Chapter 334

ZONING

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[HISTORY: Adopted 3-8-1994 as Amdt. No. 1 by ballot at the Town and School District Election. Amendments noted where applicable.]

GENERAL REFERENCES

Regional Planning Commission — See Ch. 116.

Zoning Board of Adjustment — See Ch. 143.

Building construction — See Ch. 178.

Building, planning and zoning civil penalties — See Ch. 181.

Site plan review — See Ch. 275.

Subdivision of land — See Ch. 289.

ARTICLE I
General Provisions

§ 334-1. Title.

This chapter shall be cited as the "Code of the Town of Hudson, NH." It is hereinafter referred to as "this chapter."

§ 334-2. Purpose.

The purpose of this chapter is to promote the health, safety and general welfare of the inhabitants as well as efficiency and economy in the process of development, by encouraging the most appropriate use of land throughout the Town and to:

A. Lessen congestion in streets.

B. Secure safety from fires, panic and other dangers.

C. Provide adequate light and air.

D. Prevent the overcrowding of land.

E. Avoid undue concentration of population.

F. Conserve property values.

G. Facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, child day-care and housing opportunities for all family types and income levels.

H. Assure the proper use of natural resources and other public requirements.

I. Preserve and enhance the quality of life.

J. Prevent the establishment of nuisances. **[Added 3-12-1996]**

§ 334-3. Statutory authority.

This chapter is adopted pursuant to authority granted by Title LXIV of the New Hampshire Revised Statutes Annotated and by New Hampshire RSA 674:16 through 674:21, inclusive.

§ 334-4. Adoption and replacement of prior ordinance.

This chapter was originally adopted March 10, 1942, by ballot at the Annual Town Meeting. This chapter replaces the Zoning Ordinance of record as of this date, in its entirety.

ARTICLE II
Terminology
[Amended 3-12-1996; 3-10-1998; 3-9-1999; 3-13-2001 ~~by Amdt. No. 7~~; 3-12-2002 ~~by Amdt. No. 3~~; 3-13-2007 ~~by Amdt. No. 1~~; 3-16-2017 ~~by Art. No. 2~~]

§ 334-5. Word usage and interpretation.

For the purposes of this chapter, certain words, terms or phrases shall bear the meanings 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:

(1) Terms and words not defined in this article but defined in applicable New Hampshire state statutes or regulations shall have the meanings given therein.

(2) Terms and words not defined in this article but defined in the Building Code shall have the meanings given therein.

(3) 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. 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 are intended to extend their 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. [Amended 3-10-2020 ATM, Art. No. 2; 3-13-2018 ATM by Amdt. No. 5;
2-2-2019 ATM, Art. 03, adopted 3-12-2019; 3-10-2020 ATM, Art. No. 2; 3-10-2020 ATM, Art. No.
3; 3-9-2021; 3-12-2024 ATM by Art. 35; 3-11-2025 by Amdt. No. 23; 3-11-2025 by Amdt. No. 25;
3-11-2025 by Amdt. No. 29]**

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 adjoins or is directly across the street or stream from the land under consideration by the Board. "Directly across the street or stream" shall be determined by lines drawn perpendicular from all pairs of corner boundaries along the street or stream of the applicant to pairs of projected points on any property boundary across the street or stream that intersect these perpendicular lines. Any property that lies along the street or stream between each pair of projected points or is within 50 feet of any projected point shall be considered an abutter. If an abutting property is under condominium or other collective form of ownership, the officers of the collective or association as defined in RSA 356-B:3, XXIII, shall receive the formal notification. 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 manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for the purpose 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.

ACCESS — The right vested in the owner of land to enter and return from that land without obstruction to and from a public way.

ACCESSORY DWELLING UNIT (ADU) — A residential living unit that is within, ~~or~~ attached to or located on the same lot as 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.

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:

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 571-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.

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.

ADULT USE ESTABLISHMENT — A type of SEXUALLY ORIENTED BUSINESS that is an establishment offering goods, services or accommodations 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.

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.

ADULT MOTION-PICTURE THEATER — A type of SEXUALLY ORIENTED BUSINESS that has 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.

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.

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.

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

A. METEOROLOGICAL TOWER (MET TOWER).

B. SYSTEM MODIFICATION.

C. NET METERING.

D. POWER GRID.

E. SHADOW FLICKER.

F. SMALL WIND ENERGY SYSTEM.

G. SMALL WIND ENERGY SYSTEM HEIGHT.

H. SMALL WIND ENERGY SYSTEM TOWER.

I. WIND GENERATOR.

ANTENNA — The radiating system used to perform or achieve (transmit and/or receive) a desired communication or telecommunication service.

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 cover or appurtenance that is permanent, retractable, temporary or portable in nature and 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 (BMP) — ~~The standard described in the current of Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire prepared by United States Department of Agriculture Soil Conservation Services~~ A standardized structural, non-structural, or managerial practice used to prevent or reduce pollution and minimize environmental harm to the maximum extent practicable based on current engineering, science, and regulatory guidance. For the purposes of stormwater management, construction, period erosion and sedimentation control practices and post construction and post construction good housekeeping practices, including but not limited to: source controls, pollution prevention measures; operating procedures and practices to control site runoff; spillage or leaks; sludge or waste disposal, or drainage from raw material storage. For purposes of post construction stormwater management, see the definition of Stormwater Control Measure.

~~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 — The protected upland areas adjacent to wetlands and surface waters in the Wetlands Conservation Overlay District.

BUILDING — Any structure used or intended for supporting or sheltering any use of occupancy.

~~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, ACCESSORY — A building in which a use that is customarily incidental and subordinate to that of the principal use is being conducted, including temporary or portable structures.

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 LINE — The perimeter of that portion of a building nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the building of structure.

BUILDING, PRINCIPAL — A building in which a principal use is being conducted.

BUILDING SETBACK — The minimum required distance between the property line and the building line.

BUILDING SIGN — Any sign affixed, mounted, attached to or painted onto the exterior of a building, including awnings, canopies, roof-mounted and projecting signs.

BURIAL GROUND – A private family or religious institution's cemetery, mausoleum, or columbarium located on private property that is not open or available for use by the general public.

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 freestanding, lightweight structure used to house vehicles and constructed of tube framing and is partially covered by a canvas, polyethylene 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.

A. DAY-CARE NURSERY.

B. CHILD DAY CARE.

C. CHILD DAY-CARE AGENCY.

D. FAMILY DAY-CARE HOME.

E. FAMILY GROUP DAY-CARE HOME.

F. GROUP CHILD DAY-CARE CENTER.

~~G. NIGHT-CARE AGENCY.~~

H. PRESCHOOL PROGRAM.

I. RESIDENCE.

CEMETARY - Any public or nonprofit burial site owned, managed, or controlled by a municipality, or owned and managed by a nonprofit cemetery corporation chartered by the state including mausoleums and columbariums.

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

CERTIFIED WETLANDS SCIENTIST — A person qualified to delineate wetland boundaries and prepare wetland maps who is currently certified by the State of New Hampshire Board of Natural Scientists, as defined by RSA 310-A:76, II-a.

CHILD DAY CARE — The care and supervision of a child away from the child's home and apart from the child's parents.

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:

A. 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.

COMMERCIAL TRAILER — Shall mean a trailer that is designed to be hitched or attached to, or lifted and to transport, carry, haul, or store property, goods, cargo, or other commercial items.

COMMERCIAL VEHICLE, LIGHT — A vehicle used in commerce, which does not exceed 13,000 pounds gross weight.

COMMERCIAL VEHICLE, HEAVY — A vehicle used in commerce, which exceeds 13,000 pounds gross weight.

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.

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.

CONTRACTORS YARD — A lot or portion of a lot used for outdoor storage of construction materials or construction equipment customarily required in the building trade by a construction contractor.

CORNER LOT — See lot, corner.

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.

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 — A residential principal building with two DWELLING UNITS, separated either vertically or horizontally, by a fire-resistant wall or floor, and with each unit having its own separate entrance. DUPLEX units may be separated by attached enclosed garages provided that the shared wall between the garages or between the garage and the unit that is not served by the garage is fire-resistant and extends from the foundation to the roof. DUPLEXES do not include two DWELLING UNITS separated only by open porches, carports, breezeways or other similar unenclosed structures. DUPLEXES do not include ACCESSORY DWELLING UNITS as defined in this Section.

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

DWELLING UNIT, MULTIFAMILY — Three or more 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. Definitions related to ELECTRONIC CHANGING SIGNS are:

A. BRIGHTNESS — Also known as "intensity"; the LED Industry measures display intensity in candelas per square meter, which is also referred to as "NITS."

B. DIMMING — The ability to increase or decrease the overall display intensity brightness.

C. DIODE — Also called "light-emitting diode" (LED) or "surface-mounted diode" (SMD).

D. 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.

E. 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.

F. NIT or NITS — A luminance-measuring unit equal to one candela (one candle) per square meter measured perpendicular to the rays from the source.

G. SI UNIT — An abbreviation for the International System of Units.

H. 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.

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.

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.

F

~~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.

G

GENERAL RETAIL — Retail stores and service establishments other than those listed in the Table of Permitted Principal Uses included as an attachment to this chapter.[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.

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.

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.

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

HUDSON — The TOWN of HUDSON, New Hampshire.

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.

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.

~~1. Editor's Note: The Table of Permitted Uses is included as an attachment to this chapter.~~

J

JUNK — Any material, such as, but not limited to, 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.

JUNK YARD, MACHINERY - any yard or field used as a place of storage in which there is displayed to the public view, junk machinery or scrap metal that occupies an area of 500 square feet.

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.~~ Any place, not including the principal place of business of any motor vehicle dealer registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126, where the following are stored or deposited in a quantity equal in bulk to 2 or more motor vehicles:

A. Motor vehicles which are no longer intended or in condition for legal use according to their original purpose including motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap; and/or

B. Used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle.

Motor Vehicle Junkyards include Automotive recycling yards, meaning a motor vehicle junk yard, as identified in subparagraph (c), the primary purpose of which is to salvage multiple motor vehicle parts and materials for recycling or reuse;

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.

LOT — A single contiguous parcel of land. (See also CONFORMING and NONCONFORMING)

LOT, CORNER — A corner lot is defined as a lot located at the intersection of two HIGHWAYS that has frontage on each HIGHWAY.

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 contiguous with 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 distinct 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

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.

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.

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.

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.

NONCONFORMING 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.

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 STORAGE — The placement of goods outside of a building or structure. 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 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.

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).

PORTABLE CARPORT — See "CAR CANOPY."

PORTABLE GARAGE — A freestanding, lightweight 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.

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.

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.

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.

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.

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: vehicles defined in RSA Chapter 215, boats, motorhomes and recreational trailers.

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.

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

SEXUAL ENCOUNTER CENTER — A business or commercial enterprise that as one of its primary business purposes offers for any form of consideration:

A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

B. Activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; 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:

A. ADULT BOOKSTORE/ADULT VIDEO STORE.

B. ADULT CABARET.

C. ADULT DRIVE-IN THEATER.

D. ADULT USE ESTABLISHMENT.

E. ADULT MOTION-PICTURE ARCADE.

F. ADULT MOTION-PICTURE THEATER.

G. "THE TOTAL PRESENTATION TIME."

H. "SUBSTANTIAL PORTION OF THE TOTAL PRESENTATION TIME."

I. SEXUAL ENCOUNTER CENTER.

J. SEXUALLY ORIENTED BUSINESS.

K. NUDE MODEL STUDIO.

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:

A. AWNING SIGN.

B. BANNER SIGN.

C. BUILDING SIGN.

D. DIRECTIONAL SIGN.

E. DIRECTORY SIGN.

F. ELECTRONIC CHANGING SIGN.

G. EXTERIOR ILLUMINATED SIGN.

H. FLASHING SIGN.

I. FREESTANDING SIGN.

J. INTERIOR ILLUMINATED SIGN

K. INFLATABLE OR BALLOON SIGN.

L. LED SIGN.

M. 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.

SNOW DUMP — An area where snow, transported from an off-site location, is deposited for storage or disposal.

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's General PERMIT for Stormwater Discharges from Construction Activities ~~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 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.

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 fifty-six-consecutive-day period.

SURFACE WATER — Those portions of waters of the state, as defined by RSA 485-A:2.XIV, which have standing or flowing water at or on the surface of the ground. This includes, but is not limited to, perennial and seasonal streams, lakes, ponds, and tidal waters.

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 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.

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 — Pursuant to RSA 482-A:2.X, an area that is inundated or saturated by surface 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.

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

See Bylaws Chapter 143 TOWN Code.

ARTICLE III
General Regulations

§ 334-7. Conformity required.

No building or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, moved or altered unless in conformity with the regulations specified in this chapter for the district in which it is located.

§ 334-8. Certificate of occupancy.

A certificate of occupancy will not be issued until all chapter requirements and site plan/development regulations have been met.

§ 334-9. Land use classifications. [Amended 3-11-2025 by Amdt. No. 27]

A. For the purposes of this chapter, all uses or activities are considered to fall into one of five land use classifications. The Table of Permitted Principal Uses in Article V, § 334-21, further divides each land use class into various related categories.

B. Use classifications shall be as follows:

(1) Residential.

(2) Community facilities.

(3) Agricultural.

(4) Commercial.

(5) Industrial.

§ 334-10. Mixed or dual use on a lot. [Amended 3-13-2018 ATM by Amdt. No. 1]

A. Only one Principal Use is permitted on a lot except in Industrial or Business Zones.

B. Multiple Principal Uses on a lot in the Industrial or Business Zones are permitted provided that the lot meets the area and frontage requirements for the principal use for the district in which it is located and each use is in conformity with all other requirements set forth in this chapter and the Hudson Land Use Regulations pertaining to that use. **[2-2-2019 ATM, Art. 06, adopted 3-12-2019]**

(1) The Business or Industrial lot has sufficient frontage to satisfy the minimum frontage requirement for the principal use requiring the most frontage.

(2) The Business or Industrial lot is of sufficient size to satisfy the minimum lot size requirement for the principal use requiring the most lot area.

C. For the purposes of this chapter, multiple commercial or industrial uses/activities developed as part of a single site are considered a single principal use.

D. For the purposes of this article, the addition of accessory uses to a principal use does not result in a dual or mixed use of property.[2]

2. Editor's Note: Former Subsection D, regarding multiple or mixed uses on a single lot, 2-2-2019 ATM, Art. 06, adopted 3-12-2019, which immediately followed this subsection, was repealed 3-8-2022 by Amdt. No. 4.

§ 334-11. Classification of Town roads.

Town roads shall be classified as follows:

A. Arterials.

(1) NH 3A (Elm Street, Lowell Road, Webster Street and River Road).

(2) NH 102 (Derry Street).

(3) NH 111 (Central Street).

(4) Dracut Road.

B. Collectors.

(1) Barretts Hill Road.

(2) Belknap Road.

(3) Burns Hill Road.

(4) Bush Hill Road.

(5) Greeley Street.

(6) Highland Street.

(7) Kimball Hill Road.

(8) Lawrence Road.

(9) Musquash Road.

(10) Old Derry Road.

(11) Pelham Road.

(12) Pine Road.

(13) Robinson Road.

(14) Wason Road.

(15) West Road.

(16) Windham Road.

§ 334-12. Fences and similar enclosures. [Amended 3-14-1995 by Amdt. No. 3; 3-9-2010 by Amdt. No. 6]

All fences, walls and similar enclosures, except trees, shrubs and natural vegetation, are subject to the following restrictions:

A. No permit shall be required for any fence not exceeding eight feet in height in any residential district.

B. A permit shall be required for any fence, including sports/ tennis enclosures, exceeding eight feet in height in any residential district.

C. Any fence exceeding eight feet in height must be installed adjacent to or behind the front corner of the home.

D. Any fence exceeding eight feet in height must have metal or metal reinforced support posts.

E. Any fence, sports/tennis enclosure, other than for agricultural uses, exceeding 10 feet in height is subject to Planning Board review.

F. A fence is not subject to setback requirements.

G. A fence shall be erected so that the side facing adjacent property owners and/or public rights-of-way presents a reasonable appearance.

H. No fence, hedge, planting or enclosure wall shall obstruct or interfere with roadway and/or driveway sight distances as determined by the office of the Town Engineer.

I. Outdoor in-ground swimming pools shall be enclosed by a permanent fence which, by itself or together with other permanent appurtenant structures, surrounds the entire perimeter of the intended pool apron area. Except for intended access gates, no openings in the fence shall exist which would allow a sphere greater than four inches in diameter to pass through.

(1) For one-family and two-family residences, fences shall not be less than four feet in height, and access gates shall have latching and locking mechanisms installed on interior surfaces or yoke- type latches with padlock holes.

