zoning Ordinance. Please note, the below-cited proposed ARTICLE II – Terminology - Zoning Ordinance amendment provides this amendment in its entirety, with added language shown in bold-print and deleted language shown is bold strikethrough-print:

ARTICLE II Terminology

§ 334-5. Word usage and interpretation.

For the purposes of this chapter, certain words, terms or phrases shall bear the meanings ~~given herein unless~~ defined in §334-6, unless the context clearly indicates otherwise. **Such words, terms and phrases shall appear in CAPITAL LETTERS when used as herein defined.**

- A. Words in the present tense include the future.
- B. The singular includes the plural, and the plural includes the singular.
- C. **Hierarchy: ~~Terms and words not defined in this article but defined in the Building Code shall have the meanings given therein.~~**
 - i) **Terms and words not defined in this article but defined in applicable New Hampshire state statutes or regulations shall have the meanings given therein.**
 - ii) **Terms and words not defined in this article but defined in the Building Code shall have the meanings given therein.**
 - iii) **Terms and words not defined in this article, the RSAs or in the Building Code shall have the meanings understood in common usage and as defined in standard American dictionaries.**
- ~~D. Terms and words not defined in this article or in the Building Code shall have the meanings understood in common usage and as defined in standard American dictionaries~~
- D. **In interpreting any portion of this chapter, it shall be held as the minimum requirement adopted for promotion of the public health, safety and general welfare of the Town. Whenever any provision of this chapter is at variance with any other provision of the chapter, or with the requirements of any other lawfully adopted rule or regulation, the most restrictive, or that imposing the highest standard, shall govern.**
- E. **In case of any difference in meaning or implication between the text of these regulations and any caption, illustration, summary table or illustrative table, the text shall govern.**

- F. The words "shall," "will," "shall not," "will not" or "may not" are always mandatory and not discretionary. the word "may" is permissive.
- G. The terms "building" or "structure" include any part thereof.
- H. The term "person" includes an individual, a corporation a partnership, an incorporated association, or any other similar entity.
- I. The terms "includes" and "including" shall not limit a term, definition or set of examples to the specified examples, but is intended to extend its meaning to all other instances or circumstances of the like kind of character.
- J. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunctions "and," "or," or "either... or," the conjunction shall be interpreted as follows: 1. "And" or "plus" indicates that all the connected items, conditions, provisions or events shall apply. 2. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination. 3. "Either ... or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

§ 334-6. Definitions.

The following words have the following meanings for the purposes of this chapter and do not affect or supersede definitions contained in any other TOWN ordinance or regulation.

A

ABANDONMENT - The visible or otherwise apparent intention of an owner to discontinue a use of a structure or LOT.

ABUTTER - Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board **as defined in RSA 672:3. For purposes of receiving testimony only, and not for purposes of notification, the term "ABUTTER" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.** For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term "ABUTTER" means the officers of the collective or association, as defined in New Hampshire RSA 356-B:3, XXIII.

ACCESS - The right vested in the owner of land to enter and return from that land without obstruction to and from a public way. ~~A way or means of approach to provide physical entrance to a property. [Added 3-1-1998]~~

~~**ACCESSORY LIVING UNIT (ALU)** — A secondary dwelling unit which is accessory and subordinate to a permitted principal one-family dwelling unit and consists of any kitchen/kitchenette area combined with one bedroom and optional living room/dining area and bathroom, which is located on a single floor in a contiguous area of the dwelling that is~~

~~separate from the primary kitchen and bedroom areas of the permitted one-family dwelling.~~
~~[Amended 3-14-2006 by Amdt. No. 3]~~

ACCESSORY DWELLING UNIT (ADU) - A residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal DWELLING UNIT it accompanies, as defined in RSA 674:71.

ACCESSORY BUILDING or SHED - A structure of any kind other than an AWNING or CANOPY, the purpose of which is storage or other accessory use.

ACCESSORY STRUCTURES – A detached building or other structure, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building. These include, but are not limited to:

- **ACCESSORY BUILDING or SHED**
- **AWNING**
- **CANOPY**
- **PORTABLE GARAGE**
- **CAR CANOPY**

ADULT BOOKSTORE or ADULT VIDEO STORE— A **SEXUALLY ORIENTED BUSINESS** that devotes display, shelf, rack, table, stand or floor area, utilized for the display and sale of the following: [Added 3-9-1999; amended 3-13-2001 by Amdt. No. 7]

(A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, slides, tapes, records, CD-ROM's or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1; or

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

ADULT CABARET — A **type of SEXUALLY ORIENTED BUSINESS** that is a nightclub, bar, restaurant, or similar establishment which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 5871-B:1, and/or feature films, motion pictures, videocassettes, **DVDs. Blu-Ray discs, electronic media and storage devices**, slides or other photographic or **electronic** reproductions, a **SUBSTANTIAL PORTION** of the total presentation time of which is devoted to showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1. [Added 3-9-1999; readopted 3-13-2001 by Amdt. No. 7]

ADULT DRIVE-IN THEATER — A **type of SEXUALLY ORIENTED BUSINESS** that is an open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of

consideration to persons in motor vehicles or on outdoor seats, in which materials are shown which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1. [Added 3-9-1999; readopted 3-13-2001 by Amdt. No. 7]

ADULT USE ESTABLISHMENT MOTEL — ~~A motel or similar~~ type of **SEXUALLY ORIENTED BUSINESS** that is an establishment offering goods, services or public accommodations ~~for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographs reproductions which are~~ distinguished or characterized by an emphasis upon the depiction of materials which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1. [Added 3-9-1999; readopted 3-13-2001 by Amdt. No. 7]

ADULT MOTION-PICTURE ARCADE — **A type of SEXUALLY ORIENTED BUSINESS** that is any place to which the public is permitted or invited wherein coin-, -token or slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, in which the images so displayed are devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1. [Added 3-9-1999; readopted 3-13-2001 by Amdt. No. 7]

ADULT MOTION-PICTURE THEATER — **A type of SEXUALLY ORIENTED BUSINESS** that has ~~An establishment with~~ a capacity of five or more persons, where for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are shown, and in which a **SUBSTANTIAL PORTION OF THE TOTAL PRESENTATION TIME** is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1, for observation by patrons. ~~For the purposes of this chapter, "substantial portion of the total presentation time" shall mean the presentation of films or shows described above for viewing on more than seven days within any 56 consecutive day period.~~ [Added 3-9-1999; readopted 3-13-2001 by Amdt. No. 7]

ADULT THEATER — **A type of SEXUALLY ORIENTED BUSINESS** that is a theater, concert hall, auditorium or similar establishment, either indoor or outdoor in nature, which for any form of consideration regularly features live performances, which are distinguished or characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1. [Added 3-9-1999; readopted 3-13-2001 by Amdt. No. 7]

ALTERNATIVE FACILITIES/TECHNOLOGIES (telecommunications) — Innovative siting techniques for use with commercial wireless telecommunication facilities such as artificial trees, clock towers, bell towers, steeples, light poles and similar alternative design mounting structures which camouflage or conceal the presence of antennas, towers or facilities; as well as utility pole and cable-based technologies. [Added 3-9-1999]

ALTERNATIVE ENERGY SYSTEMS – ALTERNATIVE ENERGY SYSTEMS include wind, solar, geothermal, fuel cell, hydroelectric and other similar energy production systems. See:

- **METEOROLOGICAL TOWER (MET TOWER)**

- SYSTEM MODIFICATION
- NET METERING
- POWER GRID
- SHADOW FLICKER
- SMALL WIND ENERGY SYSTEM
- SMALL WIND ENERGY SYSTEM HEIGHT
- SMALL WIND ENERGY SYSTEM TOWER
- WIND GENERATOR

ANTENNA — The radiating system used to perform or achieve (transmit and/or receive) ~~the~~ a desired communication or telecommunication service. ~~An “integrated antenna array” means multiple-coordinated radiating elements. [Added 3-9-1999]~~

APPLICANT – The person, persons, corporation or other legal entity, or their assigns, applying for a VARIANCE, SPECIAL EXCEPTION or APPEAL OF ADMINISTRATIVE DECISION.

AWNING — A ~~roof-like~~ cover or appurtenance that is permanent, retractable, temporary or portable in nature and ~~that projects from the wall of a building for the purposes of shielding a doorway or window from the elements~~ is attached to and wholly supported by a building or other structure.

AWNING SIGN — A sign painted on or attached flat or flush against the surface of the awning, but not extending above, below or beyond the awning or attached to the underside.

B

BANNER SIGN — A temporary sign of lightweight material (paper, plastic or fabric) hung either with or without frames. Flags and insignias containing only markings of any government, corporation or business are not considered "banners" and are defined separately as "flags."

BEST MANAGEMENT PRACTICE - A proven or accepted structural, nonstructural, or vegetative measure the application of which reduces erosion, sediment, or peak storm discharge, or improves the quality of stormwater runoff. The standard described in the latest published copy of Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire prepared by United States Department of Agriculture Soil Conservation Services.

BMP – see BEST MANAGEMENT PRACTICE .

BOARD, ZBA or ZONING BOARD OF ADJUSTMENT - Unless otherwise specified, **BOARD or ZONING BOARD OF ADJUSTMENT** means the Town of Hudson, NH, **ZONING BOARD OF ADJUSTMENT** as appointed by the Town Selectmen.

BOG — A wetland distinguished by stunted evergreen trees and shrubs, the presence of peat deposits and/or highly acidic soil and/or water conditions as defined in the New Hampshire Code of Administrative Rules issued by the New Hampshire Wetlands Board.

BUFFER- Physical distance and/or vertical elements, such as plants, berms fences or walls, the purpose of which is to separate and/or screen incompatible land uses from each other. (See also **WETLAND BUFFER**)

BUILDING CERTIFICATE — A certificate obtained from the Planning Board entitling the holder to obtain one building permit for one dwelling unit. Dwelling units as defined in this article include single-family homes and duplexes on individual lots, as well as individual condominium units and apartments in multifamily structures shown on approved site plans. A building certificate is valid for a period of two years from the date of issuance, by which time it must be redeemed for a building permit, or expire.

BUILDING, STRUCTURE (Accessory) – See **ACCESSORY STRUCTURES**.

~~**BUILDING, ACCESSORY**—A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.~~

BUILDING, ATTACHED — A building having any portion of one or more walls or roof in common with adjoining buildings.

BUILDING, DETACHED — A building not sharing any walls or portions of any walls or roof with adjoining buildings.

BUILDING, PRINCIPAL — A building in which is conducted the principal use of the lot on which it is located.

BUILDING SETBACK – The minimum distance from the **RIGHT OF WAY** to a **FRONT, SIDE or REAR LOT LINE** at which a building, driveway or other regulated structure or feature may be set or constructed.

BUILDING SIGN — Any sign affixed, mounted, attached to or painted on to the exterior of a building, including awnings, canopies, roof-mounted and projecting signs. [Amended 3-10-2009 by Amdt. No. 2]

C

CANOPY – A temporary or permanent covered structure, the primary purpose of which is to shield the area beneath it from the elements, and which is supported by posts, poles, columns or other elements directly on or into the ground.

CAR CANOPY: A free standing, lightweight structure used to house vehicles and constructed of tube framing and is partially covered by a canvas, polyethylene cover or other

woven or nonwoven fabric or sheeting cover. This type of structure typically has no side walls and can be easily disassembled and moved. See also CANOPY.

