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# **TOWN OF HATFIELD, MASSACHUSETTS ZONING BY-LAWS**

Adopted May 13, 2003

Amended May 11, 2004

Amended May 8, 2007

Amended May 13, 2008

Amended May 11, 2010

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## **1.0 GENERAL**

### **1.1 TITLE**

This By-Law shall be known and may be cited by the title: *Zoning By-Laws of The Town of Hatfield, Massachusetts.*

### **1.2 AUTHORITY**

This By-Law is adopted in accordance with the provisions of General Laws, Ch. 40 A "The Zoning Act," as amended.

### **1.3 PURPOSE**

The purpose of this zoning By-Law is to promote and regulate the use of land, buildings and structures to the full extent of the independent constitutional powers of cities and towns and to protect the health, safety and general welfare of Hatfield's present and future inhabitants.

### **1.4 BASIC SCOPE AND APPLICATION**

All buildings and structures thereafter constructed, reconstructed, altered, enlarged or moved; and all uses of land, premises, buildings and structures within the town of Hatfield shall be in conformance with the provisions of this By-Law.

The provisions of this By-Law shall not apply to lawfully existing buildings or structures, nor to existing use of any building, structure, or parcel of land prior to its effective date.

This By-Law shall not prohibit, regulate, or restrict the use of land or structures for religious, educational or governmental purposes, except in accordance with Chapter 40A Section 3 of Mass. General Laws.

## **2.0 ESTABLISHMENT OF ZONING DISTRICTS**

### **2.1 DIVISION INTO DISTRICTS**

Within the Town of Hatfield are hereby established, nine (9) zoning districts. District designations are as follows:

<u>DESIGNATION</u>	<u>TITLE AND PURPOSE</u>
<b>RR</b>	Rural Residential District
<b>OR</b>	Outlying Residential District
<b>TC</b>	Town Center District
<b>TCB</b>	Town Center Business District
<b>B</b>	Business District
<b>I</b>	Industrial District
<b>LI</b>	Light Industrial District
<b>AG</b>	Agricultural District
<b>FP</b>	Floodplain Overlay District
<b>WS</b>	Water Supply Protection Overlay District

### **2.2 LOCATIONS OF DISTRICTS: ZONING MAP**

Said districts are located and bounded as shown on a map entitled "Zoning Map, Town of Hatfield, Hampshire County, Massachusetts" prepared by Applied Geographics, Inc., dated May 13, 2003 and on file in the office of the Town Clerk, as adopted at the Annual Town Meeting of May 13, 2003 and amended by and at the Annual Town Meeting of May 8, 2007 (Warrant Article 19) and amended by and at the Annual Town Meeting of May 13, 2008 (Warrant Article 12); and amended by and at the Special Town Meeting of September 8, 2010 (Warrant article 1.); and amended by and at the Annual Town Meeting of May 10, 2011 (Warrant Article 7) amended by and at the annual town meeting May 14, 2013 (Warrant Article 7). The Zoning Map is hereby made a part of this By-Law.

### **2.3 LOCATION OF OVERLAY DISTRICTS. MAP REFERENCES**

The Floodplain Overlay District (Section 2.4), the Water Supply Protection District (Section 2.5), and the Riverfront Overlay District (Section 2.6) are overlay zoning districts established to offer special protections to areas designated as having sensitive environmental characteristics. The overlay districts may be shown on the Zoning Maps of Hatfield for informational purposes only. Official overlay district boundaries are defined in their respective sections of this By-law.

The regulations governing permitted and prohibited uses within the Floodplain Overlay District, the Water Supply Protection District, and the Riverfront Overlay District are set forth in the following sections of this By-law.

## 2.4 FLOODPLAIN OVERLAY DISTRICT

### 2.4.1 Purposes

### 2.4.2 District Delineation

### 2.4.3 Development Regulation

### 2.4.4 Permitted Uses

### 2.4.5 Prohibited Uses

#### 2.4.6 Uses by Special Permit in the Floodplain Overlay District

#### 2.4.7 Special Permit Requirements in the Floodplain District

### 2.4.2 District Delineation

- a. **The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the Town of Hatfield Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated June 18, 1980 as Zone A, AE, AH, AO, A1-30, and/or A99 and the FEMA Flood Boundary & Floodway Map dated June 18, 1980, both maps which indicate the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance Study (FIS) report dated December 1979. The FIRM, Flood Boundary & Floodway Map, and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.**
- b. Where the boundaries of this district may be in dispute, the Town of Hatfield or a landowner may engage a registered land surveyor to provide a more detailed or more accurate delineation, based on cross-sectional elevations.