(2) For all other residential and nonresidential uses, fences shall be not less than six feet in height, and access gates shall have mechanisms which automatically latch and lock during off-season and closed hours and when lifeguards are off duty.

§ 334-13. Junkyards prohibited; outdoor storage.

A. The operation of a junkyard is not permitted in any district.

B. The outdoor storage of any of the following are not permitted in any district:

(1) More than one unregistered vehicle.

(2) Any quantity of waste, refuse, junk or ashes.

(3) Bulk storage of oil or gasoline, other than in standard or approved containers or containment facilities.

§ 334-14. Building height. [Amended 3-8-2016 by Amdt. No. 4; 3-16-2017 by Art. No. 3; 2-2-2019 ATM, Art. 04, adopted 3-12-2019]

No occupiable structure may exceed 38 feet in height in any district, except as provided in Subsection A below. Height is measured from the average elevation of the finished grade within five feet of the structure to the highest point of the roof, excluding accessory, unoccupied protuberances such as antennas, flagpoles and the like. Nonoccupiable structures such as church spires, steeples, smokestacks, flagpoles, lightpoles and other similar structures may not exceed 100 feet in height in any district, except as provided for in Article VI, Special Exceptions. In all cases, a nonoccupiable structure shall not be capable of falling or collapsing beyond the bounds of the property on which it is situated. The maximum heights and special exception conditions for communications towers,

masts and antennas are separately addressed within Article XVIII, Commercial Wireless Telecommunication, Radio Service and Receive-Only Facilities.

A. In the following described zoning districts/parcels, the maximum allowed occupiable building height shall be 50 feet, and said maximum height shall be restricted to those areas of buildings used exclusively for manufacturing, warehouse, distribution and office space ancillary to said principal uses: Sagamore Industrial Park (IP), located in an Industrial (I) Zoning District, bordered by Sagamore Bridge Road 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 Road. (Rte. 3A) to the east, and including all parcels located within this I Zoning District. 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 Drive. 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 Road (Map 239/Lot 001), 11 Steele Road (Map 234/Lot 005), 2 Friel Golf Road (Map 234/ Lot 001), 267 Lowell Road (Map 234/Lot 035) and 273 Lowell Road (Map 234/Lot 034). The Industrial (I) Zoning District located along the south border of Central Street (NH Rte. 111), starting at the westernmost border of this I District (i.e., just west of Hudson Park Drive), running along said south border of Central Street to the west border of Sullivan Road and including all parcels located within this I Zone. The Industrial (I) Zoning District located along the north side of Derry Street (NH Rte. 102), at the intersection of West Street, and including all parcels located within this I Zone. The Industrial (I) Zoning District located at 65 River Road (Map 251-001). **[Amended 3-10-2020 ATM, Art. No. 4]**

B. Notwithstanding Subsection A above, buildings that are between 38 feet and 50 feet in height shall be setback a minimum 400 feet from residential zones. This setback shall increase by 10 feet for buildings with a footprint of 100,000 square feet and additionally at a rate of 10 feet for every 100,000 feet thereafter. This is applicable at a fractional rate (ex: 190,000 square footprint imputes an additional 19 feet of setback). **[Added 3-8-2022 by Amdt. No. 7]**

§ 334-15. Parking. [Amended 3-14-1995 by Amdt. No. 5; 3-14-1995 by Amdt. No. 6; 3-10-1998; 3-12-2002 by Amdt. No. 1; 3-13-2007 by Amdt. No. 2; 3-13-2018 ATM by Amdt. No. 2; 3-11-2025 by Amdt. No. 24; 3-11-2025 by Amdt. No. 25]

A. All land uses shall provide for and maintain off-street parking spaces.

(1) Required off-street parking facilities shall be provided on the same lot as the principal use they are designed to serve or on an adjacent lot through the benefit of an easement. All parking spaces shall be paved, however the Planning Board may approve unpaved parking spaces where paved spaces are impractical or undesirable.

(2) Multifamily and all nonresidential uses shall provide and maintain off-street parking in accordance with the site plan or subdivision regulations.

(3) Parking spaces (except for driveways) in residential zones shall not be located within front, side or rear setback areas.

B. Parking Prohibited. Parking or storage of vehicles or trailers in excess of the amounts specified in this section is prohibited.

(1) Outdoor storage of more than one unregistered ~~or uninspected~~ motor vehicle per residential unit.

(2) Outside parking or storage of vehicles or trailers used in commerce at residential sites with gross vehicle weight greater than 13,000 pounds.

(3) Outdoor parking or storing of more than one recreational vehicle per residence. Parking or storage shall not take place within setback areas, other than on a driveway.

(4) Sale of automobiles, trucks or recreational vehicles on a consignment basis is expressly prohibited at any residential or nonresidential site without site plan approval by the Planning Board as a sales location.

(5) The parking or storage of any commercial trailer that requires a king pin to be hitched to a vehicle. This is prohibited in any residential or TR, R-1, or R-2 district. This regulation shall not be construed as prohibiting such trailers from loading or unloading in such districts in servicing uses therein.

C. In all zoning districts all motor vehicle(s) displayed for sale shall be set back a minimum of 15 feet from the edge of roadway pavement. **[Added 3-9-2004]** **(Moved from §334.21)**

§ 334-16. Building permits. [Amended 3-14-1995 by Amdt. Nos. 7 and 8; 3-10-1998; 3-4-2000; 3-9-2004; 3-13-2012 by Amdt. Nos. 1 and 2]

Any person, firm or corporation shall obtain a building permit before commencing work on the erection, alteration or movement of any building or structure, except as exempted under Subsection A. ~~For one- and two-family dwellings, the~~ The Town of Hudson has adopted by reference the State Building Code as may be amended from time to time. ~~and follows the 2009 International Residential Code for One- and Two-Family Dwellings.~~ The Town of Hudson also adopts by reference the Americans with Disabilities Act (ADA) as outlined in 28 CFR Part 36. ~~For structures other than one- and two-family dwellings, the Town of Hudson shall enforce the current provisions of the State Building Code as promulgated pursuant to RSA 155-A:1, as may be amended from time to time. Whenever a provision of this ordinance differs from the authority of the 2009 International Residential Code for one- and two-family dwellings, the provision which imposes the greater restriction or higher standard shall be controlling~~.

A. Exemptions. Building permits shall not be required for the following: accessory structures, such as mailboxes, doghouses, birdbaths, ornamental landscaping features, swing sets, children's playhouses, clotheslines, fences eight feet or less in height and other similar types of structures which by custom and reason, in the opinion of the Building Inspector, do not require building permits.

B. Unoccupied public utility structures. Unoccupied structures up to 200 square feet erected by public utilities which are necessary for the furnishing of adequate service for the public health, safety or general welfare are permitted in all zones and are not subject to the building setback, lot size or frontage requirements of this chapter. Prior to the issuance of a building permit, such structures and their sites shall be approved by the Planning Board in order to ensure they present a reasonable appearance and do not create a hazard to the public or interfere with the surrounding area.

C. Conditions of issuance.

(1) No permit, however, shall be issued unless the structure will present a reasonable appearance and will be in keeping with the neighborhood and unless the building is to be finished on the exterior in a permanent manner and is to be suitably painted on the outside whenever the same is of wood or a material customarily painted. This is intended to eliminate the erection of structures obviously out of place for the neighborhood as judged by the property values and neighborhood character.

(2) ~~No permit shall be issued for the construction of a dwelling unless plans therefor provide for~~

~~the following:~~

~~(a) Single residential buildings shall have a minimum of 850 square feet of living area.~~

~~(b) Duplex residential buildings shall have a minimum of 1,500 square feet of living area.~~
~~(c) Three-unit and four-unit residential buildings shall have a minimum of 2,250 square feet and 3,000 square feet, respectively.~~

~~(d) Multifamily residential buildings shall have a minimum per-unit size of 750 square feet.~~

~~(e)~~ No more than one single-family home or duplex shall be constructed on one lot without Planning Board site plan approval.

(3) A proposed plot plan depicting the location of the foundation in relation to applicable setbacks, stamped by a NH Licensed Professional Engineer or Licensed Land Surveyor must be submitted to the Inspectional Services Division prior to issuance of a foundation permit.

(4) A certificate of occupancy shall be issued by the Building Inspector only after the Zoning Administrator shall have fully inspected the completed premises and found such premises, ~~in all zoned districts, including subdivisions,~~ to be in full compliance with the zoning, site plan and/or subdivision regulations pertaining to the premises to be occupied. No premises shall be occupied without a certificate of occupancy issued by the Building Inspector.

(5) No permit shall be issued for nonresidential or multifamily units in excess of duplex-residential prior to Planning Board site plan approval. The Planning Board shall have jurisdiction, prior to the issuance of a building permit, over the site location, parking facilities and recreational facilities of all multifamily dwellings and nonresidential structures in all zones~~. If it is in the public interest, a public hearing shall be held, the cost of which will be borne by the individual or firm requesting the building permit.~~

D. Validity. If no substantial construction takes place within one year of issuance, the building permit becomes null and void.

§ 334-16.1. Site plan approval. [Added 3-4-2000]

No person, persons, partnership, proprietorship, company, trust or corporation shall commence a new use, change a use or commence any site development activity (other than one- or two-family residential activity) without first securing site plan approval from the Hudson Planning Board pursuant to this chapter. These regulations shall apply to the development or change or expansion of use of tracts for nonresidential uses or for "multifamily dwelling units," which are defined as any structures containing more than two dwelling units, whether or not such development includes a subdivision or resubdivision of the site. For the purpose of this chapter, 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 as specified in this chapter. E.g., grocery store changes to a food service establishment. No building permits shall be issued until site plan approval has been obtained from the Town of Hudson Planning Board and is recorded with the Hillsborough County registry of Deeds.

ARTICLE IV
Establishment of Districts

§ 334-17. Districts enumerated; Zoning Map. [Amended 3-13-2001 by Amdt. No. 3; 3-11-2025 by Amdt. No. 22]

For the purposes of this chapter, the Town of Hudson is divided into the following districts as shown and defined on the Official Zoning Map. The Official Zoning Map is made a part of this chapter, by reference, for the purpose of designating the boundaries of districts. The Zoning Map is available in the offices of the Town Planner and Zoning Administrator.

Full Name	Short Name
Residential – One	R-1 (formerly A-1SF)
Residential – Two	R-2 (formerly A-1 and A-2)
Town Residence	TR
Rural Residential	RR
Business	B (formerly B-1 and B-2)
Industrial District	I
General	G (formerly D, Rural)
General-One	G-1

§ 334-18. Districts described. [Amended 2-2-2019 ATM, Art. 02, adopted 3-12-2019; 3-8-2016 by Amdt. No. 3; 3-13-2001 by Amdt. No. 3; 3-11-2025 by Amdt. No. 22]

A. Residential - One (R-1). The R-1 Residential District is established to provide for the development of single-family detached homes and customary accessory uses and structures at low densities. The district is intended to be strictly residential in character with a minimum of disturbances due to traffic or overcrowding.

B. Residential - Two (R-2). The R-2 Residential District is established to provide for the development of single-family and/or two-family (duplex) residences and customary accessory uses and structures and complementary nonresidential uses. The district is intended to provide a diversity of housing types, community facilities, recreational uses and other uses which benefit and are enhanced by the predominantly residential character of the district.

C. Town Residence (TR). The TR District encompasses established residential neighborhoods which have been developed on smaller lots than the lot size established in other residential districts. The setbacks and use densities reflect traditional New England town or village lot development patterns. The district is intended to permit the continued use, maintenance and vitality of these unique residential areas, protecting their residential character, while simultaneously limiting the expansion of these neighborhoods into adjacent, undeveloped lands.

D. Rural Residential (RR) District. The RR District encompasses more rural areas of Hudson characterized by conservation land, open space, and low density residential uses. The district is intended to preserve the rural character of these areas while providing opportunities for low density single-family residential development.

E. Business (B). The B District is established to provide for the development of general wholesale and retail commercial uses, services, offices uses, multifamily dwellings and customary accessory uses and structures.

F. Industrial (I). The I District is established to provide for industrial development, warehousing, limited business and commercial uses and customary accessory uses and structures. The district is intended to be strictly nonresidential in character.

G. General (G). The G District includes all areas not specifically designated as being within an R-1, R-2, TR, RR, B or I District. The district is designed to permit a wide diversity of land uses. Most uses permitted in the other five districts are permitted in the G District. The G District is intended to allow natural constraints, such as infrastructure development and market forces to determine the most appropriate use of land. It is also intended that the G District will eventually be absorbed by the expansion of other existing districts or replaced by newly created districts. The Planning Board will be responsible for maintaining sound planning concepts in this district and shall ensure that conflicting land uses do not abut each other without appropriate buffers.

H. General-One (G-1). The G-1 District includes all areas not specifically zoned as being within an R-1, R-2, TR, RR, B, or I District located outside the former right-of-way of the Circumferential Highway as depicted on the Town Zoning Map. The District is designed to permit a wide diversity of land uses at a density appropriate to the rural nature of the area, the natural constraints of the land and the lack of infrastructure. Uses permitted in this District are the same as those permitted in the G District.

§ 334-19. Interpretation of Zoning Map and Zoning District Boundaries.

Where appropriate and unless otherwise indicated, zoning district boundaries shown on the Zoning Map are the center lines of streets, power line rights-of-way, the middle of the channel of waterways or other bodies of water or the Town boundary line. Where a boundary is so indicated that it parallels the center line of a street, such boundary shall be considered to be parallel thereto at the distance therefrom shown on the Zoning Map. Any boundary within 10 feet of a property line shall be considered to coincide with such property line. Where no distance is stated on the Zoning Map, the distance shall be determined by the use of the scale on the map. In any instance where there is doubt as to the location of a zoning district boundary, the Zoning Administrator shall determine the location of such boundary, consistent with the intent of this chapter and the Zoning Map. Boundaries defined by the overlay Wetland District are excluded from this section.

ARTICLE V
Permitted Uses

§ 334-20. Allowed uses provided in tables. [Amended 3-12-2002 by Amdt. No. 2]

Any uses not specifically listed in the Table of Permitted Principal or Accessory Uses are hereby expressly prohibited.[3]

§ 334-21. Table of Permitted Principal Uses.

~~3.~~ The Table of Permitted Principal Uses is included as an attachment to this chapter. ~~as shall be as follows:~~[4]

~~A. In all zoning districts all motor vehicle(s) displayed for sale shall be set back a minimum of 15 feet from the edge of roadway pavement. [Added 3-9-2004]~~ **(Moved to §334.15 C.)**

§ 334-22. Table of Permitted Accessory Uses.

The Table of Permitted Accessory Uses[5] lists the accessory uses which may accompany those principle uses set forth in the Table of Permitted Principal Uses in § 334-21. The addition of such accessory uses does not result in the mixed or dual use of a parcel and does not require additional lot area, frontage or setbacks. The accessory uses listed in the Table of Permitted Accessory Uses are not intended to be the only accessory uses allowed. Accessory uses, not provided for in the Table of Permitted Accessory Uses, that are appropriate to a district can be permitted as a special exception from the Zoning Board of Adjustment in accordance with the general requirements of Article VI. The Table of Permitted Accessory Uses is included as an attachment to this chapter.

~~4. Editor's Note: The Tables of Permitted and Accessory Uses ae included at the end of this chapter.~~

~~5. Editor's Note:~~

~~6. Editor's Note: The Table of Permitted Accessory Uses is included at the end of this chapter.~~

ARTICLE VI
Special Exceptions

§ 334-23. General requirements.

Unless otherwise specified, the Zoning Board of Adjustment shall permit a use by special exception, subject to the following conditions:

A. The use requested is listed as permitted by special exception in the Table of Permitted Principal or Accessory Uses[6] for the district in which the use is requested or is so similar to other uses permitted by special exception in the relevant district that prohibition of the proposed use could not have been intended.

B. The proposed use meets all the applicable requirements established in this chapter.

C. The proposed use is consistent with the purpose and intent of the district in which it is proposed to be located.

D. The proposed use is compatible with the character of the surrounding neighborhood.

E. Nonresidential principal uses proposed to be located in residential districts must take primary access from arterial or collector roads.

§ 334-24. Home occupations. [Amended 3-13-2007 by Amdt. No. 3; 3-10-2009 by Amdt. No. 3]

Home occupations are defined by the Zoning Ordinance as "any activity carried out for gain by a resident in their dwelling unit, and such activity is a secondary use to the residence." The intent of providing a home occupation special exception is to allow for growth and development of a small in-home business while maintaining the character of residential areas. The applicant acknowledges that if the business grows and no longer meets the listed requirements, the business shall be moved to an appropriately zoned location such as Business, General or Industrial.