CARE FACILITIES – See NH RSAs

- **DAY-CARE NURSERY**
- **CHILD DAY CARE,**
- **CHILD DAY-CARE AGENCY**
- **FAMILY DAY-CARE HOME**
- **FAMILY GROUP DAY-CARE HOME**
- **GROUP CHILD DAY-CARE CENTER**
- **NIGHT-CARE AGENCY**
- **PRESCHOOL PROGRAM**
- **RESIDENCE**

CHILD DAY CARE — The care and supervision of a child away from the child's home and apart from the child's parents. ~~including such care and supervision at workplace facilities, but excluding public and private K-12 schools.~~ [Added 3-13-2007 by Amdt. No. 1]

CHILD DAY-CARE AGENCY — Any person, corporation, partnership, voluntary association or other organization, either established for profit or otherwise, which regularly receives for child day care one or more children, unrelated to the operator or staff of the agency. The total number of hours in which a child may remain in child day care shall not exceed 13 hours per day, except in emergencies. The types of child day care agencies are defined as follows: [Added 3-13-2007 by Amdt. No. 1]

~~A. **FAMILY DAY-CARE HOME** — An occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for up to six children from one or more unrelated families. The six children shall include any foster children residing in the home and all children who are related to the caregiver except children who are 10 years of age or older. In addition to the six children, up to three children attending a full-day school program may also be cared for up to five hours per day on school days and all day during school holidays.~~

~~B. **FAMILY GROUP DAY-CARE HOME** — An occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for seven to 12 children from one or more unrelated families. The 12 children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of age or older. In addition to the 12 children, up to five children attending a full-day school program may also be cared for up to five hours per day on school days and all day during school holidays.~~

~~C. **GROUP CHILD DAY-CARE CENTER** — A child day care agency in which child day care is provided for preschool children and up to five school-age children, whether or not the service is known as day nursery, nursery school, kindergarten, cooperative, child development~~

~~center, day care center, center for the developmentally disabled, progressive school, Montessori school, or by any other name.~~

~~D. DAY CARE NURSERY — A child day care agency in which child day care is provided for any part of a day, for five or more children under the age of three years.~~

~~E. NIGHT CARE AGENCY — A center or family home in which child day care is provided during the evening and night hours. A child day care agency may be licensed for day care, night care, or both.~~

~~F. PRESCHOOL PROGRAM — A child day care agency providing care and a structured program for children three years of age and older who are not attending a full day school program. The total amount of hours a child may be enrolled in a preschool program shall not exceed five hours per day.~~

i. PRESCHOOL PROGRAM — A child day-care agency providing care and a structured program for children three years of age and older who are not attending a full-day school program. The total amount of hours a child may be enrolled in a preschool program shall not exceed five hours per day.

CERTIFIED SOILS SCIENTIST — A professional soils scientist certified by the state of New Hampshire pursuant to New Hampshire state statutes and licensed to practice in the state.

CERTIFIED WETLANDS SCIENTIST — A professional wetland scientist certified by the state of New Hampshire pursuant to New Hampshire state statutes and licensed to practice in the state.

CO-LOCATION, CO-LOCATED (telecommunications – ANTENNA) — The placement of more than one ANTENNA or INTEGRATED ANTENNA ARRAY on a supporting structure, and appurtenant equipment and devices on the supporting structure and/or ground, necessary to perform or achieve a desired telecommunication service or radio service which is discrete from any other telecommunication or radio service(s) located on the same supporting structure. [Added 3-9-1999]

COMMERCIAL VEHICLE, LIGHT — A vehicle used in commerce, which does not exceed 13,000 pounds gross weight. [Added 3-13-2007 by Amdt. No. 1]

COMMERCIAL VEHICLE, HEAVY — A vehicle used in commerce, which exceeds 13,000 pounds gross weight. [Added 3-13-2007 by Amdt. No. 1]

COMMERCIAL WIRELESS TELECOMMUNICATION FACILITY — Any structure, ANTENNA, MAST, tower or other device used to provide a discrete commercial telecommunication service by a single provider or multiple CO-LOCATED providers to a broad base of usually unrelated users; generally including, but not limited to, cellular telephone, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR) and paging. [Added 3-9-1999]

CONFORMING LOT : A parcel of land capable of being occupied by one principal structure or use and its accessory structures or uses and as shown and identified as such on a plat as defined in the TOWN Code.

~~DANCE HALL — Any location which permits or permits to occur the gathering of people for dancing, regardless of whether conducted as an isolated or occasional event. This definition shall not be limited to any particular type of structure, or any particular part of any structure, and shall include any building or any part thereof where dancing occurs, and the fact that other activities are carried on in the same place shall not alter the classification of the location as defined herein. Expressly excluded from this definition are public or private schools licensed by the State of New Hampshire or operated by the Hudson School District.² [Added 3-12-2002 by Amdt. No.3]~~

DAY-CARE NURSERY — A child day-care agency in which child day care is provided for any part of a day, for five or more children under the age of three years.

DIRECTIONAL SIGN — Signs identifying entrances, exits, parking areas or loading docks or providing other messages necessary to direct vehicles and pedestrians through or within a site.

DIRECTORY SIGN — Signs which identify or locate the occupants of buildings.

DISTRICT – An area of land within the TOWN designated as one of the five land use classifications in § 334-9 of this ordinance.

DUPLEX – Two DWELLING UNITS attached by any portion of one or more floors, walls or roofs.

DWELLING UNIT — One or more rooms arranged for living, ~~and~~ sleeping ~~and~~ cooking purposes with ~~cooking and~~ sanitary facilities for the use of one or more individuals living as a single housekeeping unit.

DWELLING UNIT, MULTIFAMILY — Three or more ~~attached~~ DWELLING UNITS attached by any portion of one or more floors, walls or roofs.

E

ELECTRONIC CHANGING SIGN — Electronic message center (EMC), electronic message sign (EMS) and changeable copy board (CCB) signs that display illuminated messages that can change frequently, can flash, display and/or convey messages in text, graphics, pictures, symbols, multiple colors, rhythms, animation and/or patterns. This sign's message may be changed by the electronic switching of lamps, illuminated tubes, bulbs and/or through the apparent movement of light. These signs are capable of storing and/or displaying single or multiple messages in various formats at varying intervals. [Amended 3-10-2009 by Amdt. No. 2] Definitions related to ELECTRONIC CHANGING SIGNS are:

- BRIGHTNESS — Also known as "intensity"; the LED Industry measures display intensity in candelas per square meter, which is also referred to as "NITS."
- DIMMING — The ability to increase or decrease the overall display intensity brightness.

- **DIODE** — Also called "light-emitting diode" (LED) or "surface-mounted diode" (SMD).
- **LED (LIGHT-EMITTING DIODE/SMD)** — A solid-state component that uses a semiconductor (a silicon chip or some type of semiconductor) that emits visible light when electric current passes through it.
- **LUMINANCE** — The amount of light that passes through or is emitted from a particular area. The SI unit for luminance is candela per square meter.
- **NIT or NITS** — A luminance-measuring unit equal to one candela (one candle) per square meter measured perpendicular to the rays from the source.
- **SI UNIT** — An abbreviation for the International System of Units.
- **TEXT** — Any form in which writing exists.

ENGINEER or SURVEYOR - The designated, legally recognized engineer or surveyor of the **APPLICANT**, licensed by the State of New Hampshire, as may be pertinent to the actual services to be performed in accordance with the provisions of RSA 310-A:1 et seq. and as amended.

~~**ENTERTAINMENT PLACE OF ASSEMBLY**—Any room, space or area which is suitable for the occupancy or assembly of One Hundred or more persons for entertainment purposes. For the purposes of this definition, any such room, space or area shall include any occupied connecting rooms, spaces or areas on the same level or in the same story or in a story or stories above or below, which entrance is common to the rooms, space or area.³ [Added 3-12-2002 by Amdt. No. 3]~~

ENVIRONMENTAL PROTECTION AGENCY or EPA - The federal agency responsible for implementing the Clean Water Act, including the National Pollutant Discharge Elimination System (NPDES) program.

EXTERIOR DISPLAY — The placement of goods for sale or for advertisement, outside of the building or structure, including but not limited to vehicles, garden supplies, gas, tires, motor oil, food and beverages, whether or not contained in vending machines, boats, farm equipment, motor homes and clothes. [Added 3-10-1998]

EXTERIOR ILLUMINATED SIGN — A sign illuminated by an external electrical source similar, but not limited to, an uplight spotlight or top-hung art light. The external electrical source may be turned on/off manually. [Added 3-10-2009 by Amdt. No. 2]

FAIR-SHARE REGION AVERAGE GROWTH RATE (FSRAGR) — Average annual percentage increase in residential building permits issued in the six adjacent municipalities of Litchfield, Londonderry, Nashua, Pelham, Windham and Tyngsborough, MA, for the preceding five-year period.

FAMILY DAY-CARE HOME — An occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for up to six children from one or more unrelated families. The six children shall include any foster children residing in the home and all children who are related to the caregiver except children who are 10 years of age or older. In addition to the six children, up to three children attending a full-day school program may also be cared for up to five hours per day on school days and all day during school holidays.

FAMILY GROUP DAY-CARE HOME — An occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for seven to 12 children from one or more unrelated families. The 12 children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of age or older. In addition to the 12 children, up to five children attending a full-day school program may also be cared for up to five hours per day on school days and all day during school holidays.

FEEPAYER — The person, whether individual or corporate, who pays an impact fee in conjunction with the issuance of a building permit or occupancy permit.

FLASHING SIGN — Any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever; does not include electronic changing signs (message center).

FREESTANDING SIGN — Any sign not affixed or attached to a building which is established on a freestanding frame, mast or pole.

FRONTAGE — The distance measured along the FRONT LOT LINE between points of intersection with the SIDE LOT LINES. FRONTAGE along cul-de-sac roadways (**HIGHWAYS**) shall be measured at the appropriate yard building SETBACK depth from the FRONT LOT LINE between the points of intersection with the SIDE LOT LINES. "FRONTAGE" shall be contiguous and measured along the joining boundary of the FRONT LOT LINE and a Class V or better public RIGHT-OF-WAY. Lot lines bordering limited access roads cannot be considered "FRONTAGE." FRONTAGE shall be capable of providing ACCESS.⁴ [Amended 3-10-1998; 3-13-2001 by Amdt. No. 1]

GENERAL RETAIL — Retail stores and service establishments other than those listed in the Table of Permitted Principal Uses.¹

GROUP CHILD DAY-CARE CENTER — A child day-care agency in which child day care is provided for preschool children and up to five school-age children, whether or not the service is known as day nursery, nursery school, kindergarten, cooperative, child development center, day-care center, center for the developmentally disabled, progressive school, Montessori school, or by any other name.

GUY WIRE — A cable-type appurtenant device which is used to secure and steady a tower or mast; and includes all hardware which attaches the cable to the tower or mast and to the ground. [Added 3-9-1999]

H

HEIGHT (General Use) — The distance measured from the ground adjacent to the structure, or some other alternatively specified point, up to the highest point of a **BUILDING, ANTENNA, STRUCTURE** or a supporting structure. [Added 3-9-1999]

HEIGHT, SMALL WIND ENERGY SYSTEM— The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.

HEIGHT, SMALL WIND ENERGY SYSTEM TOWER— The height above grade of the fixed portion of the tower, excluding the wind generator.

HIGHWAY - Any travelway, dedicated to or accepted by the Town, whether improved or unimproved, within the **TOWN OF HUDSON** that is available as public use for travel, regardless of whether or not its popular or legal name contains the term "street," "highway," "road," "roadway," "route," "avenue," "boulevard" or other such nomenclature, which shall include any Class VI roads within **HUDSON**. In this code, the terms street, road, route, roadway or avenue may be used interchangeably with **HIGHWAY**.

HOME OCCUPATION — The accessory use of a residence for business purposes which is clearly incidental to the principal residential use, provided that the use does not significantly change the residential character or function of the property. ~~The use is customarily carried out entirely within the dwelling unit.~~

HOUSING FOR OLDER PERSONS — Housing that qualifies as "Housing for Older Persons" as defined in § 334-70 and developed according to the provisions of § 334-71 of the Town of Hudson Zoning Ordinance.

HUDSON – The **TOWN** of **HUDSON**, New Hampshire

1. Editor's Note: The Table of Permitted Principal Uses is included at the end of this chapter.

I

INFLATABLE OR BALLOON SIGN — A sign that inflates with air or helium to display advertisements or promotional activities typically known as, but not limited to, tubes, tubes in motion, inflatables, rotatable inflatables or rooftop balloons. [Added 3-10-2009 by Amdt. No. 2]

INTEGRATED ANTENNA ARRAY – An ANTENNA, MAST or MONOPOLE containing multiple coordinated radiating elements.

INTERIOR ILLUMINATED SIGN — A sign that has an internal light source (such as LED, neon or bulb) that may be turned on/off either manually or by remote control and used to display text that is manually affixed to and/or manually changeable in an external message area. [Added 3-10-2009 by Amdt. No. 2]

~~**ITINERANT ROADSIDE VENDOR**—A portable motorized or nonmotorized vehicle, truck, or cart that is used to prepare or display products for sale. [Added 3-13-2007]~~

J

JUNK — Any material, such as, but not limited to, old discarded metal, glass, paper, building debris, demolition debris, salvage materials, rubber, textiles, rubbish or trash or junked, dismantled or wrecked motor vehicles or motor vehicle parts.

JUNKYARD — A commercial establishment or place of business which is used for storing, keeping, buying or selling junk but not including approved solid waste disposal facilities or registered motor vehicle dealers.

JUNKYARD, MOTOR VEHICLE — Any place of storage or deposit, whether in connection with another business or not, which has two or more unregistered motor vehicles which are no longer fit for legal use on public highways or any combination of motor vehicle parts or materials, the sum of which in build is equal to or greater than two or more motor vehicles.

L

LAND USE REGULATIONS - The Town of Hudson, NH, Land Use Regulations, consisting of Chapters 193, 200, 275, 276 and 290 of the Hudson Town Code.