### 2.4.3 Development Regulations

- a. All development, including structural and non-structural activities, whether permitted as a right or by special permit must be in compliance with the Hatfield Wetlands Bylaw, the Mass. Wetlands Protection Act, Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code 780 CMR 744.0 pertaining to construction in the floodplain, with the Mass. Rivers Protection Act, with the State Environmental Code (Title V). and must comply in all respects to the provisions of the underlying district except where the Floodplain Overlay Zoning imposes additional regulations such regulations shall prevail.
- b. **Base Flood Elevation Data for Subdivisions. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones. [NFIP regulation 44 CFR 60.3(b)(3)]**
- c. **Notification of Watercourse Alteration. In riverine areas, the Town will notify neighboring communities of watercourse alterations or relocations, and will copy this information to the State NFIP Coordinator and FEMA Region I. [NFIP regulation 44 CFR 60.3(b)(6)]**

### 2.4.4 Permitted Uses

- a. The following uses of low flood-damage potential and causing no obstruction to flood flows shall be permitted in the Floodplain Overlay District provided they do not require new structures or fill or storage of material or equipment.
  - (1) Agricultural uses such as farming, grazing and horticulture.
  - (2) Forestry and nursery uses.
  - (3) Outdoor recreational uses, including fishing, boating, play areas and foot, bicycle or horse paths.
  - (4) Conservation of water, plants and wildlife.
  - (5) Wildlife management areas.
  - (6) Structures existing prior to the adoption of these provisions which conform with the provisions on the bylaws regulating underlying districts, including maintenance and



repair usual for continuance of such an existing structure and improvements to such structures provided that the footprint increase of those improvements does not exceed 25% of the overall footprint of the structure. In the event such structure is destroyed, said structure may be rebuilt on the same location but no larger than the original overall footprint.

2.4.5 Prohibited Uses

- a. The following uses shall be prohibited within the Floodplain Overlay Districts:
- (1) Mobile homes;
  - (2) Storage of floatable materials, such as lumber;
  - (3) Industrial uses;
  - (4) Junkyards, solid waste landfills, auto salvage and recycling, dumps;
  - (5) Business and industrial uses, not agricultural, which manufacture, use process, store or dispose of hazardous materials or wastes as a principal activity, including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning and auto body repair.
  - (6) The outdoor storage of salt, other de-icing chemicals, pesticides or herbicides, flammable, explosive or toxic materials.
  - (7) Commercial sand and gravel removal operations, or excavation or disposal of soil or mineral substances, except as permitted in Section 2.4.6 or as necessary for construction of foundations, utilities, roads, or agricultural uses.
  - (8) All other uses not specifically permitted or allowed by special permit approval within the overlay zone are prohibited.
- b. Within the regulatory floodway, as designated on the Hatfield Flood Boundary and Floodway Map, all encroachments including fill, new construction, substantial improvements to existing structures, new structures, dams, and other development shall be prohibited, except for improvements to existing bridges or structures which are consistent with the purposes of this bylaw and which shall require a Special Permit under Section 2.4.6.

2.4.6 Uses by Special Permit in the Floodplain Overlay District

- a. No structure or building shall be erected, constructed, substantially improved, reconstructed or otherwise created or moved except as permitted herein, unless a Special Permit is issued by the Planning Board.
- b. The following uses may be allowed within the Floodplain District outside the regulatory floodway by Special Permit if determined to be consistent with the purposes, criteria and restrictions of this zone, said determination to be made by the Planning Board following application for a Special Permit by the landowner or owner:
- (1) Developed recreation facilities except buildings;
  - (2) Utility lines and facilities;
  - (3) Minor buildings incidental to permitted flood control, recreation, or agricultural, uses, ground coverage, if constructed so as to not obstruct natural hydrological features and provided the requirements of Section 2.4.7 relative to the elevation of the base flood are met;
  - (4) Single-family residences;
  - (5) Residential accessory uses, including garages, driveways, and onsite wastewater disposal systems;
  - (6) Reconstruction or substantial improvements, which increase the existing building footprint by more than 25% and which conform to the provisions of underlying districts;
  - (7) Business uses which are in compliance with the provisions of the underlying districts;
  - (8) Maintenance of the river, including stabilization or repair of eroded riverbanks or removal of flood debris, under requirements M.G.L., Chapter 131, Section 40, and any other applicable laws, bylaws and regulations. Riverbanks repairs shall be undertaken utilizing only natural materials (i.e, rock) and not with man-made materials (i.e. tires).