Home occupations, which are not evident to the general public are permitted by right in all zoning districts, when the following criteria are met:

A. The home occupation is not visible to the surrounding properties or the street.

B. The home occupation is conducted entirely within the residence or accessory building(s)

C. The home occupation has no employees other than the resident(s) of the dwelling

D. No parking areas more than those necessary for normal residential purposes are allowed.

E. There is no increased traffic, and no deliveries are received by large freight vehicles.

F. There shall be no business sign of any type.

Home occupations which include sales or service operations for wholesale goods produced or services provided on-site shall be permitted only as a special exception. The Zoning Board of Adjustment must find any such home occupation application to be in full compliance with the following requirements prior to approval of such special exception:

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7. Editor's Note: See § 334-21, Table of Permitted Principal Uses, or § 334-22, Table of Permitted Accessory Uses.

A. The home occupation shall be secondary to the principal use of the home as the business owner's residence.

B. The home occupation shall be conducted only by the residents of the dwelling who reside on the premises and not more than one nonresident employee. ~~If the applicant is the owner, the owner must sign an affidavit, stating he/she is the owner, and the residents of the dwelling are the only individuals conducting the activities associated with the home occupation. Said affidavit shall also state that the owner is responsible for any violations of this chapter. If the applicant is a renter, the owner of the dwelling must sign an affidavit, stating he/she is the owner, and shall acknowledge that the home occupation for the premises shall only be conducted by the current renter(s), who shall be identified on the application. The owner shall also acknowledge that he/she, as the owner of the dwelling, is responsible for any violations of this chapter conducted at said dwelling.~~ Approval of the home occupation special exception expires with the change of ownership of the property or the rental agreement in effect at the time the home occupation special exception was granted. The home occupation special exception is conditional on the residents of the dwelling and not on the property.

~~C. There shall be no employees or "for hire" staff conducting the home occupation activities, unless the employee(s) also resides on the premises.~~

D. ~~With the exception of day care businesses, which are allowed to have outdoor activity, t~~The home occupation business shall be carried out within the residence and/or within a structure accessory to the residence, such as a garage. **[Amended 3-8-2022 by Amdt. No. 5]**

E. The requested special exception shall be for an occupation which is consistent for what is routinely and/or typically done in a home environment ~~such as a day care, direct office billing, or other activities~~ that are generally service-oriented or produce goods for wholesale purposes.

F. On-site retail sales are an expressly prohibited home occupation special exception use except for sales of products customary and incidental to a service provided.

G. No more than 50% of the finished living space of the dwelling unit shall be used in connection with the home occupation.

H. Other than the sign(s) permitted under Article XII, there shall be no exterior display nor other exterior indication of the home occupation, nor shall there be any variation from the primarily residential character of the principal or accessory building.

I. Exterior storage may be permitted only ~~by special exception, granted by the Zoning Board of Adjustment, and must~~ if ~~be~~ screened from neighboring views by a solid fence or by evergreens of adequate height and bulk at the time of planting to effectively screen the area. In situations where a combination of existing foliage and/or long distances to neighboring views provide screening, the fencing requirements may be waived at the discretion of the Board.

J. Objectionable circumstances, such as, but not limited to, noise, vibrations, dust, smoke, electrical disturbances, odors, heat or glare, shall not be produced.

K. No traffic shall be generated by the home occupation activity that will be substantially greater in volume than would normally be expected in the neighborhood.

L. Parking.

(1) Parking for the home occupation shall be provided off-street and shall not be located in the front yard or within the required setbacks from the side and rear lot lines. Only the existing driveway may be used for the parking of customers. Customer parking shall be limited to

a maximum of two vehicles at any one time.

(2) Parking of vehicles used in commerce:

(a) One registered vehicle used in commerce may be parked at the principal or accessory structure, and further provided that personal vehicles used in commerce are excluded from this provision.

(b) In the B, I and G Zones (pertaining only to the home occupation activity), one registered vehicle used in commerce may be parked at the principal or accessory structure, provided that there are no heavy commercial vehicles which exceed a weight of 13,000 pounds (gross vehicle weight) and the screening requirements of § 334-24I are met, and further provided that personal vehicles used for purposes of commerce are excluded from this restriction.

M. Approval of the home occupation special exception expires with the change of ownership of the property or the rental agreement in effect at the time the home occupation special exception was granted. The home occupation special exception is conditional on the residents of the dwelling and not on the property.

N. The ~~Community Development Director/~~Zoning Administrator reserves the right to revoke the home occupation special exception if all conditions of the special exception are not maintained.

§ 334-25. Height of structure.

Special exceptions may be granted to the building height limits defined in Article III, § 334-14, when required to reduce emissions or improve air quality in accordance with applicable state and/or federal environmental standards, regulations or guidelines.

§ 334-26. (Reserved)[7]

ARTICLE VII
Dimensional Requirements

§ 334-27. Table of Minimum Dimensional Requirements. [Amended 3-14-1995 by Amdt. No. 2; 3-13-2001 by Amdt. No. 3; 3-11-2008 by Amdt. No. 1; 3-10-2009 by Amdt. No. 1]

The Table of Minimum Dimensional Requirements is included at the end of this chapter.

§ 334-27.1. General requirements. [Added 3-14-1995 by Amdt. No. 2]

A. A lot with one or the other (water or sewage) will be treated as having neither.

B. The minimum buildable lot area shall not contain wetlands, as defined by the Hudson Zoning Ordinance, shall be contiguous dry land and shall contain no slopes in excess of 25%. **[Added 3-9-1999; amended 3-4-2000]**

C. Accessory storage structures (sheds) shall be placed to the rear of the main building. **[Amended 3-10-1998]**

D. Frontage shall be measured in a continuous line along the sideline of a Class V or better street between the points of intersection of the side lot lines with the street. If a lot has frontage on more than one street, the frontage on one street only may be used to satisfy the minimum lot frontage. **[Amended 3-13-2001 by Amdt. No. 1]**

§ 334-27.2. Lot requirements for subdivision of land. [Added 3-12-2002 by Amdt. No. 5]

All lots shall meet the minimum lot area, minimum lot frontage, and building setback requirements provided in § 334-27, Table of Minimum Dimensional Requirements. The minimum lot area shall be contiguous land and shall not be separated by a wetland, a waterway, or a right-of-way. The minimum lot area shall not contain wetland, as defined by the Hudson Zoning Ordinance, and shall contain no slopes in excess of 25%.

ARTICLE VIII
Nonconforming Uses, Structures and Lots

§ 334-28. General requirements.

Any lawful use of land or buildings rendered nonconforming by the initial adoption of this chapter (in 1942) or by any subsequent amendments to the chapter may be continued, and any use of land or buildings permitted under a variance granted by the Zoning Board of Adjustment may be continued in conformity with any conditions or requirements imposed by the Zoning Board of Adjustment although such use does not otherwise conform to the requirements of this chapter.

§ 334-29. Extension or enlargement of nonconforming uses.

A nonconforming use shall not be extended or enlarged, except by variance.

§ 334-30. Changes to or discontinuance of nonconforming uses.

A nonconforming use may not be changed to another nonconforming use. If an existing nonconforming use is discontinued, lapses or is abandoned for a continuous period of 12 months, any subsequent use of such land or building(s) shall conform to the terms of this chapter.

§ 334-31. Alteration and expansion of nonconforming structures. [Amended 3-13-2001 by Amdt. No. 4; 3-9-2004; 3-11-2025 by Amdt. No. 26]

A. A nonconforming structure may not be altered or expanded where the result of the alteration or expansion would be to make the structure more nonconforming, except by variance. A nonconforming structure may be altered, reconstructed, externally, or structurally modified, provided that such alterations, reconstruction, extension, or structural modification does not make any portion or portions of the existing structure more nonconforming. A nonconforming structure cannot be reconstructed after demolition, except when the structure was demolished by an act of God, fire or flood or is found unsafe as determined by the Building Inspector or his/her designee. A nonconforming building or a building occupied by a nonconforming use may be strengthened and made safe.

B. General - One (G-1) District. Any structure located in the G-1 District that was lawfully occupied upon the posting of the adoption of the regulations for the G-1 District (October 27, 2000) shall be deemed a conforming structure for the purpose of this chapter.

§ 334-32. Nonconforming lots. [Amended 3-4-2000; 3-13-2018 ATM by Amdt. No. 3]

A nonconforming lot is 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 Article VII, § 334-27, Table of Minimum Dimensional Requirements, in any district in which structures are permitted, a structure may be erected on a lot which is a 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 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. Where a question exists to the applicability of this section the Zoning Administrator shall make any administrative determination with reference to RSA 674:39-a and 674:39-aa.

ARTICLE IX
Wetland Conservation District
[Amended 3-14-1995 by Amdt. No. 1; 3-12-1996; 3-10-1998; 3-9-1999; 3-4-2000; 3-12-2002 by Amdt. No. 6; 3-10-2020 ATM, Art. No. 2]

§ 334-33. Authority and purpose.

A. The title of this district shall be the Wetlands Conservation Overlay District. This article is adopted under authority granted pursuant to RSA 674:16, Grant of Power, and 674:21, Innovative Land Use Controls. All proposed development, removal of vegetation, and alteration of the land surface within the Wetlands Conservation District is subject to this article.

B. The purpose of the Wetland Conservation District is to protect the health, safety and general welfare of the public by promoting both the most appropriate use of land and by protecting wetland and surface water ecosystems and water quality in accordance with the goals and objectives of Hudson's Master Plan.

C. All proposed development, removal of vegetation, and alteration of the land surface, except for ordinary and customary yard and lawn maintenance and gardening activity, within the Wetlands Conservation Overlay District is subject to this article.

D. The wetlands and buffers in the Town of Hudson are a valuable natural resource requiring careful management to maintain their usefulness to public health, safety and welfare. The Town of Hudson finds that wetlands and buffers:

(1) Prevent the destruction of, or significant changes to, those wetland areas, related water bodies and adjoining land which provide flood protection.

(2) Protect persons and property against the hazards of flood inundation by ensuring the continuation of the natural flow patterns of streams and other watercourses.

(3) Provide for nutrient attenuation and augmentation of stream flow during dry periods.

(4) Preserve and protect important wildlife habitat and maintain ecological balance.

(5) Prevent the expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of abuse or inharmonious use of wetlands.

(6) Protect the wetlands, watercourses, surface and groundwater supplies and waterbodies of the Town from degradation.

(7) Preserve and enhance those aesthetic values associated with the Wetlands Conservation Overlay District.

§ 334-34. Definitions.

Reference shall be made to §334-6, Definitions, of this chapter for the definition of words and terms used throughout this Wetland Conservation Overlay District Article.

§ 334-35. Boundaries.

The Wetlands Conservation Overlay District includes all of the following:

(1) Surface waters.

(2) Wetlands of any size.

(3) A fifty-foot-wide buffer around wetlands and surface waters for residential uses and a seventy- five-foot buffer around wetlands and surface waters for nonresidential uses. **[Amended 3-12-2024 ATM by Art. 33]**

B. For the purposes of this article, the reference line of all wetlands and surface waters shall be established by an on-ground delineation performed by a Certified Wetland Scientist. All wetlands, surface waters, and vernal pools shall be field delineated and defined by a Certified Wetland Scientist.

C. The Wetland Conservation Overlay District shall not include those wetlands which have developed as a result of the construction of stormwater treatment and/or detention facilities, agricultural use, waste treatment, or other water-dependent structures or uses, and manmade facilities. In the case of beaver activity, the reference line shall be determined by those areas that meet the jurisdiction of the New Hampshire Department of Environmental Services.

D. When a boundary of the Wetlands Conservation Overlay District is disputed by either the Town of Hudson or an applicant, the Conservation Commission, at the applicant's expense, may engage an independent certified wetlands scientist to determine the location of the Wetland Conservation District limit. The delineation shall be consistent with DES Wetlands Bureau Rules, as amended. The independent Certified Wetland Scientist shall transmit their findings to the applicant who shall add said findings to the project plan. This revised plan, showing both wetland delineation boundaries, shall be presented to the Planning Board who shall make the final determination regarding District boundaries.

E. The entire length of the upland limit of the wetland buffer shall be marked with highly visible construction tape prior to, and maintained for the full duration of, any construction-related activities. The applicant may also be required to place a permanent monument (e.g., iron pin, granite bound) at all points of the lot lines which intersect with the upland limit of the Wetlands Conservation Overlay District prior to such activities. These monuments shall be shown on the site plan submitted with the application. The applicant may also be required to affix tags to trees or other durable objects (e.g., four-inch-by-four-inch wood posts) at fifty-foot intervals along the upland boundary of the Wetlands Conservation Overlay District, and maintain said tags as needed to provide evidence of the upland side buffer boundary. Tags shall be obtained from the municipality at the applicant's cost.

§ 334-36. Uses within Wetland Conservation District.

A. Permitted uses: The following uses shall be permitted in the Wetland Conservation District, subject to review by the Conservation Commission and the Planning Board. This review is intended to assure that best management practices are used to prevent degradation of the Wetland Conservation District by slope erosion, sedimentation and chemical and thermal pollution. These uses will not: require the erection or construction of any structure; alter the natural surface configuration by re-contouring or grading of the land, involve filling, dredging, or draining of the wetland; change the flow of water; result in the pollution of the wetlands, surface water, or groundwater; or involve substantial clearing of vegetation, except for the purposes of agriculture or forest management as described below.

(1) Forest management in the wetland buffer, consistent with best management practices published by the New Hampshire Department of Resources and Economic Development and UNH Cooperative Extension, or their successors.

(2) Agriculture, including grazing, cultivation and harvesting of crops, consistent with Best

Management Wetland Practices published by the New Hampshire Department of Agriculture, Markets and Food or its successor.

(3) Passive recreation such as hiking, fishing, hunting on foot, non-motorized boating. Trails shall have minimal impact on drainage, flora and fauna.

(4) Wildlife or fisheries management.

(5) Water supply wells, public and private.

(6) Rehabilitation, repair or replacement of stormwater management facilities or other structures that lawfully existed prior to March 11, 2020.

B. Prohibited uses: Any use that is not expressly permitted in §334-36A or by conditional use in §334-36C is prohibited. Prohibited uses that may not be established or expanded within the Wetlands Conservation Overlay District include, but are not limited to, the following:

(1) Structures, except as provided in §334-36C.

(2) Salt storage.

(3) Automobile junkyards.

(4) Solid or hazardous waste facilities.

(5) Use of fertilizer on lawns, except lime or wood ash.

(6) Bulk storage or handling of chemicals, petroleum products or hazardous materials.

(7) Sand and gravel excavations.

(8) Processing of excavated materials.

(9) Impervious surfaces, except as provided in §334-36C.

(10) Activities which result in soil compaction such as parking vehicles or heavy equipment, except as provided in §334-36C.

(11) Underground tanks.

C. Conditional Uses: Any use not identified as a permitted use listed in §334-36A is presumed to impair the wetland functions and values unless proven otherwise by an applicant as provided below. The following uses may be granted a Conditional Use Permit by the Planning Board in accordance with §334-37:

(1) Accessory structures associated with a legally existing primary structure, provided the applicant demonstrates that no practicable alternative exists elsewhere on the lot and outside of the Wetland Conservation Overlay District.

(2) Construction of streets, roads, and other access ways, including driveways, footpaths, bridges, and utilities if essential to the productive use of land beyond the Wetland Conservation Overlay District. These uses shall be located and constructed in such a way as to minimize the potential for detrimental impact to the District and be planned, designed, and constructed in a manner consistent with applicable state and local standards. Such construction may be permitted within the District only when no viable alternative is available.

(3) Water impoundments for the purposes of creating a water body for wildlife, fire protection,

stormwater management, or recreational use. Construction of impoundments for on-site detention and/or treatment of stormwater runoff in the Wetland Conservation Overlay District, provided the Planning Board finds that it is not practical or possible to locate them outside of the District.

(4) Utilities, including but not limited to sewer lines, water lines, septic systems, wells, electric distribution, telecommunications and other utilities or improvements appurtenant to any utility.

(5) Other uses which the applicant is able to demonstrate to the satisfaction of the Planning Board that will not significantly interfere with wetland functions and values, water quality, or wildlife habitat pursuant to the statement of purpose of this article; or in the alternative, uses that will impact wetlands functions and values; but, in the opinion of the Planning Board, are not contrary to the public interest and will result in significant public benefit provided:

(a) Compensatory mitigation is provided such that those Wetland Conservation Overlay District functions and values to be impacted will be off-set in whole. Such mitigation may be located on- or off-site. As a guide to the type and extent of compensatory mitigation considered, reference shall be made to the New England District Compensatory Mitigation Guidance, US Army Corps of Engineers, New England District, Regulatory Division, 7-22010 as amended.