LED SIGN — A sign that uses light-emitting diodes to form numbers, as in digital clocks, transmit information to the sign from remote controls, form text images and/or illuminate from tiny bulbs that fit into an electrical circuit. [Added 3-10-2009 by Amdt. No. 2]

LOT – A single contiguous parcel of land. (See also CONFORMING and NON-CONFORMING)

~~**LOT—An area or parcel of land in the same ownership considered as a unit. For purposes of this chapter, a "lot" may or may not have boundaries identical with those recorded in the Hillsborough County Registry of Deeds.**~~

LOT, CORNER — A lot with two adjacent sides abutting intersecting public ~~rights-of-way streets (HIGHWAYS).~~

LOT LINE, FRONT — The property line dividing a lot from any street (HIGHWAY) or public RIGHT-OF-WAY without regard to the arrangement or orientation of buildings or structures on the lot.

LOT LINE, REAR — The property line opposite the front lot line, except in the case of corner lots where the owner has the option of choosing which of the property lines not ~~adjacent contiguous with to~~-streets (HIGHWAYS) or public RIGHTS-OF-WAY is to be considered the "rear lot line."

LOT, NONCONFORMING — A lot lawfully existing at the effective date of this chapter, or any subsequent amendment thereto, which is not in conformity with all provisions of this chapter. Notwithstanding the minimum lot area requirements set forth in § 334-27, in any DISTRICT in which structures are permitted, a structure may be erected on a lot which was a LEGAL LOT OF RECORD, even though such lot fails to meet the present requirements for frontage or area, or both, that are applicable for that use in the DISTRICT allowed; provided, however, that such lot is not contiguous with another lot or lots in the same ownership, provided that the property is either on Town sewer or the property owner obtains a state and/or municipal septic permit, and further provided that the zone's minimum front, side and back yard SETBACKS are satisfied.

~~**LOT OF RECORD — Land designated as a separate and or distinct numbered lot as shown, as of the effective date of the March 10, 1942, Zoning Ordinance, by a plan of lots which has been recorded at the Hillsborough County Registry of Deeds. parcel prior to the date of posting (November 3, 2000) of this article either in a legally recorded deed filed with the Hillsborough County Registry of Deeds or lots or units described as part of a subdivision or site plan recorded at the Hillsborough County Registry of Deeds prior to the date of posting. For the purpose of this article, a lot of record shall also be defined to include separately defined condominium units, as well as individual units in duplexes and multifamily structures, shown on site plans and/or subdivision plans accepted for review by the Hudson Planning Board prior to the date of posting.**~~

LOT, THROUGH — An interior lot, the FRONT and REAR LOT LINES of which abut streets (HIGHWAYS), or a corner lot two opposite lines of which abut streets (HIGHWAYS); any lot that has street (HIGHWAY) frontage along two or more nonadjacent LOT LINES.

M

MAJOR COMMERCIAL PROJECT — A retail, hotel, office, research, warehouse or industrial facility(ies) proposed on a parcel or adjoining parcels, which individually or in the aggregate exceed(s) 100,000 square feet of gross building area. [Added 3-13-2007 by Amdt. No. 1]

MANUFACTURED HOUSING -- A home built entirely in a factory under the federal building code administered by the Department of Housing and Urban Development (HUD), and constructed to meet the current Manufactured Home Construction and Safety Standards (HUD Code). A manufactured home is permanently attached to a steel frame, can be moved from one TOWN approved location to another TOWN approved location, and is considered personal property. **MANUFACTURED HOUSING** does not include **MODULAR HOUSING**, nor campers or recreational mobile homes. ~~Any structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length or, when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein.~~

MARSH — A wetland where the vegetation is distinguished by the absence of trees and shrubs and dominated by soft-stemmed herbaceous plants and other emergent vegetation, such as grasses, reeds and sedges. The water table is at or above the surface throughout the year but can fluctuate seasonally.

~~**MAST**— A structure which is designed and constructed to support one or more antennas used by radio service and/or receive only facilities and includes all appurtenant devices attached to it. A mast can be of "lattice" construction having a diameter of no more than one foot which is freestanding (solely self-supported by direct attachment to the ground), supported (attached to the ground directly and with guy wires), anchored (attached to the ground directly and to some other substantial structure such as a building) and anchored/supported (attached directly to the ground and some other substantial structure and with guy wires to the ground and/or some other substantial structure); or it can be of "pipe" construction having a diameter of no more than four inches which is supported solely by direct attachment to a substantial structure such as a building. [Added 3-9-1999]~~

METEOROLOGICAL TOWER (MET TOWER) — Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this article, "met towers" shall refer only to those whose purpose is to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

MODULAR HOUSING — A home built entirely in a factory under the current NH State building code, which is also a part of the current IRC (International Residential Code). A modular home is assembled on site, cannot be moved, is considered real property, and is allowed in all residential districts in the TOWN.

MONOPOLE — A freestanding tower consisting of a single pole, constructed without guy wires or lattice characteristics, which relies solely on self-support (direct attachment to the ground) to remain upright. [Added 3-9-1999]

MONUMENTATION — The installation of permanent markers that define corners, boundaries, and rights of way when surveying land.

N

NEW DEVELOPMENT — The subdivision, building construction or other land use change which results in: A net increase in the capital facilities service demands as identified in the Planning Board's impact fee schedules; and/or The conversion of a legally existing use to another use or activity which created an increase in capital facilities service demands.

NET METERING — The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's wind or solar energy system that is fed back into the electric distribution system over a billing period.

NHDOT – The New Hampshire Department of Transportation

NHDES – The New Hampshire Department of Environmental Services

NIGHT-CARE AGENCY — A center or family home in which child day care is provided during the evening and night hours. A child day-care agency may be licensed for day care, night care, or both.

NON-CONFORMING LOT: A parcel of land not capable of being occupied by one principal structure or use and its accessory structures or uses and as shown and identified as such on a plat as defined in the Town Code.

NUDE MODEL STUDIO — A place where a person who appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals, and is observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration or such display is characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1. [Added 3-9-1999; readopted 3-13-2001 by Amdt. No. 7]

O

OCEAN CONTAINER – A shipping container of the type typically used for freight movement. Constructed of steel and typically sealed from the weather and lockable. Also known as cargo container, CONEX container and land/sea container.

OPEN SPACE DEVELOPMENT (OSD) — A form of land subdivision where lot size and other dimensional requirements and minimum road widths may be reduced in exchange for the permanent preservation or provision of proportional areas of open space, farmland, recreational land and other lands.

~~**OUTSIDE DISPLAY**—The placement of goods for sale or for advertisement, outside of the building or structure, including but not limited to vehicles, garden supplies, gas, tires, motor oil, food and beverages (vending machines), boats and farm equipment, motor homes and clothes. [Added 3-10-1998]~~

OUTSIDE STORAGE — The placement of goods outside of a building or structure. [Added 3-10-1998]

P

PARKING SPACE — An off-street space, whether inside or outside a structure, for exclusive use as a parking stall for one motor vehicle.

PERSONAL SERVICE ESTABLISHMENT — A facility **predominantly** providing uses **exclusive including, but not limited to**, hair salons, barber shops, manicures, health spas, tailors, dry cleaners, **tattooing, body piercing, fortune telling and other psychic services**, cobblers and massage therapy. [Added 3-13-2007 by Amdt. No. 1]

PLAT - The map, drawing or chart on which the final **PLAN** of **SUBDIVISION** is presented to the **PLANNING BOARD** , and which, if approved, shall be filed or recorded with the Hillsborough County Register of Deeds.

POORLY DRAINED SOILS — Soils where the water is removed so slowly that the soil is saturated periodically during the growing season or remains wet for long periods of time as defined in the United States Soil Conservation Service Soils Survey of Hillsborough County, Eastern Half (latest edition). (see also **VERY POORLY DRAINED SOILS**).

PORTABLE CARPORT – See **CAR CANOPY**

PORTABLE GARAGE: A free standing, lightweight temporary structure used to house vehicles and constructed of tube framing and fully enclosed by a canvas, polyethylene cover or other woven or nonwoven fabric or sheeting. This structure type typically has no permanent footing or floor and can be easily disassembled and moved.

PORTABLE SIGN — A sign that is movable, typically set up on a daily basis outside the business establishment, such as, but not limited to, sandwich boards, swinger sidewalk signs, portable billboards, Portasigns, Portasigns in motion or roadside readerboards. [Added 3-10-2009 by Amdt. No. 2]

POWER GRID — The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

PREEXISTING TOWERS, MASTS AND ANTENNAS — Any **TOWER, MAST, MONOPOLE** or **ANTENNA** lawfully constructed or permitted prior to the adoption of this article. Also, any **TOWER, MAST, MONOPOLE** or **ANTENNA** lawfully constructed in accordance with this article which predates an application currently before the Town. [Added 3-9-1999]

~~**PRE-SITE-BUILT HOUSING**—Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United State Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. “Pre-site building housing” does not include manufactured housing.~~

PUBLIC NUISANCE — Any use that may endanger the health, safety, peace or enjoyment of the community or a neighborhood due to the emission of smoke, fumes, particulates, noise, vibration, radiation, visual blight or any other like condition. [Added 3-12-1996]

R

RADIO SERVICE FACILITY — Any structure, ANTENNA, MAST, **MONOPOLE** or other radio installation device used to achieve desired communication(s) by a user with a narrow base of related or unrelated users; generally including, but not limited to, amateur radio service, general mobile radio service, citizens band radio service, low-power radio service, aeronautical and marine communications and any other similar radio communications or service which is not specifically named within this definition. [Added 3-9-1999]

RECEIVE-ONLY FACILITY — Any ANTENNA, MAST, MONOPOLE or other device designed and constructed with the intent to receive broadcast signals typically for household use; including, but not limited to, personal satellite and off-the-air television signals and AM, FM, shortwave and other similar radio signals. [Added 3-9-1999]

RECREATIONAL VEHICLE — A vehicle, motorized or not, which is designed and used primarily for the purpose of recreation, including but not limited to the following: ~~snowmobiles, motoreycles, vehicles defined in RSA Chapter 215, boats, motorhomes and recreational trailers. of 320 square feet or less.~~

RESERVE STRIP - Includes areas for which future public use is intended for street (HIGHWAY) connections, for street (HIGHWAY) improvements and for street or pedestrian ways giving ACCESS to land dedicated for public use.

RIGHT-OF-WAY - The area of land owned, used by or available to the Town for street (HIGHWAY) purposes, including any ancillary purposes thereto.

RSA – The NH Revised Statutes, Annotated.

S

SECONDARY USE — A use of land or of a building or of a portion thereof which is unrelated to the principal use of the land or building. [Added 3-9-1999]

SEXUAL ENCOUNTER CENTER [Added 3-9-1999; readopted 3-13-2001 by Amdt. No. 7]: — A business or commercial enterprise that as one of its primary business purposes offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. Activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; and

- C. When the activities in Subsection A or B above are characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

SEXUALLY ORIENTED BUSINESSES – Businesses generally falling into categories regulated or defined in NH RSA 571 et seq. See

- **ADULT BOOKSTORE/ADULT VIDEO STORE**
- **ADULT CABARET**
- **ADULT DRIVE-IN TEATER**
- **ADULT USE ESTABLISHMENT**
- **ADULT MOTION PICTURE ARCADE**
- **ADULT MOTION PICTURE THEATER**
- **“THE TOTAL PRESENTATION TIME”**
- **“SUBSTANTIAL PORTION OF THE TOTAL PRESENTATION TIME”**
- **SEXUAL ENCOUNTER CENTER**
- **SEXUALLY ORIENTED BUSINESS**
- **NUDE MODEL STUDIO**

~~**SEXUALLY ORIENTED BUSINESS—Any place of business in which any of the following activities are conducted: adult bookstore or adult video store, adult motion picture theater, adult motion picture arcade, adult drive-in theater, adult cabaret, adult motel, adult theater, nude model studio, or sexual encounter center. [Added 3-9-1999; readopted 3-13-2001 by Amdt. No. 7]**~~

SUBSTANTIAL PORTION OF THE TOTAL PRESENTATION TIME -- For the purposes of this chapter, "substantial portion of the total presentation time" shall mean the presentation of films or shows described above for viewing on more than seven days within any 56-consecutive-day period.