(b) The applicant has demonstrated avoidance and minimization to the fullest extent practical.

D. Nonconforming Uses: In addition to Article VIII of the Zoning Ordinance, existing, nonconforming uses are subject to the following in the Wetland Conservation Overlay District:

(1) Expansion of a nonconforming use or structure may be allowed by the Zoning Board of Adjustment in the wetland buffer provided that the encroachment upon the wetland is not increased, and review by the Conservation Commission finds that any potential increased impact upon the wetland functions will be mitigated.

(2) Where an existing, nonconforming use or structure within the Wetland Conservation Overlay District is destroyed or in need of extensive repair, it may be replaced or rebuilt, provided that the provisions of Article VIII of this chapter are met.

(3) The replaced or rebuilt use shall not have a greater impact on the Wetland Conservation District than the impact of the original use.

§ 334-37. Conditional Use Permit criteria.

The Planning Board shall, in addition to referencing the findings referenced in the preceding section, consider all relevant facts and information prior to making a decision on any application for a Conditional Use Permit; find that the proposed project is consistent with the stated Purpose of this article; and find, that to the extent possible, the project avoids and minimizes impacts to land situated within the District, including but not limited to the following:

A. The proposed activity minimizes degradation of land situated within the District and offsets potential adverse impacts to functions and values of wetlands, surface waters, and vernal pools including but not limited to their capacity to:

(1) Support fish and wildlife;

(2) Attenuate flooding;

(3) Supply and protect surface and groundwater resources;

(4) Remove sediments;

(5) Remove pollutants;

(6) Support wetland vegetation;

(7) Promote public health and safety; and

(8) Moderate fluctuations in surface water levels.

B. The proposed activity will have no significant negative environmental impact to abutting or downstream properties and/or hydrologically connected water and/or wetland resources, including:

(1) Increased potential for erosion, siltation, and turbidity of surface waters;

(2) Loss of fish and wildlife habitat;

(3) Loss of unique habitat having demonstrable natural, scientific, or educational value;

(4) Loss or decrease of beneficial aquatic organisms and wetland plants and their habitat;

(5) Increased danger of flooding and/or transport of pollutants; and

(6) Destruction of the economic, aesthetic, recreational, and other public and private uses and values of the wetland to the community.

(7) The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce impact to the Wetland Conservation Overlay District.

(8) The proposed activity incorporates the use of those Best Management Practices recommended by the New Hampshire Department of Environmental Services and/or other state agencies having jurisdiction.

(9) All applicable federal and/or state permit(s) have been received for the proposed activity in accordance with New Hampshire Code of Administrative Rules, Part Env-Wt 100-800 and Section 404 of the Federal Clean Water Act, as amended.

(10) Where applicable, proof of application to all required state and/or federal permits.

C. Conservation Commission Review.

(1) A Conditional Use Permit application shall be referred to the Conservation Commission for written advisory comments when the proposed activity:

(a) Involves any direct alteration of a wetland, surface water, or vernal pool; or

(b) Involves 5,000 square feet or more of total disturbance within the applicable wetland buffer.

(2) A Conditional Use Permit application involving less than 5,000 square feet of total disturbance located exclusively within the wetland buffer, with no direct alteration of a

wetland, surface water, or vernal pool, may proceed directly to the Planning Board without review by the Conservation Commission.

(3) For purposes of this subsection, "total disturbance" shall include all temporary and permanent clearing, grading, excavation, filling, construction, impervious surfaces, stormwater facilities, and other alteration of the land surface within the wetland buffer associated with the entire project. Related, cumulative, or phased activities on the same property shall be considered together when determining whether the 5,000-square-foot threshold has been reached.

(4) The applicant shall provide a plan and supporting documentation prepared by a Certified Wetland Scientist identifying the wetland boundary, applicable wetland buffer, and total area of proposed disturbance within the wetland buffer. The Town Planner and Town Engineer shall determine whether the application qualifies for direct Planning Board review. This determination shall address only the required review process and shall not constitute approval of the Conditional Use Permit or a finding that the applicable approval criteria have been satisfied.

(5) For an application referred to the Conservation Commission, the Commission shall provide its written advisory comments within 30 calendar days following the date of referral by the Planning Department. The Planning Board shall consider all comments received within that period. Failure of the Conservation Commission to provide written comments within the thirty-day period shall not prevent or delay the Planning Board from acting upon the application.

(6) The Conservation Commission may recommend that the Planning Board impose conditions of approval deemed necessary to mitigate potential adverse effects of the proposed activity or use. The Planning Board shall remain the final approving authority for all Conditional Use Permits issued pursuant to this Article.

~~(1) Prior to making a decision on any Conditional Use Permit pursuant to the Wetland Conservation Overlay District, the Planning Board shall receive a written comment from the Conservation Commission. The Conservation Commission may recommend the Planning Board impose conditions of approval is deemed necessary to mitigate the potential for adverse effects of the proposed activity or use.~~

D. Exceptions.

Maintenance, repair, or replacement of an existing utility line, service, or facility shall be exempt from the Conditional Use Permit requirements when the only jurisdictional impact is within the wetland buffer and the work does not result in any direct impact to a wetland. Any replacement utility shall be located substantially within the existing alignment or previously disturbed area. All temporarily disturbed buffer areas shall be stabilized and restored following completion of the work. This exemption shall not apply to the installation or extension of a new utility line, service, or facility and does not relieve the applicant from obtaining any other required local, state, or federal permits.

E. Application requirements for this Conditional Use Permit are set forth in Chapter 276, Administrative Requirements and Definitions.

§ 334-38. through § 334-41. (Reserved)

ARTICLE X
Manufactured Housing

§ 334-42. Requirements for manufactured home subdivisions.

Manufactured home subdivisions must meet the following requirements:

A. Manufactured home subdivisions are only permitted in the General District; see the Table of Permitted Principal Uses in § 334-21 of Article V.

B. The minimum size of the tract of land to be subdivided must be 10 acres.

C. Only single-family manufactured homes are permitted, and only one manufactured home may be placed on each residential lot within a subdivision.

D. Each manufactured home shall be affixed to a permanent foundation.

E. The subdivision shall be screened along its perimeter by a permanent buffer area, not less than 50 feet wide, composed of trees, shrubs or other suitable buffer approved by the Planning Board. The buffer area may be placed on individual lots within the subdivision.

F. Each manufactured home lot within the subdivision shall meet the dimensional requirement for single-family use in the Table of Minimum Dimensional Requirements in § 334-27 of Article VII.

§ 334-43. Manufactured home parks.

A. Manufactured home parks shall be permitted in the General District; see the Table of Permitted Principal Uses in § 334-21 of Article V.

B. There are two types of parks: manufactured home park - rental, and manufactured home park - condominium.

(1) A rental park is for the rental of land or space within the park for the siting of manufactured homes and may also be for the rental of utilities and other services.

(2) A condominium park is a park established as a condominium in accordance with the Condominium Act, RSA 356-B, or established with cooperative ownership otherwise permitted by state law.

C. Each park must contain a minimum of 10 acres.

D. Each park must have a principal access to either an arterial or a major collector street. All-season safe sight distance in both directions must be attained at the street entrance.

E. In all parks, homes must either be skirted with suitable code-conforming materials approved by the Planning Board and anchored or placed on a permanent foundation. Only single-family manufactured homes are permitted on both types of parks.

F. The maximum density of homes allowed in a manufactured home park is determined by total lot area divided by the minimum building lot area as defined in Article VII, § 334-27.1B, e.g., if the parcel is 100 acres and 65 acres are dry area and less than 25% slopes, 65 units are permitted. **[Amended 3-9-1999]**

G. In all parks, each home must be placed on a parcel of land within a park, known as a "space," with a minimum area of 15,000 square feet and with a minimum contiguous frontage of 100 feet

along a private road within the park. Only one home may be placed on each space. Each space shall be permanently delineated on the approved site plan. The Planning Board may make reasonable requirements for the location of the placement of homes on a space, including reasonable setback requirements.

H. The difference between the total of the area of the manufactured home park and the total area of all home lots shall be set aside as common open space to be used for recreation and/or common land purposes.

I. All on-site facilities (such as roadways, driveways, sewers and stormwater drainage systems) shall not be dedicated to the Town unless the Planning Board expressly determines that such a dedication is in the best interests of the Town. On-site facilities shall be constructed to meet Town standards.

J. All subsurface sewage disposal and water supply requirements for individual or community systems shall be compiled with, or Town water and sewer shall be provided. Community wells and septic disposal systems shall not be located on the required minimum space for the mobile home. Septic disposal areas do not count towards the minimum required open space.

K. Manufactured housing park developments shall be adequately screened/buffered from abutting residential uses. A permanent buffer area, not less than 50 feet wide, shall be required and approved by the Planning Board for adequacy. The Planning Board shall also make reasonable requirements to ensure that the screen/buffer area will be permanently maintained and preserved.

L. Two off-street parking spaces must be provided for each space.

M. All manufactured homes must comply with the State Building Code and any applicable HUD ~~BOCA and current FHA manufactured home~~ standards.

§ 334-44. Permit required for manufactured homes.

No manufactured home may be moved into the Town of Hudson or be placed on a lot unless it has been issued a permit from the Building Inspector.

§ 334-45. Permit for temporary use of manufactured homes.

A. A property owner who is building or rebuilding a home may obtain a permit from the Zoning Administrator to place a manufactured home on the lot where the home is being built or rebuilt for the property owner and his household to occupy as a temporary residence during construction.

B. The permit shall be issued for a period not greater than one year, to expire 30 days after issuance of a certificate of occupancy for the home. The Zoning Administrator may, for good and sufficient cause, grant the property owner a six-month extension of the permit. The manufactured home must be removed from the property within 60 days of occupancy of the principal structure (house).

C. Before receiving the permit, the property owner shall obtain a building permit for the home and shall provide the Zoning Administrator with reasonable assurances that construction will be completed within one year.

D. A person, partnership or corporation engaged in construction or development may obtain a permit from the Zoning Administrator to place one or more manufactured homes or trailers for nonresidential uses on the construction site for use as office space, storage or sanitary or rest facilities for employees. Such permit shall be issued for an initial period not to exceed one year and may be extended for six- month periods until completion of construction or development.

§ 334-46. Storage of manufactured homes.

A. Manufactured homes may not be stored on land within the Town, except as approved by the Planning Board in accordance with site plan requirements. This provision shall not apply to review homes placed on land in accordance with this article.

~~B. No manufactured home may be moved into the Town of Hudson or be placed on a lot unless it has been issued a permit from the Building Inspector.~~

ARTICLE XI
Open Space Development

§ 334-47. Purpose.

The purpose of open space developments is to preserve the rural and scenic character of Hudson by encouraging more efficient patterns of land development which conserve open and green spaces, farmland, wildlife habitats, water resources, scenic areas and other natural resources. It is also designed to provide for increased recreational opportunities and to promote greater neighborhood cohesion, without altering overall land use densities or land use patterns.

§ 334-48. Definitions.

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

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. An "OSD" shall adhere to the permitted uses and density requirements otherwise applicable to the district in which the "OSD" is located.

§ 334-49. Applicability.

OSDs may be located in any zoning district that permit residential development and may include any use or combination of uses permitted in the district in which the OSD is located.

§ 334-50. Density. [Amended 3-12-2002 by Amdt. No. 7

Minimum density requirements for all uses in an OSD correspond with the minimum lot size requirements established in Article VII, Dimensional Requirements. Total open space provided as a part of an OSD application must be of sufficient land area, when added together with the total land area devoted to individual lots, to provide an overall density no greater than that which would be provided in a non-OSD development. To aid in evaluating the number of allowable lots, all OSD applications submitted to the Planning Board for review shall include both a preliminary, conventional subdivision plan and an OSD plan. The preliminary conventional plan shall, at a minimum, include the zoning district, proposed streets, driveways, lot lines, wetland delineation, wetland setbacks, and a table with calculations for each lot.

§ 334-51. Lot sizes.

The area of individual lots within an OSD may be reduced by up to 50% of the minimum lot size requirements established in Article VII, as provided herein.

A. An area of land, equal to or greater than the difference between the size of each open space lot and the minimum lot size, shall be dedicated to permanent open space, conservation land or recreation land.

B. No reduced area residential lots shall be arranged to front or abut preexisting streets, roads or highways.

C. All subsurface sewage disposal and water supply requirements for individual or community systems shall be compiled with, or Town water and sewer shall be provided.

§ 334-52. Dimensional requirements. [Amended 3-13-2001 by Amdt. No. 2]

Frontage and setback requirements for individual lots within an OSD may be reduced up to 50% of the minimum frontage and setback requirements established in Article VII, as provided herein, if approved by the Planning Board.

A. No reduced frontage lots shall be allowed to front on preexisting streets, roads or highways.

B. Setback reductions shall not be permitted along property lines that abut non-OSD residentially developed properties.

§ 334-53. Open space requirements.

The minimum open space requirement of § 334-50 may be provided through common land or individually owned land placed in permanent conservation or recreational easements or by other land use restrictions. The OSD shall comply with the following conditions:

A. Only undeveloped land, landscaped green space or recreational areas may be included in the calculation of minimum open space requirement. Setback areas along the perimeter of the subdivision may not be included in the open space calculations.

B. Roadways, driveways, rights-of-way, utility easements, parking areas and other developed areas, except for recreational paths, trails or facilities, may not be included as part of minimum open space requirements.

C. Wetland(s), road rights-of-way, and slopes in excess of 25%, shall not be considered in the calculation of total lot area. The one-hundred-year floodplain areas shall not exceed 25% of the total land area of the OSD. **[Amended 3-9-1999; 3-12-2002 by Amdt. No. 8]**

D. Whenever possible, lots or dwelling units should be arranged to abut or have direct access to common open space or recreational land.

E. Lots and open space should be arranged to preserve and protect prominent natural features, historic or archaeological resources, scenic vistas, surface water bodies and streams and other important natural and man-made landscape features.

F. The deed for each building lot shall contain an undivided proportional share of all common open space, except as provided for in § 334-54.

§ 334-54. Compensatory open space.

A. Off-site compensatory open space may be permitted at the discretion of the Planning Board where the land meets the following conditions:

(1) The land is either comprised of prime farmland soils or it has been used for active agricultural purposes within the five years prior to the date of application;

(2) It encompasses important wildlife habitats as recognized or approved by the Conservation Commission;

(3) It consists of land with strong potential for providing needed recreational areas for future residents of the proposed development as well as for the Town as a whole;

(4) It would serve to provide access to important surface or to protect groundwater resources; or

(5) It encompasses other areas of exceptional scenic or historic value.

B. Where compensatory open space is provided in lieu of on-site open space, the Planning Board may require the developed portion of the OSD to be adequately screened from adjacent properties.

C. Screening provided under Subsection B shall not be included within minimum open space or lot size calculations.

§ 334-55. Road standards. [Amended 3-13-2001 by Amdt. No. 2]

Minimum road and right-of-way widths may be reduced at the discretion of the Planning Board, where such reductions would result in development patterns more harmonious to the natural or man-made features of the site without sacrificing public convenience or safety. All roads within the open space plat shall be public roads.

§ 334-56. Procedures. [Amended 3-12-2002 by Amdt. No. 9]

Except as otherwise provided for in this chapter, all single- or two-family OSD subdivisions must comply with the submission, review and approval requirements of Hudson's Land Subdivision Regulations.[8] Nonresidential or multifamily residential OSD shall comply with the submission, review and approval requirements of Hudson's Site Plan Regulations.[9] The Planning Board may adopt additional OSD subdivision or site plan review regulations to govern the review of common lands, private covenants, homeowners' association agreements and other pertinent issues.

8. **Editor's Note: See Ch. 289, Subdivision of Land, Part 1.**
9. **Editor's Note: See Ch. 275, Site Plan Review.**

ARTICLE XII
Signs

§ 334-57. Purpose. [Amended 3-10-2009 by Amdt. No. 2]

The purpose of this article is to encourage the effective use of signage to direct movement, advertise and inform the public while protecting public safety, preserving neighborhood character, aesthetics and minimizing visual clutter.

§ 334-58. Permit required; exemptions. [Amended 3-14-1995 by Amdt. No. 9; 3-4-2000; 3-13-2007 by Amdt. No. 4; 3-10-2009 by Amdt. No. 2; 3-8-2011 by Art. No. 2; 3-11-2025 by Amdt. No. 30]

A. No sign shall be erected or affixed to any building exterior or placed freestanding on any premises, public or private roadways or rights-of-way or altered or moved without a permit issued by the Building Inspector and approved by Zoning Administrator, except as otherwise exempted in this chapter.

B. The following signs may be erected without a permit and are not included in the maximum sign area allowed unless otherwise indicated, but must comply with all other requirements of this chapter as stated herein:

(1) Historic plaques or markers no greater than two square feet in area.

(2) Contractor job signs no greater than 12 square feet. Contractor signs are temporary and may be posted only during active on-site work such as construction and landscaping.

(3) Directional or directory signs, no greater than three square feet, which are located outside of setback areas and which are not visible from public rights-of-way or abutting properties; other directional or directory signs are governed by § 334-68 below.

(4) National or state flags (not to exceed 40 square feet in area).

(5) Building name signs or signs indicating the date of construction of a building which are no greater than 12 square feet in area and are permanently affixed to a building facade.

(6) Temporary signs advertising special events for charitable, religious or other nonprofit organizations in accordance with § 334-61B. These signs must be registered with the Zoning Administrator.

(7) Political campaign signs must comply with NH RSA 664:17 as may be amended from time to time.

(8) On-site, temporary signs advertising employment opportunities. These signs are limited to 12 square feet in size. These signs can be in place for no more than 30 days.

(9) Signs affixed to or placed within 12 inches of the interior side of a window so as to be visible from the exterior, which advertise products or services available within the building, prices, payment methods or sales, provided that the combined area of the sign(s) does not exceed 25% of the total area of the window.

(10) Utility signs which identify the location of utility lines, cables or pipes.

(11) Lettering, logos or graphics affixed to products or packaging displayed for on-site sales.

(12) Lettering, logos or graphics identifying or describing products or their manufacturers,

vendors or distributors, which are affixed to the exterior of devices such as vending machines, gasoline pumps and other similar devices.

(13) Lettering, logos or graphics identifying vehicles or equipment or their manufacturers, vendors or distributors, which are permanently affixed to the exterior of the vehicles or equipment.

(14) Temporary signs, which advertise garage or yard sales or lost pets. These signs can be in place for no more than three days.

(15) Signs identifying street addresses or the occupants of residences.

(16) On-site temporary signs advertising the opening of a new business in accordance with § 334-61.

(17) Signs installed by governmental bodies.

(18) Customary signs which give warnings, no larger than two square feet in area, such as "Beware of Dog" or "No Trespassing" signs.

(19) Residential real estate signs. One unlit sign, no greater than 12 square feet in area, is permitted per residence or residentially zoned parcel of less than 10 acres in area, except in the case of corner or through lots, where one sign is permitted for each side of the lot which fronts on a public right-of-way.

(20) Nonresidential and large lot real estate signs. One unlit sign, no greater than 32 square feet in area, is permitted per nonresidential site or for any parcel of greater than 10 acres in area, except in the case of corner or through lots, where one sign is permitted for each side of the lot which fronts on a public right-of-way.

(21) Temporary construction signs. Construction signs for public safety and/or information, including: electronic changing signs (ECS), electronic message centers (EMC) and/or LED signs being used to inform the public at or near construction and traffic-related sites.

(22) A sign less than 12 square feet for a hawker and peddler when a hawker and peddler permit is issued by the Town of Hudson.

(23) Signs used exclusively for the posting or display of an official notice by a public agency or official, or by a person giving legal notice. These signs are limited to three square feet in size.

§ 334-59. Definitions.

For the purposes of this article, the following definitions apply; other definitions are included in Article II:

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.

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."

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]**

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.

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]**

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]**

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.

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]**

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]**

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]**

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]**

§ 334-60. General requirements.

The following requirements apply to all signs:

A. No sign may be erected within a public right-of-way.

B. Except as noted in § 334-65, no off-premises advertising signs are permitted in any district.

C. All signs shall be set back from any public right-of-way a distance not less than 50% of the front setback requirement for other structures within the district in which the sign is located.

D. No sign may be erected in side or rear setback areas.

E. All signs shall be set back a distance not less than 25 feet from the point of intersecting rights-of-way.

F. No sign shall be erected in a residential district, except as allowed in § 334-67, Home occupation signs, § 334-62, Subdivision identification signs, and § 334-58, Residential real estate signs. **[Amended 4-8-1997 by Amdt. No. 2; 3-10-2009 by Amdt. No. 2]**

G. No flashing signs are permitted in any district.

H. Electronic changing signs are permitted in the Business (B) and Industrial (I) Zoning Districts subject to the requirements of § 336-64C below. Electronic changing signs shall be prohibited in the Town Residence (TR), Residential (R-1, R-2) and General (G and G-1) Zoning Districts. **[Amended 3-4-2000; 3-10-2009 by Amdt. No. 2; 3-9-2010 by Amdt. No. 2]**

I. Nonconforming signs and signs associated with nonconforming uses are governed by Article VIII, Nonconforming Uses, Structures and Lots. **[Amended 3-10-2009 by Amdt. No. 2]**

J. In zoning districts that allow freestanding signs, the maximum height of such signs shall be 30 feet. In addition to the language specific to advertising, all freestanding signs shall have the street number clearly identified. Numbers are to be four inches in height and black or white, whichever will contrast with the proposed sign colors. **[Added 3-4-2000; amended 3-8-2011 by Amdt. No. 2]**

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; amended 3-16-2017 by Art. No. 4]**

L. No sign in any zoning district shall include nudity, images of or reference to specific sexual conduct or activities, images of or references to specific anatomical areas, images of or references to instruments, devices or paraphernalia which are designed for use in connection with specific sexual conduct or activities in any district. **[Added 3-10-2009 by Amdt. No. 2]**

M. No sign in any zoning district shall emit audible sound, odor, smoke, steam, mist, laser, hologram or other visible matter, including any sign that employs any stereopticon or motion picture projection. **[Added 3-10-2009 by Amdt. No. 2]**

§ 334-61. Temporary signs.

Temporary signs for the purposes indicated below are subject to the following requirements:

A. Grand opening signs: one unlit sign no greater than 32 square feet in the business, industrial and general districts and 12 square feet in all other districts, advertising the opening, reopening or new location of a business, is permitted per business location for a period not to exceed 30 consecutive days.

B. Special event signs: one unlit on-site sign, no greater than 32 square feet in the business, industrial and general districts and 12 square feet in all other districts, advertising special events or functions for charitable, religious or other nonprofit organizations or for transitory sporting, cultural or recreational events, provided that the sign is erected no sooner than 30 days prior to the event and is removed within seven days after the event. Special event signs also include banner signs.

C. Commercial/industrial signs: commercial and industrial sites may display one unlit sign per site for a time period of not more than 10 days in a thirty-day period; the sign shall not exceed 12 square feet. **[Added 3-14-1995 by Amdt. No. 10]**

§ 334-62. Subdivision identification signs.

Signs identifying residential subdivisions are subject to the following requirements:

A. One double-faced or two single-faced unlit signs are permitted at the primary entrance to a

subdivision. Dimensions and appearance are to be determined by the Planning Board. **[Amended 3-14-1995 by Amdt. No. 11]**

B. Only the name of the subdivision, address, any associated symbols or graphics may appear on the sign.

§ 334-63. Business and industrial building signs.

Except as otherwise permitted in this article, each individual business may have either one wall, roof-mounted or projecting sign attached to the building within which the business is located subject to the following requirements. The building sign may be implemented in the form of an awning sign.

A. Maximum size, single-tenant buildings. The maximum sign area, measured in square feet, is 20% of the total area of the building facade upon which the sign is attached or an area equivalent to two times the building frontage, whichever is less.

B. Maximum size, multitenant buildings. The maximum sign area, measured in square feet, for multitenant buildings is equivalent to two times the building frontage of the individual business.

C. All signs attached to multitenant buildings shall be of uniform type and height.

D. No sign may be erected so that its height exceeds the peak of the roof of the building to which it is attached.

E. Each individual business may have one additional wall or projecting sign to identify side or rear entrances which provide access directly to the business, provided that the size of the additional sign does not exceed 50% of the size of the business principal sign. **[Amended 3-10-2009 by Amdt. No. 2]**

§ 334-64. Freestanding business and industrial signs.

Except as otherwise permitted in this article, each individual site may have no more than one freestanding pole or ground sign, not attached to any building, subject to the following requirements:

A. Maximum size: one square foot for each linear foot of road frontage up to a maximum of 100 square feet.

B. Corner lots or parcels which otherwise abut two public rights-of-way may have one additional freestanding pole or ground sign identifying a side or rear entrance to the site, provided that the size of the additional sign does not exceed 50% of the size of the site's principal sign.

C. Electronic changing signs are allowed only as a component of a freestanding sign and shall conform to the following minimum requirements along with all other requirements for freestanding signs within the sign ordinance: **[Added 3-9-2010 by Amdt. No. 2]**

(1) Definitions relevant to electronic changing signs:

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.

(2) No more than one electronic changing sign shall be allowed per lot.

(3) Electronic changing signs shall not exceed 50% of the area of a freestanding sign or 50 square feet, whichever is smaller. Electronic changing signs shall be restricted to a maximum of four lines of text or message display, and text shall be restricted to a maximum of 10 inches in height.

(4) Electronic changing signs shall be required to have a minimum of 150 feet between other electronic changing signs located on the same side of a street or roadway.

(5) Electronic changing signs shall be allowed only on lots with a minimum street frontage in accordance with the Table of Minimum Dimensional Requirements.[10]

(6) Electronic changing signs shall be located a minimum of 200 feet from any residential dwelling unit.

(7) The portion of a freestanding sign that contains an electronic changing sign component shall only be operated during the hours the business associated with the electronic changing sign is open.

(8) All illumination elements on the face of electronic changing signs shall remain at a fixed level of illumination for a period of not less than 15 minutes.

(9) All text and message displays of an electronic changing sign shall fade onto and off of the electronic message display area, statically and uniformly, at a rate of change of no more than two seconds.

(10) Electronic changing signs shall be equipped with automatic dimming controls, so the brightness level will be highest during the day and lowest at night. Manufacturer specifications shall be submitted at the time of sign permit specifying maximum sign brightness. The maximum brightness shall not exceed 8,000 NITS with a maximum nighttime reading not to exceed 20% of the sign's maximum brightness.

(11) Under the provisions of this subsection, the applicant for a sign permit for an electronic changing sign shall provide with the application an affidavit, sworn or attested by the landowner, applicant and sign installer, attesting to the fact that:

Editor's Note: The Table of Minimum Dimensional Requirements is included at the end of this chapter.

(a) The sign to be installed meets all of the criteria set forth in the subsection; and

(b) That the sign shall operate in a manner consistent with the criteria set forth in this subsection; and

(c) The landowner and applicant agree to be held liable, separately or collectively, if these provisions are not met, for any fines or cost incurred by the Town of Hudson to enforce these provisions arising from such violations. This provision shall not be construed to supersede any other responsibility or remedy for such violations set forth in this chapter.

§ 334-65. Industrial park signs/business park. [Amended 3-8-1994 by Amdt. No. 4]

An industrial park sign will be permitted along a public right-of-way, in addition to other signage, for the purpose of project identification at the entrances to large-scale developments. The industrial park sign is permitted in addition to other signage.

A. Maximum sign area shall be 225 square feet for one sign. If one sign cannot be used to identify the project, because of sign location, two signs may be used. In this case each sign may not exceed 100 square feet for each of the two signs.

B. Minimum setback shall be 25 feet. The sign setback may be reduced by special exception where it can be demonstrated that conditions of the site (e.g., slope, topography, site layout, proximity to limited access arterial roadways, unusual soils or vegetation, etc.) necessitate an exception to the requirements. Issues relative to sight distance and safety shall not be adversely impacted. Proposed signage shall be incorporated into any previously approved landscape or site plan.

§ 334-66. Institutional signs.

Except as otherwise permitted in this article, signs associated with noncommercial institutions such as churches, schools, membership clubs and other similar institutions are subject to the following requirements:

A. Institutions in residential districts may have one freestanding sign, a maximum of 12 square feet in area.

B. Signs associated with institutions located in all other districts shall comply with the requirements of
§§ 334-63 and 334-64 for business and industrial signs.

§ 334-67. Home occupation signs.

Except as otherwise permitted in this chapter, each home occupation may have no more than one exterior sign subject to the following requirements:

A. Maximum size. The maximum sign area is three square feet.

B. Maximum height. Freestanding pole or ground signs may not exceed eight feet in height.

C. If the home occupation is carried out in an accessory structure which is set back more than 100 feet from the nearest public right-of-way, an additional sign of two square feet or less may be attached to the accessory structure.

D. Signs which are not attached to a building must be set back from the right-of-way a minimum of 15 feet.

§ 334-68. Directional and directory signs.

Directional or directory signs, other than those excluded under § 334-58B(3), are permitted with a permit but are not considered to be freestanding or building signs for the purposes of this article, provided that
they are no greater than three square feet in area and do not contain any additional advertising or messages other than incidental corporate or institutional symbols or logos.

§ 334-69. Area and dimensional calculations.

A. Area. The area of a sign is considered to be the entire face of a sign or largest single side of a freestanding or projecting sign, including the perimeter or framing which forms the outside shape of the sign. In the absence of a clear perimeter or border, the area of the sign is calculated by enclosing the entire area within which letters, symbols or graphics are contained within an easily recognized geometric shape. Round, three-dimensional or irregularly shaped signs are calculated based on a flat cross section of the broadest portion of the sign. All appendages or riders are calculated within the area of the sign to which they are appended.

B. Height. The height of a sign is the vertical distance measured from the adjacent undisturbed grade of the sign to the highest point of the sign.

ARTICLE XIII
(Reserved)[11]

§ 334-70. through § 334-73. (Reserved)

10. Editor's Note: Former Art. XIII, Housing for Older Persons, as amended, was repealed 3-8-2022 by Amdt. No. 2.

ARTICLE XIIIA
ACCESSORY DWELLING UNITS
[Added 3-14-1995 by Amdt. No. 16; amended 3-14-2006 by Amdt. No. 3; 3-16-2017 by Art. No. 5]

§ 334-73.1. (Reserved)

§ 334-73.2. Purpose.

The purpose of this article is to increase the supply of affordable housing 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.

An ADU shall be permitted in zoning DISTRICTS that permit single-family dwellings, and only in accordance with the following provisions:

A. An ADU is allowed only in single-family dwellings. An ADU is not allowed in two- or multifamily dwellings or in any nonresidential uses.

B. An ADU is allowed either as a freestanding detached STRUCTURE or as part of any STRUCTURE which is attached to the principal dwelling. MANUFACTURED HOUSING, RECREATIONAL VEHICLES or trailers may not be erected or added to the principal dwelling as an ADU.

C. Either the principal DWELLING UNIT or the ADU must be occupied by the owner of record of the principal dwelling. 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 principal place of residence.

D. The front face of the principal dwelling STRUCTURE is to appear as a single-family dwelling after any alterations to the STRUCTURE are made to accommodate an ADU. Any additional separate entrances must be located on the side or rear of the STRUCTURE.

E. Two external means of egress (common or separate) from both a principal DWELLING UNIT and an ADU must exist.

F. A minimum of two off-street paved parking spaces shall be provided to serve the combined needs of the principal DWELLING UNIT and an ADU.

G. The size of an ADU shall not be less than 350 square feet nor greater than 950 square feet. The size of the principal dwelling shall not be reduced to less than 850 square feet in order to accommodate the creation of an attached ADU. An ADU may not be greater in size than the primary dwelling. Measurement of size shall be consistent with Town Assessor's practices. **[2-2-2019 ATM, Art. 05, adopted 3-12-2019]**

H. An ADU shall not have more than two bedrooms.

I. A building permit for an ADU must be approved and issued prior to the construction of an ADU or conversion of existing space into an ADU.

J. The house number for the ADU shall be the same as that of the primary DWELLING UNIT, and there shall not be a separate mailbox for the ADU.

K. Multiple ADUs are not permitted on any LOT in any DISTRICT.

L. The maximum number of unrelated persons occupying an ADU shall not exceed two per bedroom.

~~M. An ADU shall have an interconnected fire alarm system with the principal DWELLING UNIT.~~

N. 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. Verification of compliance with RSA 485-A:38 shall be filed with the Town prior to issuance of a building permit. **[2-2-2019 ATM, Art. 05, adopted 3-12-2019]**

§ 334-73.4. (Reserved)

§ 334-73.5. Procedural requirements.

An ADU application submitted under the auspices of this article shall include: 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.

§ 334-73.6. Minimum lot dimension requirements.