SEDIMENT - Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

SHADOW FLICKER — The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

SHED – See ACCESSORY BUILDING

SIGN — An object, display device or structure visible to the public from the exterior of a building which contains any combination of lights, letters, words, objects, graphics, figures, designs, symbols, pictures, logos or colors which are intended to advertise, identify, direct, convey a

message to the public or attract attention to an object, person, institution, organization, business or service. **See:**

- **AWNING SIGN**
- **BANNER SIGN**
- **BUILDING SIGN**
- **DIRECTIONAL SIGN**
- **DIRECTORY SIGN**
- **ELECTRONIC CHANGING SIGN**
- **EXTERIOR ILLUMINATED SIGN**
- **FLASHING SIGN**
- **FREESTANDING SIGN**
- **INTERIOR ILLUMINATED SIGN**
- **INFLATABLE OR BALLOON SIGN**
- **LED SIGN**
- **PORTABLE SIGN**

SMALL WIND ENERGY SYSTEM — A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for on-site consumption.

SOIL -"Overburden," as described in Basic Soils Engineering, by B.K. Hough, Second Edition, 1969, a copy of which is on file in the office of the Town Engineer.

STAFF – The person holding the title of TOWN PLANNER for the Town of Hudson, NH, and, under his or her supervision, any Town administrative, clerical and legal personnel who are engaged by or are employees of the Town.

STORMWATER MANAGEMENT AND EROSION CONTROL PLAN (SWMP) - A plan which outlines project features, proposed temporary and permanent erosion control features, maintenance schedules and practices, and the design basis used to establish temporary and permanent stormwater design features.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) A plan required by the EPA that clearly describes appropriate pollution control measures that include a description of all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in stormwater discharges and describes the interim and permanent stabilization practices for the site.

STORMWATER RUNOFF - The water from precipitation that is not absorbed, evaporated, or otherwise stored within the contributing drainage area.

STRUCTURE — A combination of materials assembled at a fixed location to give support or shelter, such as, **but not limited to**, a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole or ~~the-like~~ **portable or temporary canopy or garage.**

SUBDIVIDER - The registered **OWNER** or authorized agent of the registered **OWNER** of a **SUBDIVISION.**

SUBDIVISION - The division of a tract or parcel of land into two or more **LOTS** for the purpose, whether immediate or future, of sale, rent, lease or building development, or requiring the extension of municipal utilities, or the creation of one or more new streets, or the extension of existing streets; provided, however, that **DEVELOPMENT** for agricultural purposes is expressly excluded. When appropriate to the context of this chapter, the term "**SUBDIVISION**" shall relate either to the process of subdividing or to the land or area subdivided.

SURFACE WATER BODY — Those portions of waters of the state, as defined by RSA 482-A:4, which have standing or flowing water at or on the surface of the ground. This includes, but is not limited to, rivers, streams, lakes and ponds.

SUSTAINABLE RATE OF DEVELOPMENT — A target number of building permits to be issued in Hudson in the current year equaling the fair-share region average growth rate for the preceding five years times the total number of dwelling units existing in Hudson in the preceding year. Round any fraction calculated herein to the next whole number.

SWAMP — A wetland that is dominated by trees and/or shrubs.

SWPPP - Stormwater pollution prevention plan (see § 290-5).

SYSTEM MODIFICATION — When applied to **ALTERNATIVE ENERGY SYSTEMS**, any change to the small wind, solar or other **ALTERNATIVE ENERGY SYSTEM** that materially alters the size, type or location of the that system. Like-kind (same size and general conformation) replacements shall not be construed to be a modification.

T

TOTAL DWELLING UNITS (DU) — The total number of dwelling units in Hudson on December 31. This number includes single-family homes, as well as dwelling units in duplexes, apartments, condominium developments and other multifamily structures. Note: For 1999, the DU number is 7,965 based on an estimated accounting of the number of dwelling units.

TOWN ENGINEER - The professional engineer who holds the position of Town Engineer for the Town of Hudson, or his or her designated representative, either in a permanent or temporary capacity.

TOWN OF HUDSON, HUDSON or TOWN – The Town of Hudson, NH.

TOWN PLANNER - The person occupying the position of the Town of Hudson, NH, Town Planner.

TOWER — A structure which is designed and constructed to support one or more antennas used by commercial wireless telecommunication facilities and includes all appurtenant devices attached to it. A tower can be freestanding (solely self-supported by attachment to the ground) or supported (attached directly to the ground and with guy wires) of either lattice or monopole construction. [Added 3-9-1999]

U

USE, ACCESSORY — Any use which is customary, incidental and subordinate to the principal use of a structure or lot.

USE, CHANGE OF — A "change of use" occurs when the use of any land or building is changed from one land use classification to another or from one category to another category within a land use classification. See Article III, § 334-9B, Use classification, and Article V, § 334-21, Table of Permitted Principal Uses.

USE, PRINCIPAL — The main or primary purpose for which a structure or lot is used.

V

VARIANCE -- A variance is a request to deviate from current zoning requirements. If granted, it permits the owner to use the land in a manner not otherwise permitted by the zoning ordinance. It is not a change in the zoning law. Instead, it is a specific waiver of requirements of the zoning ordinance.

VERY POORLY DRAINED SOILS — Soils where the water is removed so slowly that free water remains at or on the surface during most of the growing season as defined in the United States Soil Conservation Service Soils Survey of Hillsborough County, Eastern Half (latest edition).

W

WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, in accordance with the latest edition Federal Manual for Identifying and Delineating Jurisdictional Wetlands as amended. "Wetlands" include, but are not limited to, swamps, marshes, bogs and similar areas.

WETLAND BUFFER — A naturally vegetated upland zone of noninterference extending 50 feet from the edge of a wetland area, or from the top of the bank of a surface water body toward the adjacent upland environment. "Naturally vegetated" includes uncut or undisturbed forest and abandoned pasture or fields.

WETLAND CONSERVATION DISTRICT — All wetland areas, surface water bodies and areas of poorly drained or very poorly drained soils and the associated wetland buffers, as defined above. The "Wetland Conservation DISTRICT" is an overlay DISTRICT which adds requirements and restrictions to those of the underlying zone in order to preserve the function of a wetland area.

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

Y

~~**YARD** — A portion of a lot, other than a court, on the same lot as the principal building, unobstructed artificially from the ground to the sky, except as otherwise provided herein.~~

~~**YARD, FRONT** — A space extending for the width of the lot between the nearest building wall and the front lot line.~~

~~**YARD, REAR** — A space extending for the width of the lot between the nearest building wall of the principal structure and the rear lot line.~~

~~**YARD, SIDE** — A space extending for the width of the lot between the nearest building wall of the principal structure and side lot lines.~~

See bylaws chapter 143 town code.

PUBLIC HEARING

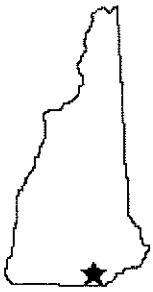
Amend §334-14. - Building Height, Sub-section A.

Please take notice, in accordance with NH RSA 675:3, the Town of Hudson, New Hampshire, Planning Board will hold a public hearing on Wednesday, December 14, 2016, at 7:00 P.M. in the Buxton Meeting Room (lower level) of Town Hall at 12 School Street, Hudson to consider the following amendment to the Town's Zoning Ordinance:

Amend §334-14. Building height, Sub-section A., by adding and deleting the following language to said Sub-section (added language shown in bold-print and deleted language shown in strikethrough-print):

A. ~~In the Sagamore Industrial Park (IP), which is zoned Industrial (I) in its entirety,~~ In the following described zoning districts/parcels, the maximum allowed habitable building height shall be 50 feet, and said maximum height shall be restricted to those areas of buildings used exclusively for manufacturing, warehouse and/or distribution space only. ~~Note: the subject Sagamore IP is bordered by Sagamore Bridge Road along its south border, the Merrimack River along its west border, the existing General (G) district along its north border and the existing Business (B) district, which abuts Lowell Road (Rte. 3A), along its east border.~~

- (1) Sagamore Industrial Park (IP), located in an Industrial (I) zoning district, bordered by Sagamore Bridge Rd. to the south, the Merrimack River to the west, the existing General (G) district to the north and the existing Business (B) district, abutting Lowell Rd. (Rte. 3A) to the east, and including all parcels located within this I zoning district.
- (2) The General (G) zoning district abutting to the north of the above-described Sagamore IP, and known locally as the "Friar Property", having frontage off Friars Dr. and 161 Lowell Rd. (Map 209/Lot 001).
- (3) The portion of the General-One (G-1) zoning district located to the south of Sagamore Bridge Road and exclusive to the following parcels: Green Meadow Golf Club, 43 Steele Rd. (Map 239/Lot 001), 11 Steele Rd. (Map 234/Lot 005), 2 Friel Golf Rd. (Map 234/Lot 001), 267 Lowell Rd. (Map 234/Lot 035) and 273 Lowell Rd. (Map 234/Lot 034).
- (4) The Industrial (I) zoning district located along the south border of Central St. (NH Rte. 111), starting at the westernmost border of this I district (i.e., just west of Hudson Park Dr.), running along said south border of Central St. to the west border of Sullivan Rd. and including all parcels located within this I zone.
- (5) The Industrial (I) zoning district located along the north side of Derry St. (NH Rte. 102), at the intersection of West St., and including all parcels located within this I zone.



TOWN OF HUDSON

Planning Board

Glenn Della-Monica, Chairman

Marilyn McGrath, Selectmen Liaison



12 School Street · Hudson, New Hampshire 03051 · Tel: 603-886-6008 · Fax: 603-594-1142

PUBLIC HEARING

Please take notice, in accordance with NH RSA 675:3, the Town of Hudson, New Hampshire, Planning Board will hold a public hearing on Wednesday, December 14, 2016, at 7:00 P.M. in the Buxton Meeting Room (lower level) of Town Hall at 12 School Street, Hudson to consider the following amendment to the Town's Zoning Ordinance (added language to this section shown in bold print):

Amend §334-60.K.. No inflatable, balloon or portable signs are allowed in any DISTRICT unless specifically authorized in a permit issued by the TOWN Board of Selectmen for a fair, festival, limited duration performance or other event of a temporary nature. [Added 3-10-2009 by Amdt. No. 2]

A copy of the above-described zoning amendment to the Town of Hudson Zoning Ordinance can be reviewed/obtained, in its entirety, prior to the hearing at the Community Development Department Office, 12 School St., Town Hall or by going on the Town's Official Website: <http://www.hudsonnh.gov/>.

The public is invited to attend.

John M. Cashell
Town Planner

POSTED: Town Hall, Hills Memorial Library, Post Office - 12-2-16

PUBLIC HEARING

Please take notice, in accordance with NH RSA 675:3, the Town of Hudson, New Hampshire, Planning Board will hold a public hearing on Wednesday, December 14, 2016, at 7:00 P.M. in the Buxton Meeting Room (lower level) of Town Hall at 12 School Street, Hudson to consider the following amendment to the Town's Zoning Ordinance. Please note, the below-cited proposed Accessory Dwelling Units Zoning Ordinance amendment provides this amendment in its entirety, with added language shown in bold-print and deleted language shown is bold strikethrough-print:

ARTICLE XIII ACCESSORY DWELLING UNITS ~~Accessory Dwelling Units (In-Law Apartments)~~ ~~{Added 3-14-1995 by Amdt. No. 16}~~

In §334-6. Definitions., of the Zoning Ordinance, the following definition shall be added for the term "ACCESSORY DWELLING UNIT":

ACCESSORY DWELLING UNIT (ADU) - A residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal DWELLING UNIT it accompanies, as defined in RSA 674:71.

§ 334-73.1. Reserved.

~~As used in this article, the following terms shall have the meanings indicated:~~

~~ACCESSORY LIVING UNIT (ALU) — A secondary dwelling unit which is accessory and subordinate to a permitted principal one-family dwelling unit and consists of any kitchen/kitchenette area combined with one bedroom and optional living room/dining area and bathroom, which is located on a single floor in a contiguous area of the dwelling that is separate from the primary kitchen and bedroom areas of the permitted one-family dwelling. {Amended 3-14-2006 by Amdt. No. 3}~~

§ 334-73.2. Purpose.

The purpose of this article is to ~~provide flexible household living arrangements and expanded increase the supply of affordable housing opportunities to accommodate immediate family members of a permitted, owner-occupied, one-family dwelling,~~ in the Town without the need for more infrastructure or further land development, while maintaining aesthetics and residence use compatible with homes in the neighborhood.