An ADU shall not be considered an additional DWELLING UNIT for the purposes of determining minimum dimensional requirements of a principal dwelling LOT. An 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.

ARTICLE XIV
Impact Fees
[Amended 3-12-1996]

§ 334-74. (Reserved)[12]

§ 334-74.1. Applicability of article.

A. This article, as well as regulations and studies adopted by the Planning Board consistent with and in furtherance of this article, shall govern the assessment of fees imposed upon development, including subdivision, building construction or other land use change, in order to 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; waste water treatment and disposal facilities; public works facilities, sanitary sewer; stormwater, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space. This article is authorized by New Hampshire RSA 674:21, as an innovative land use control.

B. The Town of Hudson's Master Plan and Capital Improvements Program have incorporated Town- wide transportation, library, school and recreation expansion plans which identify corresponding capital improvement needs. New development shall be assessed a proportional share of the municipal capital improvement costs which are reasonably related to the capital needs created by the development referenced above and to the benefits accruing to the development from the capital improvements financed by the fee. New development shall be assessed a proportional share of new improvement costs, insofar as new growth places an increased burden on the municipality's capital facilities, including library, school, recreation and transportation facilities. In the future, the Hudson Planning Board may adopt studies and regulations which provide for the assessment of an impact fee upon development with respect to any of the other enumerated capital facilities owned or operated by the municipality for which an impact fee is not presently assessed, but upon which a fee may be lawfully assessed.

§ 334-74.2. Definitions.

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

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

NEW DEVELOPMENT — The subdivision, building construction or other land use change which results in:

A. A net increase in the capital facilities service demands as identified in the Planning Board's impact fee schedules; or

B. The conversion of a legally existing use to another use or activity which created an increase in capital facilities service demands.

11. Editor's Note: Former § 334-74, Statutory authority, was superseded by §§ 334-74.1 through 334-74.12, adopted 3-12-1996.

§ 334-74.3. Imposition of roadway improvement impact fee.

A. Any person who seeks to commence new development in the Town of Hudson shall pay an impact fee in the manner and amount set forth in § 334-74.4.

B. A person may request a full or partial waiver of impact fee payments from the Planning Board if the Board agrees to accept as equivalent value, proposed contributions of land, easements or other improvements. The value of on-site or off-site improvements which are required by the Planning Board as a result of subdivision or site plan review, and which would have to be completed by the developer regardless of the impact fee regulations, shall not be considered eligible for waiver under this article.

C. Impact fees shall be computed on a fair-share basis, public share and private share.

§ 334-74.4. Computation of impact fee.

A. The amount of the impact fee shall be determined by an Impact Fee Schedule prepared in accordance with the methodology adopted by the Planning Board.

B. In the case of new development created by the conversion or modification of an existing use, the impact fee shall be based upon the net increase in capital facilities service demands arising from the new use as compared to that which was or would have been assessed upon the previous use.

§ 334-74.5. Assessment and payment of impact fee. [Amended 3-8-2005 by Amdt. No. 1]

Impact fees shall be assessed by the Planning Board at the time of subdivision or site plan approval, and shall be stated in the Board's Notice of Decision. When no Planning Board approval is required, 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 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. The Planning Board and the developer or feepayer may agree on an alternate, mutually acceptable schedule of impact fees payments. If an alternate schedule of payment is established, the Town may require the posting of a bond or issuance of a letter of credit to guarantee future payment of the assessed impact fees.

§ 334-74.6. Appeals.

A. If a feepayer elects to dispute the amount of the impact fee, the feepayer may prepare and submit to the Planning Board an independent fee calculation study for the new development activity which is proposed. The Planning Board shall review such study and render a decision. All costs incurred by the Town for the review of such study shall be paid by the feepayer.

B. The decision of the Planning Board may be appealed to the Superior Court as provided by RSA 677.15.

§ 334-74.7. Administration of funds collected.

A. All funds collected shall be properly identified and promptly transferred for deposit in individual impact fee accounts for each of the projects for which fees are assessed and shall be used solely for the purpose specified. Impact fee accounts shall be special revenue funds accounts and under no circumstances shall such revenues accrue to the general fund.

B. The 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.

C. The Town Finance Department shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership, Tax Map and lot reference number of properties for which fees have been paid under this article for a period of at least six years.

§ 334-74.8. Refund of fees paid.

For plans which received application acceptance after July 1, 1993, and in conjunction therewith had an impact fee imposed as a condition of Planning Board approval, the person who paid the impact fee shall be entitled to a refund of that fee, plus accrued interest where:

A. 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; or

B. The calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the municipality, and the legislative body has failed to appropriate the municipality's share of the capital improvement costs within six years from the complete payment of the impact fee.

§ 334-74.9. Credits.

A. Land and/or public capital facility improvements may be offered by the feepayer as total or partial payment of the required impact fee. The offer must be determined to represent an identifiable dollar value computed in a manner acceptable to the Planning Board. The Planning Board may authorize the feepayer an impact fee credit in the amount of the value of the contribution.

B. Any claim for credit must be made prior to the Planning Board vote on subdivision/site plan approval or disapproval.

C. Credits shall not be transferable, and run only with a specific subdivision or site plan approval.

D. Credits shall not be transferable from one type of the public capital facilities impact fee to any other impact fee type.

E. Determinations made by the Planning Board pursuant to the credit provisions of this section may be appealed to the Superior Court in accordance with RSA 677:15.

§ 334-74.10. Additional assessments.

Payment of an impact fee does not restrict the Town or the Planning Board from requiring other payments from the feepayer, including such payments relating to the cost of the extensions of water and sewer mains or the construction of roads or streets or other infrastructure and facilities specifically benefiting the development which are required by the subdivision or site plan review regulations or as otherwise permitted by law.

§ 334-74.11. Premature and scattered development.

Nothing in this article shall be construed to limit the existing authority of the Hudson Planning Board to deny new proposed development which is scattered or premature, to require an unbudgeted expenditure of public funds or to otherwise violate the Town of Hudson Zoning Ordinance or the Hudson Planning Board Site Plan Review Regulations or Subdivision Regulations.[13]

§ 334-74.12. Review of schedule.

The Impact Fee Assessment Schedule shall be reviewed annually by the Planning Board, using the methodology established. Such review may result in recommended adjustments in one or more of the fees based on the most recent available data regarding current construction cost information.

12. Editor's Note: See Ch. 275, Site Plan Review, and Ch. 289, Subdivision of Land, respectively.

ARTICLE XV
Enforcement and Miscellaneous Provisions

§ 334-75. Severability.

The invalidity, unconstitutionality or illegality of any article, section or provision of this chapter or of any zoning district or boundary shown on the Zoning Map shall not have any affect upon the validity, constitutionality or legality of any other article, section, provision, zoning district or zoning district boundary.

§ 334-76. Authorization to administer and enforce chapter.

It is the authority of the Board of Selectmen to administer and enforce this chapter.

§ 334-77. Zoning Administrator.

The Board of Selectmen may appoint a Zoning Administrator to administer and enforce this chapter under its general supervisory authority.

§ 334-78. Building Inspector.

The Board of Selectmen may appoint a Building Inspector, who shall be the administrative officer charged with the duty of administering and enforcing all codes adopted by the Town that relate to building/structure construction and reconstruction, subject to the general supervisory authority of the Board of Selectmen. Nothing in this provision shall affect any provision contained in the New Hampshire Revised Statutes Annotated that pertains to Building Inspectors.

§ 334-79. Violations and penalties. [Amended 3-14-2006 by Amdt. No. 2]

The Town is empowered to pursue violations to this chapter by means of any of the equitable or legal remedies available in state statute, including but not limited to the injunctive relief provision set forth in RSA 676:15; the fines and penalties provision set forth in RSA 676:15; the fines, penalties and award of attorney's fees as set forth in RSA 676:17; the provisions for cease and desist orders as set forth in RSA 676:17-a; the provisions for local land use citations and pleas by mail as set forth in RSA 676:17-b; and such other enforcement or penalty provisions which may be enacted by the New Hampshire Legislature.

§ 334-80. Board of Adjustment.

The Zoning Board of Adjustment (ZBA) is established under this chapter in accordance with RSA 673:3.

§ 334-81. Appeals.

Any person aggrieved by a decision of the Zoning Administrator or other officer of the Town charged with administering this chapter may appeal to the ZBA. Such an appeal must be made within 30 days from the date of the order or decision complained of, in writing addressed to the Clerk of the ZBA.

§ 334-82. Time limit. [Added 3-14-1995 by Amdt. No. 13]

A. A grant of a variance or special exception by the Hudson Zoning Board of Adjustment shall be valid if exercised within a period of two years following the vote of approval by the Zoning Board of Adjustment. **[Amended 3-13-2018 ATM by Amdt. No. 4]**

B. If subsequent Planning Board action is needed before work or activity may be commenced pursuant to the variance or special exception, the applicant or his/her successor in interest must gain application acceptance by the Hudson Planning Board within six months of the ZBA vote of approval regarding the granting of the special exception or variance in order to stay the two-year limitation period set forth in Subsection A above. The term "application acceptance" is defined pursuant to Planning Board regulation and the New Hampshire Revised Statutes Annotated. **[Amended 3-13-2018 ATM by Amdt. No. 4]**

C. For variances or special exceptions which require subsequent Planning Board review and which have gained application acceptance within six months of the original variance or special exception vote of approval, the variance or special exception shall be valid for a period of two years from the Planning Board vote to give conditional or final approval to the applicant's plan, unless active and substantial development or building has begun on the site in accordance with the terms of the approved plan. If conditional approval precedes final approval, the two-year time period shall run from the vote of conditional approval. **[Amended 3-13-2018 ATM by Amdt. No. 4]**

D. For variances or special exceptions which do not require subsequent Planning Board review, all variances and special exceptions shall expire within two years of the vote of approval as specified in Subsection A above, unless active and substantial development or building has begun on the site in accordance with the special exception, variance or building permit or the variance or exception granted from the terms of this chapter has been otherwise exercised by the applicant or successor in interest. **[Amended 3-13-2018 ATM by Amdt. No. 4]**

E. If an applicant who has been granted a variance or special exception fails to gain Planning Board application acceptance within six months of the vote of approval for the special exception or variance, the applicant shall not gain any exemption for the running of the two-year time period which governs the grant of a variance or special exception. **[Amended 3-13-2018 ATM by Amdt. No. 4]**

F. Any request for an extension or renewal of a variance or special exception shall follow the same procedure required for the original appeal: the applicant must fill out a new application, pay a new set of fees in accordance with the fee policy in effect at the time and then bring the matter before the ZBA for a full hearing and review in accordance with the New Hampshire Revised Statutes Annotated, this chapter and the bylaws of the Hudson Zoning Board of Adjustment. Extensions and renewals shall be subject to the statutes, this chapter, regulations and ZBA bylaws in effect at the time of the renewal/extension application. Extensions and renewals are disfavored. A renewal/extension application shall be made no sooner than 90 days prior to the date of expiration and no later than 30 days prior to the variance or special exception expiration.

G. The Zoning Board of Adjustment may impose reasonable fees upon applicants for the expense of consulting services, investigative studies, review of documents and any other matters that may be required for a particular application. Any such fee shall be subject to the provisions of RSA 673:16. **[Amended 3-8-2005 by Amdt. No. 2]**

ARTICLE XVI
Flood Hazard Areas [Added 3-14-1995 by Amdt. No. 14]

§ 334-83. Incorporation of provisions by reference.

Flood hazard area regulation as described in Chapter 218 of the Code of the Town of Hudson is incorporated by reference as part of this chapter.

ARTICLE XVII
Sexually Oriented Businesses
[Added 3-9-1999; readopted 3-13-2001 by Amdt. No. 7]

§ 334-84. Purpose and intent.

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

§ 334-85. Permitted locations.

The establishment of sexually oriented businesses shall only be permitted in the Industrial Zone, provided all regulations, requirements and restrictions pertaining to that zone are met, and the establishment of sexually oriented businesses shall not be permitted within 500 feet of a church or place of worship, parish house or convent; a public, parochial or private school; a state-approved day-care center; another sexually oriented business; a sexually oriented business for which a building permit has been applied for; a residence; any business in which minors constitute more than 50% of the patrons; a public park, recreation or sports facility; Town boundaries; or buildings owned by the Town of Hudson and operated for government use. The word "establishment," as used in this section, shall mean and include either the opening or commencement of any sexually oriented business as a new business or the conversion of an existing business, whether or not a sexually oriented business, to any use included within the definition of a sexually oriented business.

§ 334-86. Setback distance.

The setback distance between any sexually oriented business and any protected use shall be 500 feet, measured from the property line of the protected use to any existing (or proposed) parking lot or structure of the sexually oriented business.

§ 334-87. Site plan approval.

Site plan approval by the Hudson Planning Board shall be a prerequisite for the establishment of a sexually oriented business. The Planning Board may impose reasonable restrictions relative to buffers, outdoor lighting, signs, parking, egress and ingress, pedestrian movement, landscaping, building aesthetics and measures to ensure that displays of merchandise conform with NH RSA 571-B.

§ 334-88. Public nuisance per se.

Violation of the use provisions of this article is declared to be a public nuisance per se, which shall be abated by the Town by way of civil abatement procedures.

§ 334-89. Limiting clause.

Nothing in this article is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any Town of Hudson ordinance or statute of the State of New Hampshire regarding public nuisances, sexual conduct, lewdness or obscene or harmful matter or the exhibition or public display thereof.

§ 334-90. Severability.

If any section, subsection, sentence, clause, phrase or any portion of this article is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article. The legislative body of the Town of Hudson hereby declares that it would have adopted this article and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

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ARTICLE XVIII

Commercial Wireless Telecommunication, Radio Service and Receive-Only Facilities

[Added 3-9-1999]

§ 334-91. Scope.

The scope of this article is to promulgate regulations which address the different operating environments of commercial wireless telecommunication facilities, receive-only facilities and radio service facilities identified pursuant to the applicable federal law and Code of Federal Regulations, adopted pursuant thereto.

§ 334-92. Purpose: commercial wireless telecommunication facilities.

In recognition of the federal Telecommunications Act of 1996, this article is designed and intended to balance the interests of the residents of Hudson, telecommunication providers and telecommunication customers in the siting of wireless telecommunication facilities within the Town of Hudson; so as to ensure coordinated development of telecommunication infrastructure while preserving the legitimate need to protect the health, safety and welfare of the Town, its residents and visitors. This article establishes general guidelines for the siting of commercial wireless telecommunication facilities, towers and antennas to enhance and fulfill the following goals:

A. Preserve the authority of Hudson to regulate and to provide for reasonable opportunity for the siting of commercial wireless telecommunication facilities by enhancing the ability of providers of telecommunication services to provide such services to the community quickly, effectively and efficiently;

B. Reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values;

C. Provide for co-location and minimal impact siting options through assessment of technology, current location options, future available locations and innovative siting techniques;

D. Permit the construction of new towers only where all other reasonable opportunities have been exhausted; and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;

E. Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative visual and property value impacts upon the Town;

F. Provide maintenance and safety inspections for any and all facilities;

G. Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and Building Code compliance; provide a mechanism for the Town to remove these abandoned facilities to protect the citizens from imminent harm and danger;

H. Provide for the removal or upgrade of facilities which are technologically outdated; and

I. Provide for the protection of the environment and open space; and preserve community character, scenic vistas and historic heritage.

§ 334-93. Definitions.[14]

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

ALTERNATIVE FACILITIES/TECHNOLOGIES — 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

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antennas, towers or facilities; as well as utility pole and cable-based technologies.**[Added 3-9-1999]**

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

CO-LOCATION — 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 WIRELESS TELECOMMUNICATION FACILITY — Any structure, antenna, tower or other device used to provide a discrete commercial telecommunication service by a single provider 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]**

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]**

HEIGHT — The distance measured from the ground, or some other alternatively specified point, up to the highest point of an antenna or a supporting structure.**[Added 3-9-1999]**

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]**

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]**

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

RADIO SERVICE FACILITY — Any structure, antenna, mast 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

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13. Editor's Note: See also § 334-6, Definitions, for general definitions pertaining to this chapter.

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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 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]**

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]**

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]**

§ 334-94. Applicability.

A. Public property. Antennas, towers or facilities situated on property owned, leased or otherwise controlled by the Town may be exempt from the requirements of this article; except that uses are only permitted in the districts and areas delineated within § 334-96. This partial exemption shall be available if a license or lease authorizing the antenna, tower or facility has been approved by the governing body and the governing body elects, subject to state law and local ordinance, to seek the partial exemption from this article.