§ 334-73.3. Provisions. [Amended 3-14-2006 by Amdt. No. 3]

An **ALU ADU** shall be permitted ~~only by special exception~~ in **allowed** zoning **DISTRICTS** that **permit single-family dwellings**, and only in accordance with the following provisions:

- A. An **ALU ADU** is allowed only in ~~one-family~~ **single-family** dwellings. An **ALU ADU** is not allowed in two, or multifamily dwellings or in any nonresidential uses. ~~An ADU is expressly prohibited in an open space development.~~
- B. An **ALU ADU** is not allowed as a freestanding detached **STRUCTURE** or as part of any **STRUCTURE** which is detached from the principal dwelling. **MANUFACTURED HOUSING, RECREATIONAL VEHICLES Mobile homes** or trailers may not be erected or added to the principal dwelling as an **ALU ADU**.
- C. ~~Either the principal DWELLING UNIT or the ADU~~ **An ALU is to be occupied only by immediate family members (by blood or marriage) of** must be occupied by the owner of record of the principal dwelling. ~~An ALU is not allowed in any principal dwelling in which the owner of record of the principal dwelling does not personally reside.~~ Upon request of the Zoning Administrator or other official with the authority to enforce this ordinance the owner of record shall demonstrate that one of the units is his or her principle place of residence.
- D. The front face of the principal dwelling **STRUCTURE** is to appear as a ~~one-family~~ **single-family** dwelling after any alterations to the **STRUCTURE** are made to accommodate an **ALU ADU**. Any additional separate entrances must be located ~~so as to preserve the appearance of a one-family dwelling on the side or rear of the STRUCTURE.~~
- E. At least one common interior access between the principal **DWELLING UNIT** and an **ALU ADU** must exist. ~~A second~~ **Two external** means of egress (**common or separate**) from ~~an ALU~~ **both a principle DWELLING UNIT and an ADU** must exist. ~~and be located at the side or rear of the structure.~~
- F. Separate utility service connections and/or meters for the principal **DWELLING UNIT** and an **ALU ADU** shall not exist. (This does not preclude using a type of heating system for an **ALU ADU** different from the type for the principal **DWELLING UNIT**.) **Separate service connections for common areas shall be as required by building and electrical codes.**
- G. **A minimum of four** off-street **paved parking spaces** shall be provided to serve the combined needs of the principal **DWELLING UNIT** and an **ALU ADU**. There shall not be a separate driveway for the **ALU ADU**.
- H. The gross living area (GLA) of an ~~ALU-ADU~~ shall not be less than 350 square feet **nor greater than 750 square feet and shall not exceed 50% of the principal structure or 1,000 square feet, whichever is less.** The above-grade GLA of the principal dwelling shall not be reduced to less than 850 square feet in order to accommodate the creation of an **ALU ADU**.

- I. An ADU shall not have more than two bedrooms.
- J. A building permit for an ~~ALU~~ ADU must be approved and issued prior to the construction of an ~~ALU~~ ADU or conversion of existing space into an ADU. ~~An ALU shall have an interconnected fire alarm system.~~
- K. The house number for the ~~ALU~~ ADU shall be the same as that of the primary DWELLING UNIT, and there shall not be a separate mailbox for the ~~ALU~~ ADU.
- L. Multiple ~~ALUs~~ ADUs are not permitted on any ~~property~~ LOT in any DISTRICT.
- M. The maximum number of unrelated persons occupying an ADU shall not exceed two.
- N. An ADU shall have an interconnected fire alarm system with the principle DWELLING UNIT.
- O. An ADU shall make provision for adequate water supply and sewage disposal in compliance with RSA 485-A:38 and regulations adopted by the New Hampshire Department of Environmental Services, but separate systems shall not be required for the principal STRUCTURE and ADU.

~~§ 334-73.4. Term of special exception approval. Reserved.~~

~~Any special exception granted to permit the creation of an ADU in accordance with § 334-73.3A through K above of this article is to benefit the original applicant for the same exclusively. The approval by special exception granted shall expire when the owner of record of the principal dwelling conveys the property by sale or ceases to personally occupy either the principal DWELLING UNIT or the ADU. In the event that special exception approval expires, one of the following provisions must be met:~~

- ~~A. The original applicant shall notify the Zoning Administrator of such occupancy termination. When the original tenant vacates the premises, the owner has the option to relet the ADU or remove the ADU at the owners' option. Violators shall be charged \$275 per day, plus court costs or attorneys' fees. [Amended 3-14-2006 by Amdt. No. 3]~~
- ~~B. If a new owner of record of the principal dwelling desires to maintain the existence of previously approved ADU, the new owner shall notify the Zoning Administrator application for a new special exception approval to benefit the new owner of record must be made within 60 days of the property's conveyance.~~

~~§ 334-73.5. Procedural requirements.~~

~~An ADU application submitted for special exception approval under the auspices of this article shall include the following items: an accurate copy of the plan, which shall denote, describe and/or identify the intended ADU area. The application shall be submitted to the TOWN Zoning Administrator for determination as to its compliance with this article.~~

- ~~A. A letter from the applicant stating the name of the intended occupant of the ALU and the intended occupant's relationship to the applicant shall accompany the application for a special exception.~~
- ~~B. If the special exception is approved, the building permit application for an ALU shall include a copy of the letter described in Subsection A above, so that the name and relationship of the intended occupant of an ALU can appear on the approved building permit and any subsequent certificate of occupancy issued for that ALU.~~
- ~~C. All plans submitted with any application for an ALU building permit shall donate, describe and/or identify the intended ALU area as such.~~

§ 334-73.6. Minimum lot dimension requirements.

An ALU ADU shall not be considered ~~to be~~ an additional DWELLING UNIT for the purposes of determining minimum dimensional requirements of a principal dwelling LOT. An ~~ALU~~ ADU shall be allowed to exist in a principal dwelling on a legal nonconforming lot so long as all provisions of this article can be satisfied. **An ADU shall comply with all setback requirements.**

§ 334-73.7. Enforcement authority.

The Zoning Administrator shall be the final authority on compliance and enforcement issues of this article.

~~§ 334-73.8. Existing legal nonconforming and illegal accessory living units.~~

~~ADUs constructed prior to this article without a building permit or certificate of occupancy shall apply to the Zoning Administrator for a determination of compliance with this article. There shall be an amnesty period of 180 days from the date of adoption of this article in which to make an application for a determination and in which no penalty will be assessed for an illegal nonconforming ADU.~~

Review Status and Take Action on Outstanding Sureties

Staff Report

25 January 2017

This item is on the agenda in order to take action on 2 outstanding 2-year maintenance bonds and one longstanding C.A.P. fee acct. In regard to taking appropriate action on the two outstanding maintenance bonds, for this meeting attached, herewith, please find two staff reports calling for the release of said bonds, i.e., one for Empire Circle and one for Senter Farm Rd.

In regard to taking appropriate action on said longstanding C.A.P. fee acct. (i.e., Acct. #2060-220: the Kiddie Konnection Day Care Escrow Acct. – 301 Derry Rd., Map 109/Lot 012), please first read Attachment “A”, i.e., Town Counsel, Atty. Dave LeFevre’s legal opinion letter (marked “CONFIDENTIAL”), dated December 12, 2016, together with an attached email communique between Atty. Lefevre and Town Admin. Steve Malizia. In his letter, Atty. Lefevre cites the statutory process involved for municipal planning boards and boards of selectmen to release and return said fees, which are also referred to as “impact fees”, to their rightful owner, when same can be determined, and what to do with said fees if the owner cannot be determined. In his letter, Atty. LeFevre further cites information pertaining to the proper use/expenditure of impact fees.

In regard to the above-cited legal opinion, and its relation to the Kiddie Konnection Acct., please also read the documents included in attachment “B”, i.e., an INTEROFFICE MEMORANDUM, DATED October 6, 2016, which cites this author’s finding of facts regarding said Kiddie Konnection Acct.

In the event the board has sufficient time at Wed. night’s meeting to determine the proper course of action to take concerning the above-described Kiddie Konnection C.A.P. Fee, staff has provided below for the board’s consideration a DRAFT MOTION.

DRAFT MOTION:

I move for the Planning Board to recommend to the Board of Selectmen the return of the funds, plus accrued interest, included in Acct. #2060-220: the Kiddie Konnection Day Care Escrow Acct. – 301 Derry Rd., Map 109/Lot 012 to the submitting party: Meryl Gillen, 13 Terra Lane, Hudson, NH 03051; said funds, in their entirety, presently total \$20,855.41. Note: this recommendation takes into consideration the following board determined findings of fact:

- 1) The subject Kiddie Konnection Site Plan was approved by the Planning Board on July 13, 1994, and a \$14,550.00 C.A.P. Fee was assessed on “...a preliminary fair share...” basis (see condition of approval I.A. of the attached Development Agreement-of-Record, HCRD #446093) and submitted “UNDER PROTEST” by the Applicant (see para. 3 of the attached letter from the Project Eng., Richard Maynard, dated December 12, 1994).

- 2) Said submitted C.A.P. Fee was first submitted in the form of a Hampton-style letter of credit (see said letter attached from NFS Savings Bank, dated December 15, 1994); this letter was replaced by a personal check submitted Meryl S. Gillen, co-owner of Kiddie Konnection Daycare with her husband, Dan Gillen (see said check attached in the amount of \$14,550.00, together with receipt by the Town of Hudson).
- 3) RSA, Section 674:21,V.(e). clearly states in bold-highlighted print below that unused or unencumbered impact fees, of which the aforementioned C.A.P. Fee is considered, shall be returned to the submitting party after a period of time not to exceed 6 years from the date of submission of same. In the case of the subject C.A.P. Fee, there is no record of the associated funds being expended or encumbered within said 6 years, therefore, the original sum, plus interest, must be returned to the submitting party, who has a last known address of:

Meryl Gillen
13 Terra Lane
Hudson, NH 03051

RSA, Section 674:21,V. (e) The ordinance shall establish reasonable times after which any portion of an impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected shall be refunded, with any accrued interest. Whenever the calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the municipality, a refund shall be made upon the failure of the legislative body to appropriate the municipality's share of the capital improvement costs within a reasonable time. The maximum time which shall be considered reasonable hereunder shall be 6 years.

Release of 2-Year Maintenance Bond for Empire Circle

STAFF REPORT

25 January 2017

SITE: Empire Circle – Map 217/Lot 004 – Release 2-Year Maintenance Bond

ZONING: R-2

PURPOSE OF PETITION: to release the \$5,028.42, 2-year maintenance bond for Empire Circle, per the below email communicate from Road Agent, Kevin Burns, dated 18 JAN 2017.

RECOMMENDATION: Per the written recommendation of Road Agent, Kevin Burns, the board should vote to release said 2-year maintenance bond, held as surety for Empire Circle. Please note, Empire Circle was constructed and accepted by the Town as a public street, with the only issue remaining: release of said 2-year maintenance bond, per the written satisfaction of the Road Agent that all work for said street is complete.

DRAFT MOTION:

I move to release the \$5,028.42, 2-year maintenance bond, held as surety for Empire Circle. Note: this action is taken in accordance with the written recommendation of the Road Agent, Kevin Burns (see his written recommendation attached, herewith, dated, 18 Jan. 2017).

Motion by: _____ Second: _____ Carried/Failed: _____

I have no issues with either road.

Thanks

Kevin

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Cashell, John" <jcashell@hudsonnh.gov>

Date: 1/18/17 12:01 PM (GMT-05:00)

To: "Burns, Kevin" <kburns@hudsonnh.gov>

Subject: Empire Circle and Senter Farm Rd

Kevin: The 2-year maintenance bond timeframe has expired for the Empire Circle and Senter Farm Rd. We're still holding the bonds for each road. If you have any structural issues outstanding for either road please let me know.

Release of 2-Year Maintenance Bond for Senter Farm Road

STAFF REPORT

25 January 2017

SITE: Senter Farm Road – Map 110/Lot 054 – Release Bond

ZONING: G-1

PURPOSE OF PETITION: To release the \$8,056.46 2-year maintenance bond for Senter Farm Road, per the below email communique from Road Agent, Kevin Burns, dated 18 JAN 2017.

RECOMMENDATION: Per the written recommendation of Road Agent, Kevin Burns, the board should vote to release said 2-year maintenance bond, held as surety for Senter Farm Road. Please note, Senter Farm Road was constructed and accepted by the Town as a public street, with the only issue remaining: release of said 2-year maintenance bond, per the written satisfaction of the Road Agent that all work for said street is complete.

DRAFT MOTION:

I move to release the \$8,056.46, 2-year maintenance bond, held as surety for the Senter Farm Estates Subdivision. Note: this action is taken in accordance with the written recommendations of the Road Agent, Kevin Burns (see his written recommendation attached, herewith, dated, 18 Jan. 2017).

Motion by: _____ Second: _____ Carried/Failed: _____

I have no issues with either road.

Thanks

Kevin

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Cashell, John" <jcashell@hudsonnh.gov>

Date: 1/18/17 12:01 PM (GMT-05:00)

To: "Burns, Kevin" <kburns@hudsonnh.gov>

Subject: Empire Circle and Senter Farm Rd

Kevin: The 2-year maintenance bond timeframe has expired for the Empire Circle and Senter Farm Rd. We're still holding the bonds for each road. If you have any structural issues outstanding for either road please let me know.