B. Essential services and public utilities. Commercial wireless telecommunication facilities shall not be considered essential services, infrastructure or public utilities as defined or used elsewhere in the Town's ordinances and regulations. Siting for commercial wireless telecommunication facilities is a use of land and is subject to the Town's Zoning Ordinance and all other applicable ordinances and regulations.

§ 334-95. Siting standards.

General provisions: The uses listed within this section are deemed to be permitted uses in the designated district in accordance with all other applicable ordinances and regulations of the Town, including site plan review and approval by the Hudson Planning Board.

A. Commercial wireless telecommunication facilities may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of a commercial wireless telecommunication facility on such a lot.

B. For purposes of determining whether the installation of a commercial wireless telecommunication facility complies with district development standards, the dimensions of the entire lot shall control, even though the facility may be located on leased parcels within such lots.

C. A commercial wireless telecommunication facility which is constructed in accordance with the provisions of this article on a nonconforming lot, or in conjunction with a nonconforming use, shall not be deemed to constitute the expansion of a nonconforming use or structure.

D. Towers shall not exceed 180 feet in height above the ground. In all cases, a tower's maximum height shall be the minimum height above the ground necessary to perform or achieve the desired communication(s) or telecommunication service(s). Co-location is considered to be within the definition of a desired communication or telecommunication service.

E. An RF Engineering/Facilities Master Plan shall be submitted for review to include present and future network infrastructure in both Hudson and abutting communities. The lay person shall be able to easily

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understand the Master Plan and supporting documentation. It shall explain sufficiently why the tower must be in this location. With the exceptions of alternative facilities/technologies, which do not have visible outdoor equipment, and telecommunication facilities placed on existing utility poles, site plan approval is required for all commercial wireless telecommunication facilities, including any such facilities situated on residential sites. **[Amended 3-4-2000]**

F. The FCC regulates radio frequency (RF) emissions, and local jurisdictions are preempted from prohibiting the construction of commercial wireless telecommunication facilities on the basis of exposure to RF emissions. Owners/operators of commercial wireless telecommunications facilities shall construct such facilities in accordance with FCC regulations pertaining to RF emissions.

§ 334-96. (Reserved).[15]

§ 334-96.1. Districts where conditionally permitted. [Added 3-13-2007 by Amdt. No. 6]

The goals of this section of this article are to minimize visual blight to nearby property abutters and users of the Town's principal corridors, minimize adverse value impacts to abutters, protect the environment and open space and preserve historic heritage, community character and scenic beauty, while reasonably accommodating desired communication(s) or commercial wireless telecommunication service(s) and encouraging co-location of facilities. The maximum tower height of a commercial wireless telecommunication facility shall be 180 feet above the ground. In all cases, a tower's maximum height shall be the minimum height above the ground necessary to perform or achieve the desired commercial wireless telecommunication service(s).

Table of Conditionally Permitted Facilities

	Zoning District					
Facility Type	**I**	**B**	**G/G-1**	**R1**	**R2**	**TR**
Alternative facilities/technologies	C	C	C	C	C	C
Monopole -=100, +5xCOR, +5xRES	C	C	C	C	C	C
Monopole -100, +5xCOR, -5xRES	C	C	C	–	–	–
Monopole -100, -5xCOR, +5xRES	C	C	C	–	–	–
Monopole -100, -5xCOR -5xRES	C	C	C	–	–	–
Monopole +100, +5xCOR, +5xRES	C	C	C	–	–	–
Monopole +100, +5xCOR, -5xRES	C	–	C	–	–	–
Monopole +100, -5xCOR, +5xRES	C	C	C	–	–	–
Monopole +100, -5xCOR, -5xRES	C	–	–	–	–	–
*Lattice -100, +5xCOR, +5xRES	C	–	C	–	–	–
*Lattice -=100, +5xCOR, -5xRES	C	–	C	–	–	–
*Lattice -100, -5xCOR, +5xRES	C	–	–	–	–	–
*Lattice -=100, -5xCOR, -5xRES	–	–	–	–	–	–

14. Editor's Note: Former § 334-96, Districts permitted, was repealed 3-13-2007 by Amdt. No. 6. See now §§ 334-96.1 and 334-96.2.

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Table of Conditionally Permitted Facilities

	Zoning District					
Facility Type	**I**	**B**	**G/G-1**	**R1**	**R2**	**TR**
*Lattice +100, +5xCOR, +5xRES	C	–	C	–	–	–
*Lattice +100, +5xCOR, -5xRES	C	–	C	–	–	–
*Lattice +100, -5xCOR, +5xRES	C	–	–	–	–	–
*Lattice +100, -5xCOR, -5xRES	–	–	–	–	–	–

Notes:

X = proposed tower height

COR = distance from corridor (3A, 102, 111)

RES = distance from residential use

*Lattice permitted only if it maximizes co-location vs. monopole

C = Conditional Use permit required

- = not conditionally permitted (variance required)

§ 334-96.2. Conditional use permit required. [Added 3-13-2007 by Amdt. No. 6]

Pursuant to NH RSA 674:21(II), the Hudson Planning Board is hereby authorized to issue a conditional use permit for commercial wireless telecommunication facilities according to the Table of Conditionally Permitted Facilities as set forth in § 334-96.1. Application for a conditional use permit shall be made concurrently with application for subdivision and/or site plan approval. In addition to the application submission requirements for subdivision and/or site plan approval, the Planning Board may require the applicant for a conditional use permit to submit an RF Engineering/Facilities Master Plan as provided in § 334-95E. In acting upon any such conditional use permit application the Planning Board shall determine whether the applicant has satisfied the general guidelines set forth in § 334-92 and the siting standards set forth in § 334-95, and the Board may impose such conditions of approval on the conditional use permit as are consistent with this Article XVIII and other provisions of the Hudson Zoning Ordinance. The Planning Board shall hold at least one public hearing on any such conditional use application and, following the public hearing, the Planning Board shall act to approve the application, deny it, or approve it with conditions. Any person aggrieved by a Planning Board decision concerning a conditional use permit may appeal that decision to the Superior Court in the manner provided by RSA 677:15, Court Review. As provided in NH RSA 676:5, III, a Planning Board decision concerning a conditional use permit cannot be appealed to the Hudson Zoning Board of Adjustment.

§ 334-97. Bonding security and insurance. [Amended 3-4-2000]

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and/or unwilling to remove the tower in accordance with § 334-98. Bonding and surety shall be consistent with the provisions in the Subdivision Regulations. Furthermore, the Planning Board shall require submission of proof of adequate insurance covering accident or damage. Bonding shall not be required for alternative facilities/technologies which are an integrated part of an existing structure. Bonding shall be nonlapsing of not less than five-year intervals.

§ 334-98. Removal of abandoned antennas and towers.

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Any commercial wireless telecommunication facility which is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said commercial wireless telecommunication facility provides proof of quarterly inspection. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town. A declaration of abandonment shall only be issued following a public hearing, noticed according to RSA 676:4, with notice to abutters and the last known owner/operator of the tower. If the abandoned commercial wireless telecommunication facility is not removed within 90 days, the Town may execute the bonding security and have the commercial wireless telecommunication facility removed.

§ 334-99. Purpose: radio service facilities.

The purpose of this section is to balance a legitimate need to protect the health, safety and welfare of the Town, its residents and its visitors with requirements to reasonably accommodate the operation of radio service facilities under the standards as may be promulgated by any applicable state and/or federal laws and regulations. Particular attention is given to RSA 674:16, IV, which refers to 101 FCC 2d. 952 (1985) entitled "Amateur Radio Preemption" by the FCC.

§ 334-100. Applicable federal regulation references.

Applicable federal regulations for the various radio services characterized herein as radio service facilities are all contained within Title 47 Code of Federal Regulations as follows:

A. Amateur radio service: 47 CFR 97.

B. General mobile radio service: 47 CFR 95.

C. Citizens band radio service: 47 CFR 95.

D. Radio control radio service: 47 CFR 95.

E. Low-power radio service: 47 CFR 95.

F. Aeronautical radio service: 47 CFR 87.

G. Marine radio service: 47 CFR 80.

§ 334-101. Antenna and mast height.

A. Antennas mounted on "pipe-type" masts directly attached to a building, and which are 20 feet or less in height above the roofline peak of the building, and which are assembled and erected using sound practices so they will fall or collapse completely within a property's bounds, are exempt from regulation by this article.

B. Subject to the added requirements of § 334-102 Fall zone calculation, the maximum height of any antenna and/or mast for a radio service facility shall be the lesser of:

   (1) Eighty feet above the ground; or

   (2) The maximum height specified in the CFR applicable to a particular radio service if same is less than 80 feet above the ground.

C. If the CFR applicable to a particular radio service allows a maximum height greater than 80 feet

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above the ground, then the maximum height of any antenna and/or mast for that particular radio service may, by granting of a special exception, exceed 80 feet above the ground, subject to the following conditions:

(1) The added requirements of § 334-102, Fall zone calculation, are satisfied; and

(2) The maximum height specified in the applicable CFR is not exceeded; and

(3) For amateur radio service operations, the maximum height shall be the minimum height required to accomplish the desired communication(s) using the minimum required transmitting power; or

(4) For all other types of radio service operations, the maximum height shall be the minimum height required to accomplish the desired communication(s) using the transmitting power levels authorized by the FCC for the particular radio service;

(5) That adequate technical data, presented in sufficiently layman terms, shall be provided with any special exception application to demonstrate the basis of need for the application.

D. Construction or extension of an antenna and/or mast at a height approved by a special exception shall be delayed to no sooner than 60 days before the date that the desired communication(s) being the basis for the special exception need will actually commence.

§ 334-102. Fall zone calculation.

A. No antenna and/or mast shall be capable of falling or collapsing beyond the bounds of the property on which it is situated. A fall zone calculation, utilizing graph paper and a drawing compass to plot it, shall be performed for any antenna and/or mast at the time a building permit or special exception application is made to demonstrate compliance with this requirement. (A sample fall zone calculation appears as an exhibit at the end of this chapter). All antennas and/or masts shall be assembled and erected to a manufacturer's standards using sound practices.

B. The low point of height at which the fall zone calculation shall be based is as follows:

(1) For freestanding masts: the ground attachment point of the mast.

(2) For supported masts: the point of the lowest support attachment above the ground.

(3) For anchored masts: the highest point of anchoring on a substantial structure.

(4) For anchored/supported masts: the point of the lowest support attachment above the highest point of anchoring on a substantial structure.

§ 334-103. Number of masts for antennas.

A. Antennas mounted on "pipe-type" masts directly attached to a building, and which are 20 feet or less in height above the roofline peak of the building, and which are assembled and erected using sound practices so they will fall or collapse completely within a property's bounds, are exempt from regulation by this article.

B. For "lattice-type" masts, the total area of the site on which it/they will be placed shall determine the number allowed according to the following schedule:

(1) For sites 2.0 acres in area or less: one mast.

(2) For sites greater than 2.0 acres in area: two masts.

(3) For sites greater than 3.0 acres in area: three masts.

C. For mast quantities that differ from the requirements of § 334-103B, a special exception shall be required. The special exception application shall demonstrate a correlation between the number of masts requested, the transmitting power level(s) proposed and the desired communication(s) to be achieved. Adequate technical data, presented in sufficiently layman terms, shall be provided with any special exception application to demonstrate the basis of need for the request

§ 334-104. Co-location.

A. Commercial wireless telecommunication facilities are not permitted to co-locate on radio service or receive-only facilities.

B. Radio service or receive-only facilities may co-locate on commercial wireless telecommunication facilities.

§ 334-105. Yard and green space setback requirements.

No antenna, mast or supporting appurtenant devices are permitted to exist within any yard setback area and, for nonresidential properties, within any green space areas.

§ 334-106. Hazardous RF emission certifications and environmental evaluations.

At the time of building permit or special exception application, an amateur radio service station licensee shall provide a written certification that either:

A. During operations, transmitter power levels will not exceed the maximum allowed for wavelength bands as noted in the table at 47 CFR 97.13(c)(1), therefore precluding the need for any routine RF environmental evaluation to be performed; or

B. During operations, transmitter power levels may exceed the maximum allowed for wavelength bands as noted in the table at 47 CFR 97.13(c)(1), therefore a routine RF environmental evaluation will be performed; and

C. That the licensee will promptly take action to prevent human exposure to any excessive RF emissions levels which the routine RF environmental evaluation indicates could exist, in compliance with the requirements of 47 CFR 97.13.

§ 334-107. Receive-only facilities.

A. Antennas mounted on "pipe-type" masts directly attached to a building, and which are 20 feet or less in height above the roofline peak of the building, and which are assembled and erected using sound practices so they will fall or collapse completely within a property's bounds, are exempt from regulation by this article.

B. The maximum height of any antenna and/or mast shall not exceed 60 feet above the ground, subject only to the additional requirements of § 334-94, Fall zone calculation, of this article.

C. The maximum height of any antenna and/or mast for a receive-only facility may, by granting of a special exception, exceed 60 feet above the ground, subject to the following conditions:

(1) The additional requirements of § 334-102, Fall zone calculation, are satisfied; and

(2) That adequate information (such as a video or audio recording of preapplication reception conditions and photographs of the subject and abutting property areas) is provided with any special exception application which demonstrates the need basis for the request; and

(3) That the maximum height approved by a special exception shall be the minimum height necessary to obtain a reasonable improvement in overall signal(s) reception.

ARTICLE XIX
Reserved
~~Growth Management~~
~~[Added 3-13-2001 by Amdt. No. 5]~~

~~§ 334-108. Purpose.~~

~~Based on the Master Plan and Capital Improvements Program, which assess and balance community development needs with those of the wider region, the following growth management article is deemed necessary to control the rate of residential development in Hudson for the following reasons:~~

~~A. Promote the development of an economically sound and environmentally stable community, which considers and balances local and regional development needs.~~

~~B. Ensure that Hudson accommodates its fair share of regional growth while protecting it from the adverse fiscal, traffic, and environmental impacts that can result from uncontrolled growth.~~

~~C. Guide efforts by the Town to monitor, evaluate, and establish a rate of residential growth that is consistent with its capacity for planned and orderly expansion of public services to accommodate growth.~~

~~D. Provide a mechanism for situations when municipal services are strained due to rapid residential growth to reduce the rate of such growth in order to provide the Town the time and opportunity to correct any service deficiencies.~~

~~E. Protect the health, safety, and general welfare of the residents of the Town of Hudson.~~

~~F. Address the community development goals and objectives of the Town of Hudson Master Plan and Capital Improvements Program.~~

~~§ 334-109. Authority.~~

~~This article is adopted as a growth management ordinance under the authority of RSA 674:22.~~

~~§ 334-110. Findings.~~

~~A. Hudson's developable land area, as estimated by the Nashua Regional Planning Commission (NRPC), is sufficient to support extensive new growth and development. According to a 1997 study by NRPC, there are approximately 3,650 buildable, residentially zoned acres out of a total of 17,371 acres in Hudson.~~

~~B. Hudson's population increased 39.3% from 1980 to 1990, and 18.5% from 1990 to 1999, for an overall increase of 65%, or 3.4% annually over the nearly twenty-year period. By contrast, the total population of the communities making up the Nashua Regional Planning Commission (NRPC region) increased by 24% from 1980 to 1990, and 13% from 1990 to 1999, for an overall increase of 44%, or 2.3% annually over the nearly twenty-year period. As evidenced by these statistics, Hudson has grown at a faster rate than the region.~~

~~C. The number of housing units in Hudson increased by 58% between 1980 and 1990, and by 17.5% between 1990 and 1999, for an overall increase of 85.5%, or 4.5% annually over the nearly twenty-year period. By contrast, the number of housing units in the NRPC region increased by 38.5% between 1980 and 1990, and by 10.2% between 1990 and 1999, for an overall increase of 52.7%, or 2.9% annually over the nearly twenty-year period.~~

D. The average annual rate of new housing unit construction in Hudson is greater than the average for a Hudson first tier fair share region that consists of the six adjacent communities of Litchfield, Londonderry, Nashua, Pelham, Windham, and Tyngsborough, MA. In Hudson, the average annual increase in housing units for the period 1995 to 1999 was 1.7%, compared to a first tier fair share region average annual growth rate of 1.1%.

E. Population projections for Hudson issued by the New Hampshire Office of State Planning (NHOSP) in 2000 project a 3,111 person, or 13.4% increase in population from 2000 to 2010.

F. High levels of demand for housing in Hudson are expected to continue according to the 1999 Regional Housing Needs Assessment by NRPC. With the region divided into four parts, the eastern Towns of Hudson, Litchfield, and Pelham had the largest increase in the number of home sales for the period 1991 to 1998, at 116%.