TARBELL & BRODICH

PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

DEC 16 2016

"A"

December 12, 2016

CONFIDENTIAL

Stephen A. Malizia, Town Administrator
Town of Hudson
12 School St.
Hudson, NH 03051

RE: Refund of Impact Fees

Dear Steve:

You have requested a legal opinion regarding the procedure for providing refunds of impact fees. It would be my suggestion that all refund requests, whether coming from the party requesting the refund or from staff reviewing old accounts, be submitted to the Planning Board for review and approval, following which the payment of the refund would be authorized by the Board of Selectmen. I recognize that this may be a little bit cumbersome, but the Hudson Zoning Ordinance ("HZO") is not entirely clear, and short of an amendment to the HZO which provides otherwise, I would suggest this procedure.

HZO § 334-74.8, A, states in pertinent part ". . . the person who paid the impact fee shall be entitled to a refund of that fee, plus accrued interest where . . . the impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six years from the date of the complete payment of the fee." While it is clear that the person who paid the impact fee is "entitled" to a refund, the entitlement requires a determination that "the impact fee has not been encumbered or legally bound to be spent." Because I view the Planning Board as being the agency of the Town that is generally responsible for the administration of the impact fee ordinance, it is my conclusion that the Planning Board has to make this determination.

I would also add that although the refunds that the Town is processing currently are "uncontested," if there was a dispute regarding whether there should be a refund, by having the Planning Board make this determination, there would be an appropriate procedure for creating a record and for appeal. You may recall the case of *Clare v. Town of Hudson*, 160 N.H. 378 (2010), in which the decision not to provide a refund was made by the Planning Board. Accordingly, it would seem that there is some precedent in Hudson for that decision being made by Planning Board.

Eaton W. Tarbell, Jr.
Nicholas Brodich
Shane R. Stewart
Eaton W. Tarbell, III
Friedrich K. Moeckel*
James F. Pross**
David E. LeFevre

All Attorneys admitted
in New Hampshire
or as otherwise designated.

*Also admitted in Massachusetts
**Admitted in Maine only

Reply to:
Concord, NH Office
45 Centre Street
Concord, NH 03301

1-877-898-1135
603-226-3900 Tel
603-225-5398 Fax

Auburn, ME Office
86 Main Street, Suite 203
Auburn, ME 04210

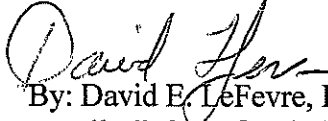
207-333-6005 Tel
207-333-6006 Fax

HZO § 334-74.7, B, states “[t]he Town Finance Department shall have custody of all fee accounts and shall pay out the same only upon written approval of the Board of Selectmen.” Accordingly, it does appear that once the Planning Board approves the refund, the Selectmen have to authorize payment of the refund.

You have also inquired of the appropriate procedure should the identity or whereabouts of the person to whom the refund should be paid is unknown. The HZO is clear that the refund is supposed to be paid to the “person who paid the impact fee.” There may also be circumstances in which the “person” is a corporation or other legal entity which no longer exists, and its successors or assigns cannot be located. Under such circumstances, I would suggest that the refund be made to the property owner(s) for whom the impact fees were paid. *See K.L.N. Construction v. Town of Pelham*, 167 N.H. 180 (2014) (zoning ordinance may state that refund goes to current property owner). However, a refund to the current property owner would require an appropriate judicial proceeding such as an interpleader or declaratory judgment.

Sincerely,

TARBELL & BRODICH, P.A.

A handwritten signature in cursive script, appearing to read "David LeFevre".

By: David E. LeFevre, Esq.

e-mail: dlefevre@tarbellpa.com

Malizia, Steve

From: David Lefevre <dlefevre@tarbellbrodich.com>
Sent: Monday, December 12, 2016 4:44 PM
To: Malizia, Steve
Subject: RE: Agency Fees

Steve:

I think that is correct. Any unused funds from a prepayment/deposit for inspections would be administratively returned when the review/inspection is completed.

I think Town Code 276-4, G, is applicable to the refund of performance cash bond. "Surety reductions or terminations. The subdivider/site developer shall not be released from the terms of the performance surety until all terms/conditions are met. Reductions based on partial completion or other consideration may be considered by the Planning Board. Surety reductions or terminations must be approved by the Planning Board."

From: Malizia, Steve [mailto:smalizia@hudsonnh.gov]
Sent: Monday, December 12, 2016 3:20 PM
To: David Lefevre <dlefevre@tarbellbrodich.com>
Subject: RE: Agency Fees

Dave,

Thank you for the opinion. Can I presume that inspection accounts such as Engineering Inspections and Sewer Inspections whereby funds are deposited for the purpose of inspections (sewer, driveway, etc.) do not need to go through the Planning Board as they are not demanded by the Planning Board and are not considered an impact fee? I also presume that any funds collected and retained as a performance or maintenance bond should go through the Planning Board to be returned. Is this presumption correct?

Thanks,

Steve

From: David Lefevre [mailto:dlefevre@tarbellbrodich.com]
Sent: Monday, December 12, 2016 2:23 PM
To: Malizia, Steve <smalizia@hudsonnh.gov>
Subject: RE: Agency Fees

Steve,

Attached is an advance copy of my opinion. Original to follow in the mail.



TOWN OF HUDSON

Engineering Department

"B"



12 School Street • Hudson, New Hampshire 03051 • Tel: 603-886-6008 • Fax: 603-594-1142

INTEROFFICE MEMORANDUM

TO: Elvis Dhima, Town Engineer
Doreena Stickney, Engineering Admin. Aide

FROM: John Cashell, Town Planner

Cc: Kathy Carpentier, Finance Director
Steve Malizia, Town Administrator

DATE: October 6, 2016

RE: **Acct #2060-220: Kiddie Konnection Day Care Escrow Acct. - 301 Derry Rd.,
Map 109/Lot 012**

After researching the Kiddie Konnection Daycare Site Plan file, the following findings of fact have been determined:

- 1) The subject Kiddie Konnection Site Plan was approved by the Planning Board on July 13, 1994, and a \$14,550.00 C.A.P. Fee was assessed on "...a preliminary fair share..." basis (see condition of approval I.A. of the attached Development Agreement-of-Record, HCRD #446093) and submitted "UNDER PROTEST" by the Applicant (see para. 3 of the attached letter from the Project Eng., Richard Maynard, dated December 12, 1994).
- 2) Said submitted C.A.P. Fee was first submitted in the form of a Hampton-style letter of credit (see said letter attached from NFS Savings Bank, dated December 15, 1994); this letter was replaced by a personal check submitted Meryl S. Gillen, co-owner of Kiddie Konnection Daycare with her husband, Dan Gillen (see said check attached in the amount of \$14,550.00, together with receipt by the Town of Hudson).
- 3) RSA, Section 674:21,V.(e). clearly states in bold-highlighted print below that unused or unencumbered impact fees, of which the aforementioned C.A.P. Fee is considered, shall be returned to the submitting party after a period of time not to exceed 6 years from the date of submission of same. In the case of the subject C.A.P. Fee, there is no record of the associated funds being expended or encumbered within said 6 years, therefore, the original sum, plus interest, must be returned to the submitting party, who has a last known address of:

Meryl Gillen
13 Terra Lane
Hudson, NH 03051

Note: RSA Section 674:21 – Innovative Land Use Controls, which includes all language concerning impact fees (a.k.a. C.A.P. Fees), is also attached, herewith.

If you have any questions or concerns regarding the finding of this correspondence, please feel free to contact me further.

RSA, Section 674:21,V. (e) The ordinance shall establish reasonable times after which any portion of an impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected shall be refunded, with any accrued interest. Whenever the calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the municipality, a refund shall be made upon the failure of the legislative body to appropriate the municipality's share of the capital improvement costs within a reasonable time. The maximum time which shall be considered reasonable hereunder shall be 6 years.

446093

94 AUG 25 AM 10: 14

Revised 8/22/94

DEVELOPMENT AGREEMENT
FOR SITE PLAN ENTITLED KIDDIE KONNECTION

This Agreement is entered into this 24 day of August, 1994 between Kiddie Konnection (Applicant) and the Town of Hudson (Town). It represents the understanding of the parties regarding the granting by the Hudson Planning Board of site plan approval for the development of a Day Care Center to contain improvements pursuant to the plans and conditions referenced below.

WHEREAS, the Applicant is proposing a site plan for commercial development, located on Derry Road in Hudson, New Hampshire, which comprises a total of 2.24 acres, as shown on the final plan named herein to construct a two-story 50' X 120' Day Care Center with a total of 12,000 square feet.

WHEREAS, the Hudson Planning Board has been duly authorized to regulate the subdivision of land and to approve and disapprove site plans for multifamily dwelling units and nonresidential developments pursuant to RSA 674 et seq.

WHEREAS, Applicant has applied for approval for the above described project in compliance with Town zoning ordinances, subdivision regulations, and the rules and regulations of Hudson Planning Board.

WHEREAS, site plan approval is conditioned upon the execution of a Development Agreement.

In consideration for the Hudson Planning Board granting site plan approval, the parties hereby agree as follows:

I

Final site plan approval is granted for the project entitled Kiddie Konnection Site Plan - Map 37/Lot 26 which is dated 2/15/94 and was last revised on 7/8/94, Hillsborough County Registry of Deeds Plan No. 27044, with the following stipulations:

- A. The Applicant shall pay a preliminary fair share Cost Allocation Procedure (CAP) amount of \$14,500, which can be bonded, with the final value to be determined by subsequent actual studies after development is completed.
- B. Deletion of any or all parking spaces from the setback area.
- C. Movement of the dumpster out of the setback area.

D. Addition of a gate to the fence to the rear of the parking area to allow personnel access.

E. Change Note 16 on the tree size to 8-inch diameter rather than 48-inch circumference.

II

Applicant shall comply with all subdivision, site review and zoning regulations which have been promulgated by the Town and which are in effect as of the date of this Agreement. If this Agreement contains terms, including but not limited to variance and special exception stipulations granted by the Hudson Zoning Board of Adjustment, which are stricter or impose higher standards than the above mentioned regulations, the terms of this Agreement shall control. All improvements shall meet the standards of workmanship as required by the Town, as required by the New Hampshire Water Supply and Pollution Control Commission, as required by the New Hampshire Department of Transportation, and as required by the New Hampshire Wetlands Board.

III

Applicant shall obtain all necessary local, state and federal permits prior to commencing work and shall comply fully with their terms.

IV

Applicant shall comply with the plan as submitted to, reviewed by and approved by the Planning Board, including but not limited to, notations set forth under the heading "Notes" on the plan. Deviation from or amendments to the plan may only be made with the written approval of the Planning Board or the town engineer as appropriate.

V

Applicant acknowledges that it will have sole responsibility for ensuring the quality of the construction and that Applicant will not hold the Town, building inspector or other officers, employees, agents or assigns of the Town responsible for any claims, damages, fees or costs alleged to be incurred on account of the Town's negligent inspection of the improvements to be constructed. Similarly, Applicant agrees to hold harmless and indemnify the Town for any claims, damages, fees or costs sought or asserted by third parties against the Town on the grounds of negligent or improper inspection of the construction of the improvements called for herein.

VI

Applicant shall provide and install erosion and sedimentation control measures as required by the plan, by RSA 149-M, and as deemed necessary by the town engineer or his designated agent.

VII

The Applicant shall be responsible for any off-site problems which arise from this construction. This includes, but is not limited to, erosion, runoff, sedimentation, drainage, property damage by construction equipment, including damage to existing streets, sewers and drainage systems. Upon notification by the Town in writing, the developer must submit a remedial response within one week to remedy the problem. The Town engineering division shall then set a construction schedule in consultation with the developer so that the problem can be corrected as soon as practical.

VIII

It is the intent of the signatories to the Agreement that only they can sue to enforce the Agreement's terms. The Agreement confers no rights on third parties.

IX

The Applicant's promise to perform improvements incorporated herein is an obligation independent from any alleged breach by the Town, once the Planning Board has given the developer site plan/subdivision approval and work on the site has begun.

X

Applicant shall notify the town engineer at least sixty (60) days prior to anticipated construction. A pre-construction meeting shall be held at least thirty (30) days prior to commencement of construction. A three-party inspection agreement and any other pertinent documents shall be finalized prior to the pre-construction meeting.

XI

At the time of plan recording, Applicant shall also execute and deliver to the Town easements for sewer, drainage, water, utilities as may be specified by the Hudson Planning Board, or otherwise specified on the plan.

XII

The Applicant shall remove all waste from the particular site prior to the issuance of any Certificate of Completion or occupancy permit. All waste will be removed in compliance with applicable Town, state and federal regulations.