G. As of 1999, there were approximately 7,965 dwelling units in Hudson, according to estimates by the NHOSP. According to a build out study performed by NRPC for the 1996 Hudson Master Plan, there is the potential to add approximately 4,700 units in Hudson's residential zoning districts, an increase of 58% over the 1999 figure.

H. Hudson's total population at build out, according to the Master Plan, could approach 33,300 persons, an increase of 10,200, or 44%, over the estimated 1999 population of 23,100.

I. The Town of Hudson, in its Master Plan, supports controlled growth as one method of ensuring that the Town grows in a sustainable manner. Land Use Goal B.3 states that Hudson should "[c]onsider the adoption of growth controls or development phasing to limit population increases and housing development to manageable levels." Population Goal A states that Hudson should "[p]rovide an acceptable rate of growth in relation to the regional rate of growth and in keeping with the ability of the Town to provide essential facilities and services."

J. Community facilities.

(1) Many community facilities in Hudson are being adversely impacted by rapid population and housing growth in the community. The Community Facilities section of the 1996 Hudson Master Plan states that: "The significant and rapid growth that occurred in Town over the past years has caused the current Town facilities to become inadequate. The growth of the Town facilities has not kept pace with the rest of the Town." Some of the municipal facilities adversely impacted by rapid growth include:

(a) Fire Department: In its FY 2002 submittal to the Hudson Capital Improvements Plan Committee, the Fire Department noted that "the present fire stations are not conducive to providing timely responses for emergency services. The growth of the Town has passed the available level of service that the Fire Department can provide to the community from its present location." As a result of this deficiency, the Town will be assessing possible locations for additional fire stations.

(b) Hills Memorial Library: The 1996 Hudson Master Plan notes that "[w]ith just 3,645 square feet in the original building, the inadequacies of the facility and crowding have been major concerns for many years." The Library has documented the need for a new 25,000 square- foot facility to meet present and future demands for library services.

(c) Schools: The Town's rapid growth has placed severe strain on the school system. In an attempt to address the impacts of growth, the Town is building a new elementary school
and renovating the middle school. Despite these improvements, the School Department reports that overcrowding will remain an issue as long as rapid growth

continues.

(d) Town Sewer: Hudson has an agreement with the City of Nashua in which the Nashua Wastewater Treatment Plant (WWTP) receives sewage flow from Hudson. Due to capacity limitations and the provisions of the inter-municipal agreement, the Nashua WWTP can only treat two million gallons per day (mgpd) of Hudson wastewater. The Town of Hudson is currently generating approximately 1.6 mgpd, which is approaching the limits of the Nashua WWTP. Constraints on the ability of the sewer system to expand results in a very limited allocation for commercial development, which is needed to sustain the tax rate.

(e) Hudson Recreation Department: In its FY 2002 capital improvements submittal, the Town's Recreation Department noted that "[t]his rapid growth has caused an outcry for more (recreational / sports) fields." Additional sports fields are needed to meet present and future demand brought on by recent and anticipated growth. Many sports programs are at capacity at the present time. A new indoor recreation center is also needed, as the demand for many programs is now nearly double the capacity of the existing facility.

(2) The above examples are intended to illustrate how rapid and unchecked growth impacts many of the Town's services and facilities.

§ 334-111. Definitions.

The following definitions shall apply only to the growth management section and shall not be affected by the provisions of any other Town ordinance.

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.

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.

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.

LOT OF RECORD — Land designated as a separate and distinct 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.

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.

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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.

§ 334-112. Applicability and effect.

A. This article applies to all lots of record as defined in §§ 334-6 and 334-111, as well as to all future residential development. The application of this article to lots of record is for tracking purposes only. To receive a building permit, an applicant is required to possess a building certificate (also referred to herein as a "certificate") from the Planning Board or its designee for each approved dwelling unit. In order to be eligible for the issuance of a building certificate, an applicant must supply a properly completed application form to the Planning Department Clerk.

B. This article does not apply to nonresidential buildings or to the expansion, alteration, renovation, or replacement of existing dwelling units. Beginning on the effective date of this article, no building permit for a new dwelling unit shall be issued without possession of a building certificate issued in accordance with the provisions of this article.

§ 334-113. Periodic review.

It shall be the responsibility of the Planning Board to monitor growth in the Town and region and notify the Town of the findings.

A. The Planning Board or its agent(s) shall assemble by the third Tuesday in February such information necessary for assessing whether unsustainable rates of development continue to exist, and, if so, to determine the sustainable rate of development. Information should include statistics on building permits issued and building certificates issued and redeemed. Reliable information that may be used includes: statistics provided by the local Building Inspector and "Permit Authorized Construction in Permit-Issuing Places by State and County" as reported by the Building Permits Branch of the U.S. Census.

B. The Building Inspector shall provide to the Planning Board information describing the status of requests and issuance of residential building permits on a semi-annual basis to aid in monitoring the issuance of certificates and permits. The information provided shall include the number of permits issued in each of the last four semi-annual periods. For reporting purposes, periods conform to the calendar year January 1 – June 30, and July 1 – December 31. Information for each period shall be submitted within 31 days of the end of December and June.

§ 334-114. Calculation of annual certificate pool and annual discretionary certificate allocation.

Data shall be collected for the previous five years on the number of new dwelling units for the six adjacent regional towns. For the purposes of this section, the yearly statistics to be utilized are based upon a calendar year of January 1 to December 31. To calculate the certificate allocation for the current year, Steps A, B and C must be completed as described below:

A. Calculate the fair share region average growth rate. (See definitions.)

(1) Do not include statistics for Hudson in the calculation; otherwise, local growth may influence regional growth statistics.

B. Calculate the sustainable rate of development. (See definitions.)

C. Calculate the current year certificates available for disbursement in semi-annual allocations.

(1) Calculate the net available current year certificates (discretionary allocation) by subtracting from B the number of building permits issued to new dwelling units in the prior year.

(a) If the calculated net available current year certificates is less than or equal to 10, then the number of discretionary certificates for the current year shall be 10.

(b) If the calculated net available current year certificates are greater than 10, then the number of discretionary certificates for the current year shall be the calculated number.

§ 334-115. Procedures for distributing certificates.

Certificates shall be distributed according to the following allocation rules:

A. No residential building permit may be issued except with the possession of a certificate.

B. From January 1 through December 31, the Planning Department Clerk, on a form prepared by the Planning Board, shall receive applications for certificates for the current year. These applications shall be time and date stamped when received. The basis for determining the priority standing among all applications for the annual allotment of discretionary certificates shall be the order of submission of the applications as indicated by the Planning Department office stamp. Except for lots of record, no application for certificates may be made prior to recording an approved subdivision or site plan with the HCRD. Note: All applications for certificates for a subdivision or site plan shall be placed onto a single form provided by the Planning Board and must list all lots or units.

C. Guaranteed allocation. So that all developments are assured an allocation of certificates appropriate to the size of their subdivision or site plan and investment, all subdivisions and site plans for multifamily and condominium developments approved by the Planning Board and recorded at the Hillsborough County Registry of Deeds shall receive certificates according to the following schedule: subdivisions and site plans of one to five lots or units shall be entitled to certificates equal to the number of lots or units in the subdivision or site plan; subdivisions and site plans with six to 10 lots or units shall receive at least five certificates per year; subdivisions and site plans with 11 to 20 lots or units shall receive at least six certificates per year; subdivisions and site plans with 21 to 30 lots or units shall receive at least seven certificates per year; subdivisions and site plans with 31 to 40 lots or units shall receive at least eight certificates per year; subdivisions and site plans with 41 to 54 lots or units shall receive at least nine certificates per year; subdivisions and site plans with 55 to 80 lots or units shall receive at least 10 certificates per year; and subdivisions and site plans greater than 80 lots shall receive certificates equal to 12.5% of their total number of lots or units per year.

(1) Building lots that are planned for construction must obtain one building certificate for each dwelling unit.

(2) Each subdivision or site plan may receive their minimum guaranteed certificate allocation pursuant to § 334-115C at any time during the year after subdivision or site plan recording at the HCRD, and is not required to wait until annual certificate allocations. In the year(s) following subdivision or site plan recording, the full allotment of certificates specified in

§ 334-115C shall be available, based on the total number of lots or units in the approved and recorded subdivision or site plan.

(3) The number of guaranteed certificates available during the year of recording shall be calculated on a pro rata basis based on the number of months remaining in the year from the date of
subdivision or site plan recording. For subdivisions or site plans recorded in January, the full yearly allotment of guaranteed certificates specified in § 334-115C shall be available, for February 11/12 of the yearly allotment shall be available, for March 10/12 of the yearly allotment shall be available, and so on until December, in which 1/12 of the allotment shall be available. The number obtained by multiplying the allotment specified in § 334-115C by the proportion of the year remaining in terms of months shall be rounded up or down to the nearest whole number to determine the number of certificates available.

(a) For example, a thirty-five-lot subdivision is eligible for eight certificates according to
§ 334-115C. If the subdivision plan is recorded in July, the subdivision is eligible for 6/12 (or 1/2 or 0.5) of the certificates that first year. One-half of eight equals four certificates available to that subdivision in the year of recording.

(b) If the same thirty-five-lot subdivision is recorded in September, it is eligible for 4/12 (or 0.33) of the yearly allotment of guaranteed certificates. Eight multiplied by 0.33 equals 2.6, which is then rounded up to three, which equals the amount of guaranteed certificates available.

D. Discretionary allocation. The remaining certificates shall be allocated annually by the following system:

(1) At the second Planning Board meeting in March, the Planning Board shall conduct its annual discretionary certificate allocation.

(2) If a surplus of certificates is left over from distribution in the prior year, the remaining certificates may, at the discretion of the Planning Board, be added to the number of permits available in the current year.

(3) When the number of certificate applications exceeds the number of certificates available, the annual allocation is distributed among applications using a priority based upon the order in which the Planning Department Clerk received the applications.

(4) The procedure for allocating discretionary certificates on an annual basis is as follows: Discretionary certificates shall be issued to applicants one at a time based upon the order in which applications have been received by the Planning Department Clerk. When there are certificates remaining after each applicant has received their first certificate, the process shall be repeated until all available certificates are exhausted. Each application shall be specific to a subdivision or development irrespective of the individual filing the application. Only one application may be filed for a subdivision or development in each calendar year. **[Amended 3-14-2006 by Amdt. No. 1]**

(5) At the next annual allocation, the allocation commences with the next applicant scheduled to receive a certificate that did not receive any certificates in the prior allocation.

(6) The owners of lots allocated certificates may formally apply to the Building Inspector for the issuance of a building permit.

(7) A certificate may be used for any dwelling unit within the subdivision or site plan for which

it was awarded. Certificates may not be transferred to other subdivisions or site plans.

(8) A building certificate is valid and must be redeemed for a building permit within two years of the date of issuance.

E. Disclaimer. Certificate issuance in no way ensures or guarantees building permit issuance.

§ 334-116. Exemptions.

A. The following new dwelling unit types shall apply for and will be granted building certificates, but are exempt from the certificate allocation requirements outlined in §§ 334-114 and 334-115 of this article. The requirement that a use exempt from allocation requires the issuance of a certificate is a mechanism that will enable the Planning Board to track and monitor all new residential development in Hudson. Provisions for guaranteed minimum certificate allocations are found in § 334-115. Nonresidential buildings, including commercial, industrial, and municipal buildings, are exempt from the provisions of this growth management article and do not require the issuance of a building certificate.

B. Lots of record as defined by § 334-111 are also exempt from the provisions of this growth management article.

§ 334-117. Sunset.

If the number of building certificates requested for three consecutive years is less than 75% of the prior year's sustainable rate of development, then the Planning Board may consider the suspension of this growth management article. At such time, if the Planning Board decides to keep the ordinance in place, it shall provide findings as to why continued implementation of the ordinance is necessary to address public service and facility deficiencies and other impacts of rapid growth.

§ 334-118. Implementing regulations.

To the extent deemed appropriate, the Planning Board may adopt administrative regulations to guide Planning Department staff and agents of the Board in administration of this article, pursuant to RSA 674:36; 674:44, 674:4I(a) and (b), and 674:4, II to III.

§ 334-119. Severability.

Should any part of this article be held invalid or unconstitutional by a court, such a holding shall not affect, impair, or invalidate any other part of this article, and, to such end, all articles, sections and provisions are declared to be severable.

ARTICLE XX

Small Wind Energy Systems [Added 3-9-2010 by Amdt. No. 3]

§ 334-120. Purpose.

This small wind energy systems ordinance is enacted in accordance with RSA 674:62 through 674:66, and the purposes outlined in RSA 672:1, III-a. The purpose of this article is to accommodate small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this article provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

§ 334-121. Definitions.

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

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.

MODIFICATION — Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

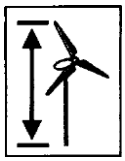
NET METERING — The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

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

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

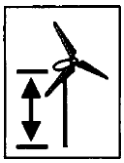
SMALL WIND ENERGY SYSTEM — A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for on-site consumption.

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



TOWER — The monopole, guyed monopole or lattice structure that supports a wind generator.

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



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

§ 334-122. Procedure for review.

A. Building permit. Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. No small wind energy system shall be erected, constructed, or installed without first receiving a building permit from the Building Inspector. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed three years from the date the building permit was issued. If an applicant plans to renew the met tower building permit, he/she must apply for same at least four months prior to the aforementioned three-year permit expiration.

B. Application. Applications submitted to the Building Inspector shall include a certified plot plan, signed and stamped by a New Hampshire licensed land surveyor, and said plan shall contain the following information:

(1) Property lines and physical dimensions of the applicant's property.

(2) Location, dimensions, and types of existing major structures on the property.

(3) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.

(4) Tower foundation blueprints or drawings.

(5) Tower blueprints or drawings.

(6) Setback requirements as outlined in this article.

(7) The right-of-way of any public road that is contiguous with the property.

(8) Any overhead utility lines.

(9) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.

(10) Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.

(11) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.Town of Hudson, NH

(12) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.

(13) Evidence of compliance or nonapplicability with Federal Aviation Administration requirements.

(14) List of abutters to the applicant's property.

C. Abutter and regional notification. In accordance with RSA 674:66, the Building Inspector shall notify all abutters and the local governing body by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded 30 days to submit comments to the Building Inspector prior to the issuance of the building permit. The Building Inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the Building Inspector shall follow the procedures set forth in RSA 36:57, IV. Note: Advertising and abutter mailing fees shall be paid by the applicant at the time of application submission.

§ 334-123. Standards.

The Building Inspector shall evaluate the application for compliance with the following standards:

A. Setbacks. The setback shall be calculated by multiplying the minimum setback requirement number by the system height as measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.

	Minimum Setback Requirements		
Occupied Buildings on Participating Landowner Property	**Occupied Buildings on Abutting Property**	**Property Lines of Abutting Property and Utility Lines**	**Public Roads**
0	1.5	1.1	1.5

(1) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.

(2) Guy wires used to support the tower are exempt from the small wind energy system setback requirements.

B. Tower. The maximum tower height shall not exceed 150 feet.

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

D. Shadow flicker. Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.

E. Signs. All signs, including flags, streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.

F. Code compliance. The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.

G. Aviation. The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations, including but not limited to 14 CFR Part 77, Subpart B, regarding installations close to airports, and the New Hampshire aviation regulations, including but not limited to RSA 422-B and RSA 424.

H. Visual impacts. It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this subsection is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.

(1) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to, information regarding site selection, wind generator design or appearance, buffering, and screening of ground-mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.

(2) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a nonreflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.

(3) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.

I. Approved wind generators. The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the State of New Hampshire, if available.

J. Utility connection. If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.

K. Access. The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

L. Clearing. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.

§ 334-124. Abandonment.

A. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the Building Inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

B. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Building Inspector.

"Physically remove" shall include, but not be limited to:

(1) Removal of the wind generator and tower and related above-grade structures.

(2) Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.

C. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous twelve-month period. After the 12 months of inoperability, the Building Inspector may issue a notice of abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the notice of abandonment within 30 days from notice receipt date. After review of the information provided by the owner, the Building Inspector shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the Building Inspector shall withdraw the notice of abandonment and notify the owner of the withdrawal.

D. If the owner fails to respond to the notice of abandonment or if, after review by the Building Inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within three months of receipt of the notice of abandonment. If the owner fails to physically remove the small wind energy system after the notice of abandonment procedure, the Building Inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

§ 334-125. Violations; preexisting systems.

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this article. Small wind energy systems installed prior to the adoption of this article are exempt from this article except when modifications are proposed to the small wind energy system.

§ 334-126. Violations and penalties.

Any person who fails to comply with any provision of this article or a building permit issued pursuant to this article shall be subject to enforcement and penalties as allowed by RSA 676:17.