XIII

Prior to commencing construction, Applicant agrees to pay all fees as required by all ordinances and regulations of the Town in effect at the time of this Agreement, as well as any other fees imposed by the Hudson Planning Board, upon application for a building permit, unless phased payments are provided for. Applicant shall have an affirmative obligation to supplement this fee schedule as information about the number of dwelling units per lot becomes available.

XIV

Applicant agrees that if in the future the Town determines that Applicant has committed a material breach of this Agreement or has violated any Town zoning, subdivision, site plan or any state land use or environmental law or regulation or building code, and said material breach or violation is decided against Applicant by a court of competent jurisdiction in a legal action by the Town against Applicant, Applicant agrees to pay, on demand, all reasonable attorney fees, court costs, sheriff charges and related costs incurred by the Town in connection with the breach or violation to the extent that said fees, costs and charges would not have been incurred had the breach or violation not occurred.

XV

A note shall be added to the recorded plan. This note shall state the existence of this Development Agreement, and that a copy of it is on file with the Planning Department or other designated Town department. This Agreement shall be recorded with the plan.

XVI

This Agreement shall run with the land and shall be binding on any subsequent purchaser of the proposed development, on Applicant's heirs and assigns, and on any successor entity.

XVII

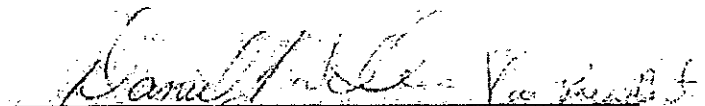
Severability: If any section, clause, provision, article or portion of this contract shall be invalidated by any court of competent jurisdiction, such holding shall not invalidate any other section of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands
(and seals) the day and year first written above.

FOR KIDDIE KONNECTION



Witness



BY: Daniel J. Gilman
Title: V.P. Kiddie Konnection

FOR THE TOWN OF HUDSON



Witness



Planning Board Chairman



Maynard & Paquette, Inc.
 Consulting Engineers & Land Surveyors
 23 East Pearl Street, Nashua, NH 03060-3489
 (603) 883-8384 Fax (603) 883-7227

December 12, 1994

Michael Reynolds
 Town Planner
 12 School Street
 Hudson, NH 03051

Kiddie Konnection (J-3087)
 Map 37/Lot 26 - Route 102

Dear Mr. Reynolds:

The "Notice of Approval" dated July 15, 1994 for the Kiddie Konnection site plan, under stipulation 1, states that: "Payment of CAP fee of \$14,550 may be bonded pending final amount to be determined by traffic count". Our clients are prepared to submit a check to the Town for this amount to be placed in a bond escrow account, a/k/a Agency Fee Account, pending the final traffic count when the center has become established.

I understand from our clients that your office may have stated that the CAP amount must be paid and cannot be bonded and that the Kiddie Konnection \$14,550 check may be "cashed" and not be placed in escrow in an interest bearing Agency Fee account. On behalf of our client based on the above and on advise of clients attorney, we must protest this possible action.

If the \$14,550 check is not placed in an Agency Fee escrow/bond account, please consider the payment to be made under duress to obtain a certificate of occupancy. Any payment that does not go into an Agency Fee escrow/bond account is to be considered to have been made UNDER PROTEST. We urge you to adhere to the specific requirements of Stipulation 1 of the Planning Board approval.

Very Truly Yours,
 MAYNARD & PAQUETTE, INC.

Richard A. Maynard
 Richard A. Maynard
 on behalf of Dan Gillen and
 Kiddie Konnection

enc.
 cc w/enc: Atty. J. Kaklamanos
 M. Gospodarek, Town Engineer

ram3087

Post-It™ Fax Note	7871	Date	# of pages 7
To	Mike Gospodarek	From	RAM
Co./Dept.		Co.	
Phone #		Phone #	
Fax #		Fax #	



NFS Savings Bank, FSB
P.O. Box 767
Nashua, New Hampshire 03061
(603) 880-2011

DATE: December 15, 1994

Planning Board
Town of Hudson
12 School Street
Hudson, NH 03051

LETTER OF CREDIT

CREDIT NO. 1-99-94239
Irrevocable Standby Letter of Credit
December 15, 1994, Hudson, NH

Account Party

Daniel and Meryl Gillen

Beneficiary

Town of Hudson
Hudson, NH

RE: Plan Entitled: Route 102

Amount
\$15,000.00

Dear Planning Board:

By this document, NFS Savings Bank, FSB (hereinafter "issuee") hereby issues an irrevocable Letter of Credit in the amount of \$15,000.00 to the Town of Hudson on behalf of DANIEL AND MERYL GILLEN (hereinafter "developer"). This irrevocable Letter of Credit is issued to guarantee completion of all improvements required by the Hudson Planning Board and the Town of Hudson Subdivision and/or Site Plan Review Regulations in conjunction with a plan entitled "(Map 37/Lot 26) ROUTE 102 AND CUTLER ROAD, Hudson, NH" prepared for DANIEL AND MERYL GILLEN and approved by the Hudson Planning Board on JULY 13, 1994.

It is understood that the improvements guaranteed by this Irrevocable Letter of Credit, include, but are not limited to the following:

Work remaining to be completed:

1. Fine grade/hydroseed.....	\$ 1,644.00
2. Landscape planting allowance.....	2,500.00
3. Top course asphalt paving.....	3,237.00
4. Parking lot striping.....	725.00
5. Fencing.....	400.00
GRAND TOTAL.....	\$ 8,506.00

It is agreed and understood by the issue of this Letter of Credit that it shall be issued for a period of 6 months and seventeen days. If all improvements guaranteed by this Letter of Credit are not completed by July 1, 1995, and if a certificate indicating completion of all improvements have not been issued by the Town Engineer or such other individuals as the Town of Hudson shall designate, then this Letter of Credit shall be automatically considered to have been called and without further action of the Town of Hudson or its Planning Board, NFS Savings Bank, FSB shall forthwith forward a check in the amount of \$15,000 to the Treasurer of the Town of Hudson, the funds so forwarded to the Town Treasurer shall be used exclusively for the purpose of completing the improvements which are guaranteed by this Letter of Credit. Any funds not needed by the Town to complete improvements required by the subdivision and/or site plan referred to above shall be returned to NFS Savings Bank, FSB.

The Letter of Credit is subject to and to be governed by the provisions of Article 5 of the Uniform Commercial Code as in effect in the State of New Hampshire at the time of the issuance of this letter.

Sincerely,



Earlo A. Pelletier
Vice President
Commercial Lending

PT/cp

gillloc

I have read this Letter of Credit and agree to its terms:



Daniel or Meryl Gillen

12-15-94
Date

CAP FEE CHECK ✓

MERYL S. GILLEN
13 TERRA LN. 603-886-1010
HUDSON, NH 03051

Pay to the Order of Town of Hudson 14,550.00

NFS Savings Bank

0493

M. Monahan - Dublin Lake

TOWN OF HUDSON

DEPARTMENT OF PUBLIC WORKS



Payment Receipt

Town of Hudson: Nr
AG95-106
19-DEC-94

ACT: 1050-090	3497.00
ACT: 1050-086	1509.00
ACT: 1050-091	9544.00
ACT: 0000-000	.00
037 026 000	

KIDDIE KONNECTION SITE PLAN
AMOUNT: 14550.00

CHECK# 493

Thank You!

886-6005

TITLE LXIV PLANNING AND ZONING

CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

Zoning

Section 674:21

674:21 Innovative Land Use Controls. –

I. Innovative land use controls may include, but are not limited to:

- (a) Timing incentives.
- (b) Phased development.
- (c) Intensity and use incentive.
- (d) Transfer of density and development rights.
- (e) Planned unit development.
- (f) Cluster development.
- (g) Impact zoning.
- (h) Performance standards.
- (i) Flexible and discretionary zoning.
- (j) Environmental characteristics zoning.
- (k) Inclusionary zoning.

[Paragraph I(l) effective until June 1, 2017; see also paragraph I(l) set out below.]

- (l) Accessory dwelling unit standards.

[Paragraph I(l) effective June 1, 2017; see also paragraph I(l) set out above.]

- (l) Impact fees.

[Paragraph I(m) effective until June 1, 2017; see also paragraph I(m) set out below.]

- (m) Impact fees.

[Paragraph I(m) effective June 1, 2017; see also paragraph I(m) set out above.]

- (m) Village plan alternative subdivision.

[Paragraph I(n) effective until June 1, 2017; see also paragraph I(n) set out below.]

- (n) Village plan alternative subdivision.

[Paragraph I(n) effective June 1, 2017; see also paragraph I(n) set out above.]

(n) Integrated land development permit option.

[Paragraph I(o) effective until June 1, 2017.]

(o) Integrated land development permit option.

II. An innovative land use control adopted under RSA 674:16 may be required when supported by the master plan and shall contain within it the standards which shall guide the person or board which administers the ordinance. An innovative land use control ordinance may provide for administration, including the granting of conditional or special use permits, by the planning board, board of selectmen, zoning board of adjustment, or such other person or board as the ordinance may designate. If the administration of the innovative provisions of the ordinance is not vested in the planning board, any proposal submitted under this section shall be reviewed by the planning board prior to final consideration by the administrator. In such a case, the planning board shall set forth its comments on the proposal in writing and the administrator shall, to the extent that the planning board's comments are not directly incorporated into its decision, set forth its findings and decisions on the planning board's comments.

III. Innovative land use controls must be adopted in accordance with RSA 675:1, II.

[Paragraph IV effective until June 1, 2017; see also paragraph IV set out below.]

IV. As used in this section:

(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

(b) "Accessory dwelling unit" means a second dwelling unit, attached or detached, which is permitted by a land use control regulation to be located on the same lot, plat, site, or other division of land as the permitted principal dwelling unit.

(c) "Phased development" means a development, usually for large-scale projects, in which construction of public or private improvements proceeds in stages on a schedule over a period of years established in the subdivision or site plan approved by the planning board. In a phased development, the issuance of building permits in each phase is solely dependent on the completion of the prior phase and satisfaction of other conditions on the schedule approved by the planning board. Phased development does not include a general limit on the issuance of building permits or the granting of subdivision or site plan approval in the municipality, which may be accomplished only by a growth management ordinance under RSA 674:22 or a temporary moratorium or limitation under RSA 674:23.

[Paragraph IV effective June 1, 2017; see also paragraph IV set out above.]

IV. As used in this section:

(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

(b) "Phased development" means a development, usually for large-scale projects, in which construction of public or private improvements proceeds in stages on a schedule over a period of years established in the subdivision or site plan approved by the planning board. In a phased

development, the issuance of building permits in each phase is solely dependent on the completion of the prior phase and satisfaction of other conditions on the schedule approved by the planning board. Phased development does not include a general limit on the issuance of building permits or the granting of subdivision or site plan approval in the municipality, which may be accomplished only by a growth management ordinance under RSA 674:22 or a temporary moratorium or limitation under RSA 674:23.

V. As used in this section "impact fee" means a fee or assessment imposed upon development, including subdivision, building construction, or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; municipal road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing, and disposal facilities; public library facilities; and public recreational facilities not including public open space. No later than July 1, 1993, all impact fee ordinances shall be subject to the following:

(a) The amount of any such fee shall be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

(b) In order for a municipality to adopt an impact fee ordinance, it must have enacted a capital improvements program pursuant to RSA 674:5-7.

(c) Any impact fee shall be accounted for separately, shall be segregated from the municipality's general fund, may be spent upon order of the municipal governing body, shall be exempt from all provisions of RSA 32 relative to limitation and expenditure of town moneys, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fee was collected to meet.

(d) All impact fees imposed pursuant to this section shall be assessed at the time of planning board approval of a subdivision plat or site plan. When no planning board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. Impact fees shall be intended to reflect the effect of development upon municipal facilities at the time of the issuance of the building permit. Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use. Nothing in this subparagraph shall prevent the municipality and the assessed party from establishing an alternate, mutually acceptable schedule of payment of impact fees in effect at the time of subdivision plat or site plan approval by the planning board. If an alternate schedule of payment is established, municipalities may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of the assessed impact fees.

(e) The ordinance shall establish reasonable times after which any portion of an impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected shall be refunded, with any accrued interest. Whenever the calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the municipality, a refund shall be made upon the failure of the legislative body to appropriate the municipality's share of the capital improvement costs within a reasonable time. The maximum time which shall be considered reasonable hereunder shall be 6 years.

(f) Unless otherwise specified in the ordinance, any decision under an impact fee ordinance may be appealed in the same manner provided by statute for appeals from the officer or board making that decision, as set forth in RSA 676:5, RSA 677:2-14, or RSA 677:15, respectively.

(g) The ordinance may also provide for a waiver process, including the criteria for the granting of such a waiver.

(h) The adoption of a growth management limitation or moratorium by a municipality shall not affect any development with respect to which an impact fee has been paid or assessed as part of the approval for that development.

(i) Neither the adoption of an impact fee ordinance, nor the failure to adopt such an ordinance, shall be deemed to affect existing authority of a planning board over subdivision or site plan review, except to the extent expressly stated in such an ordinance.

(j) The failure to adopt an impact fee ordinance shall not preclude a municipality from requiring developers to pay an exaction for the cost of off-site improvement needs determined by the planning board to be necessary for the occupancy of any portion of a development. For the purposes of this subparagraph, "off-site improvements" means those improvements that are necessitated by a development but which are located outside the boundaries of the property that is subject to a subdivision plat or site plan approval by the planning board. Such off-site improvements shall be limited to any necessary highway, drainage, and sewer and water upgrades pertinent to that development. The amount of any such exaction shall be a proportional share of municipal improvement costs not previously assessed against other developments, which is necessitated by the development, and which is reasonably related to the benefits accruing to the development from the improvements financed by the exaction. As an alternative to paying an exaction, the developer may elect to construct the necessary improvements, subject to bonding and timing conditions as may be reasonably required by the planning board. Any exaction imposed pursuant to this section shall be assessed at the time of planning board approval of the development necessitating an off-site improvement. Whenever the calculation of an exaction for an off-site improvement has been predicated upon some portion of the cost of that improvement being borne by the municipality, a refund of any collected exaction shall be made to the payor or payor's successor in interest upon the failure of the local legislative body to appropriate the municipality's share of that cost within 6 years from the date of collection. For the purposes of this subparagraph, failure of local legislative body to appropriate such funding or to construct any necessary off-site improvement shall not operate to prohibit an otherwise approved development.

(k) Revenue from impact fees imposed upon development and collected by a municipality under RSA 674:21, V for construction of or improvement to municipal road systems may be expended upon state highways within the municipality only for improvement costs that are related to the capital needs created by the development. Such improvements may include items such as, but not limited to, traffic signals and signage, turning lanes, additional travel lanes, and guard rails. No such improvements shall be constructed or installed without approval of the state department of transportation. In no event shall impact fees be used for any improvements to roads, bridges, or interchanges that are part of the interstate highway system. Nothing in RSA 674:21, V shall be construed as allowing or authorizing additional impact fees merely by virtue of having approved the expenditure of collected fee revenue for construction of or improvement of state highways, nor shall it be construed as allowing the adoption of new impact fees devoted to assessing impacts to state highways.

(l) No later than 60 days following the end of the fiscal year, any municipality having adopted an impact fee ordinance shall prepare a report listing all expenditures of impact fee revenue for the prior fiscal year, identifying the capital improvement project for which the fees were assessed and stating the dates upon which the fees were assessed and collected. The annual report shall enable the public to track the payment, expenditure, and status of the individually collected fees to determine whether said fees were expended, retained, or refunded.

VI. (a) In this section, "village plan alternative" means an optional land use control and subdivision regulation to provide a means of promoting a more efficient and cost effective method of land development. The village plan alternative's purpose is to encourage the preservation of open space wherever possible. The village plan alternative subdivision is meant to encourage beneficial consolidation of land development to permit the efficient layout of less costly to maintain roads, utilities, and other public and private infrastructures; to improve the ability of political subdivisions to provide more rapid and efficient delivery of public safety and school transportation services as community growth occurs; and finally, to provide owners of private property with a method for realizing the inherent development value of their real property in a manner conducive to the creation of substantial benefit to the environment and to the political subdivision's property tax base.

(b) An owner of record wishing to utilize the village plan alternative in the subdivision and development of a parcel of land, by locating the entire density permitted by the existing land use regulations of the political subdivision within which the property is located, on 20 percent or less of the entire parcel available for development, shall grant to the municipality within which the property is located, as a condition of approval, a recorded easement reserving the remaining land area of the entire, original lot, solely for agriculture, forestry, and conservation, or for public recreation. The recorded easement shall limit any new construction on the remainder lot to structures associated with farming operations, forest management operations, and conservation uses, and shall specify that the restrictions contained in the easement are enforceable by the municipality. Public recreational uses shall be subject to the written approval of those abutters whose property lies within the village plan alternative subdivision portion of the project at the time when such a public use is proposed.

(c) The submission and approval procedure for a village plan alternative subdivision shall be the same as that for a conventional subdivision. Existing zoning and subdivision regulations relating to emergency access, fire prevention, and public health and safety concerns including any setback requirement for wells, septic systems, or wetland requirement imposed by the department of environmental services shall apply to the developed portion of a village plan alternative subdivision, but lot size regulations and dimensional requirements having to do with frontage and setbacks measured from all new property lot lines, and lot size regulations, as well as density regulations, shall not apply.

(1) The total density of development within a village plan alternate subdivision shall not exceed the total potential development density permitted a conventional subdivision of the entire original lot unless provisions contained within the political subdivision's land use regulations provide a basis for increasing the permitted density of development within a village plan alternative subdivision.

(2) In no case shall a political subdivision impose lesser density requirements upon a village plan alternative subdivision than the density requirements imposed on a conventional subdivision.

(d) If the total area of a proposed village plan alternative subdivision including all roadways and improvements does not exceed 20 percent of the total land area of the undeveloped lot, and if the proposed subdivision incorporates the total sum of all proposed development as permitted by local regulation on the undeveloped lot, all existing and future dimensional requirements imposed by local regulation, including lot size, shall not apply to the proposed village plan alternative subdivision.

(e) The approving authority may increase, at existing property lines, the setback to new construction within a village plan alternative subdivision by up to 2 times the distance required by current zoning or subdivision regulations, subject to the provisions of subparagraph (c).

(f) Within a village plan alternative subdivision, the exterior wall construction of buildings shall meet or exceed the requirements for fire-rated construction described by the fire prevention and building codes being enforced by the state of New Hampshire at the date and time the property owner of record files a formal application for subdivision approval with the political subdivision having jurisdiction of the project. Exterior walls and openings of new buildings shall also conform to fire protective provisions of all other building codes in force in the political subdivision. Wherever

building code or fire prevention code requirements for exterior wall construction appear to be in conflict, the more stringent building or fire prevention code requirements shall apply.

[Paragraph VII effective July 1, 2017.]

VII. In this section, "integrated land development permit option" means an optional land use control to allow a project to proceed, in whole or in part, as permitted by the department of environmental services under RSA 489.

Source. 1983, 447:1. 1988, 149:1, 2. 1991, 283:1, 2. 1992, 42:1. 1994, 278:1. 2002, 236:1, 2. 2004, 71:1, 2; 199:2, 3. 2005, 61:1, 2. 2008, 63:1. 2012, 106:1, 2. 2013, 270:5, 6. 2015, 31:1, eff. July 6, 2015. 2016, 6:3, 4, eff. June 1, 2017.

Trial Balance
Agency Reports for Lisa
Town of Hudson, NH
July 2016, GL Year 2017 - October 2016, GL Year 2017

Account Number	Beginning Balance	Total Debits	Total Credits	Ending Balance
16-2000-2060-000-066	-26,105.28	0.00	14.40	-26,119.68
Agency Fees - Abbott Farms				
16-2000-2060-000-077	-2,680.45	0.00	1.47	-2,681.92
Agency Fees - 7-11 Site Bond				
16-2000-2060-000-082	-550.64	0.00	0.30	-550.94
Agency Fees - Briar Oaks Road Bond				
16-2000-2060-000-089	-13,059.62	0.00	7.21	-13,066.83
Agency Fees - Twin Meadows Subdivision				
16-2000-2060-000-100	-373.39	0.00	0.20	-373.59
Agency Fees - Closed Businesses				
16-2000-2060-000-102	-3,520.83	0.00	1.94	-3,522.77
Agency Fees - Cousins Realty Driveway Bond				
16-2000-2060-000-110	-8,316.03	0.00	4.59	-8,320.62
Agency Fees - Compass Point Bond				
16-2000-2060-000-119	-1,406.01	0.00	0.78	-1,406.79
Agency Fees - Glen Drive Reconstruction				
16-2000-2060-000-152	-1,286.90	0.00	0.71	-1,287.61
Agency Fees - Pinewood Meadows II				
16-2000-2060-000-170	-5,818.28	0.00	3.21	-5,821.49
Agency Fees - Wason Solar Heights				
16-2000-2060-000-199	-14,703.00	0.00	8.11	-14,711.11
Agency Fees - Greely Acres Phase II Rd Bond				
16-2000-2060-000-218	3,526.52	0.00	1.95	-3,528.47
Agency Fees - Wagner Way Ext Perf Bond				
16-2000-2060-000-220	20,826.94	0.00	11.49	-20,838.43
Agency Fees - Kiddie Konnection Day Care				
16-2000-2060-000-262	-1,824.91	0.00	1.01	-1,825.92
Agency Fees - Shepherds Hill Sewer Inspections				
16-2000-2060-000-316	-5,436.32	0.00	3.00	-5,433.32
Agency Fees - Dunkin Donuts 14 Brady Dr				
16-2000-2060-000-321	44,036.75	0.00	24.30	-44,061.05
Agency Fees - Telecommunications Facility Bond				
16-2000-2060-000-324	-9,502.29	0.00	5.24	-9,507.53
Agency Fees - Hudson North Telecom				
16-2000-2060-000-351	-4,392.23	0.00	2.42	-4,394.65
Agency Fees - Unicorn Park Inspections				
16-2000-2060-000-366	-499.00	0.00	0.28	-499.28
Agency Fees - Oblate Inspections				
16-2000-2060-000-380	-32,515.86	0.00	17.94	-32,533.80
Agency Fees - Waterview Landing				
16-2000-2060-000-391	-1,676.77	0.00	0.93	-1,677.70
Agency Fees - Hawthorne Woods Inspections				
16-2000-2060-000-400	-9,602.42	0.00	5.26	-9,607.68
Agency Fees - Interest on Closed Accounts				
16-2000-2060-000-405	-3,351.12	0.00	1.85	-3,352.97
Agency Fees - Sparkling River				
16-2000-2060-000-423	-2,609.84	0.00	1.44	-2,611.28
Agency Fees - Vista Knoll Estates				
16-2000-2060-000-522	-62.55	0.00	0.04	-62.59
Agency Fees - Mammoth Green Estates				
16-2000-2060-000-565	-248.13	0.00	0.14	-248.27
Agency Fees - Allyson's Landing Inspections				

Develop Planning Board Action Plan for 2017

Staff Report
25 January 2017

This item is on the agenda, in order to determine if the Planning Board would like to consider for this year exploring the topic of developing a 2017 Action Plan. For example, the board may want to look into commencing an effort to spark municipal economic development, and determine what we, as a Planning Board, can do to make Hudson more attractive for economic development opportunities (i.e., jobs creation and tax base expansion). Yes, Hudson has location, location, location, which is the most important element for a community to have, relative to trying to create more jobs and expand its tax base. However, besides location, what are the other issues that require Hudson's attention in order to achieve the goals of job and tax base expansion?

- ✓ Establish long-term plans to secure and expand municipal water and sewer systems.
- ✓ Update plans to improve the capacity and safety of municipal roads and highways.
- ✓ Explore other municipal strategic economic development plans, i.e., in order to determine what works and doesn't work for such municipalities seeking to expand their respective jobs and tax bases. In regard to this particular aspect, the Planning Board or adhoc Hudson committee could determine what municipalities are doing to better market and target their communities for jobs creation and tax base expansion. That is, are such communities developing so called "branding" plans in order to improve their opportunities for said expansions? Are they creating new and innovative ways in which to promote their individual communities? Are they actually reaching-out to corporations and developers, via trade missions and or scheduling in-person meetings with such parties? Further, are such progressive municipalities working hand-in-hand with state and federal economic development agencies, relative to trying to achieve the subject expansion goals?

I could go on and on in writing about this topic and the many more elements involved in producing municipal economic development activity, but time is of the essence at the moment, and I don't want to (possibly) bore the reader, etc. Suffice it to say for now, I believe the aforementioned topic is a very important one for Hudson to fully engage in, and, perhaps, in the least, the Planning Board can help kick start further municipal discussion and exploration of this subject. That is, for example, recommending to the BOS that they consider re-forming an Economic Development Committee, comprised of various townspeople, with the goal of developing an action plan for Hudson to expand its jobs and tax bases.

See you Wednesday evening, when we can, perhaps, delve into discussing the potential of the aforementioned idea and/or ideas that you, yourself, may be thinking of that could continue progressing the State of the Town of Hudson.