2.4.7 Special Permit Requirements in the Floodplain District

- a. All uses allowed by Special Permit in the Floodplain District must meet the following requirements.
- b. With Zone A 1-30, where base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data. These data will be reviewed by the Building Inspector for their reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code. Where credible evidence is provided to the Planning Board that the existing Zone A 1-30 is inaccurate, the Board may require the submission of flood elevation data prepared by a registered land surveyor.
  - (2) All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood. All fill must be compensated for with compensatory flood storage, as required in the Hatfield Wetlands Protection Bylaw;
  - (3) Any encroachments meeting the above standard shall comply with the floodplain requirements for the State Building Code;
  - (4) All uses must be designed consistent with the need to minimize flood damage;
  - (5) All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage and infiltration of flood waters into the system;
  - (6) Adequate drainage paths shall be provided around structures to guide floodwaters around and away from structures and to reduce exposure to flood hazards;
  - (7) New on-site waste disposal systems shall be located to avoid impairment or contamination from them during the flooding and shall be located, at a minimum, above the 10-year flood elevation. Replacement for existing on-site waste disposal systems shall be located as far away from the riverbank as is feasible;
  - (8) **The design and construction of buildings and structures located in flood hazard areas shall be in accordance with the effective Massachusetts Statewide Building Code.**
  - (9) The proposed use shall comply in all respects to the provisions of the underlying District in which the land is located;
  - (10) The proposed use must be reviewed by the Hatfield Conservation Commission for consistency with the Hatfield Wetlands Protection Bylaw and Massachusetts Wetlands Protection Act.

The Planning Board may specify such additional requirements and conditions as it finds necessary to protect the health, safety and welfare of the public and the occupants of the proposed use.

2.4.8 Special Permit Review Procedures

- a. The Planning Board shall follow all special permit procedures contained in Massachusetts General Laws Chapter 40a, Section 9, and the provisions of Section 5.0 of this Zoning Bylaw.

2.4.9 Special Permit Criteria and Decision

The Planning Board may issue a Special Permit under this section if it finds that the application is compliant with all of the following criteria;

- (1) A showing of good and sufficient cause.
- (2) A determination that failure to grant the special permit would result in exceptional hardship to the applicant.
- (3) A determination that the granting of a special permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws.
- (4) The proposed use shall comply in all respects to the provisions of the underlying District in which the land is located.

- (5) All encroachments, including fill, new construction, substantial improvements to existing structures and other developments are prohibited in the floodway except for improvements to existing bridges or structures which are consistent with the purposes of this bylaw and which shall require a Special Permit under Section 2.4.6. Such encroachments are prohibited in the Floodplain District unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood. All fill must be compensated for with compensatory flood storage, as required in the Hatfield Wetlands Protection Bylaw.
- (6) The proposed use demonstrates evidence of compliance with all applicable state and federal laws, including the Massachusetts Building Code and the Massachusetts Wetland Protection Act (M.G.L. Chapter 131, Section 40).
- (7) The proposed use will not create increased flood hazards, which shall be detrimental to public health, safety and welfare. Such hazards include, but are not limited to, outdoor storage of floatable materials.
- (8) The proposed use will not result in water pollution, erosion and sedimentation.
- (9) Any request for a variance of any provision in this section shall be in compliance with Massachusetts 780 CMR and the State Building Code Appeals Board.

## **2.5 WATER SUPPLY PROTECTION DISTRICT**

### **2.5.1 Purpose of District**

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

### **2.5.2 Definitions**

1. Aquifer: Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.
2. Groundwater: All water found beneath the surface of the ground.
3. Primary Aquifer Recharge Area: Areas which are underlain by sands and gravels (surficial geologic deposits including glaciofluvial or lacustrine stratified drift deposits, alluvium or swamp deposits) and in which the prevailing direction of groundwater flow is toward the area of influence of public water supply wells. Hatfield wells (Omasta and Running Gutter Brook) draw from a confined or artesian aquifer, (overlain by a clay layer) and contact areas between the upper and lower aquifers, and between the lower aquifer and bedrock.
4. Watershed: Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage areas of such water courses and bodies.
5. Secondary Recharge Area: Areas where surface run-off flows towards the Primary Recharge Area and contributes water to a public well.
6. Leachable Wastes: Waste materials including solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.
7. Impervious Surfaces: Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.
8. Trucking Terminal: Business which services or repairs commercial trucks which are not owned by the business.
9. Hazardous Waste: A waste which is hazardous to human health or the environment. Hazardous wastes have been designated by the U.S. Environmental Protection Agency under 40 CFR 250 and the Regulations of the Massachusetts Hazardous Waste Management Act, Massachusetts General Laws, Chapter 21C.
10. Zone A: the land area between the surface water source and the upper boundary of the bank, the land area within a 400 foot lateral distance from the upper boundary of the bank of a Class A

surface water source, and the land area within a 200 foot lateral distance from the upper boundary of the bank of a tributary or associated surface water body.

11. Zone II: The area of an aquifer that contributes water to a well. The boundaries are determined by a hydrogeologic study.

#### 2.5.3 Scope of Authority

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

#### 2.5.4 District Delineation

1. The Water Supply Protection District is herein established to include all lands within the Town of Hatfield lying within the primary and secondary recharge areas of groundwater aquifers and the watershed areas of the Town (Running Gutter Brook) Reservoir and the Mountain Street Reservoir, which now or may in the future provide public water supply. The map entitled "Town of Hatfield, Massachusetts – Water Supply Protection Overlay District", dated March 17, 2003, on file with Town Clerk, delineates the boundaries of the district.

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

#### 2.5.5. Prohibited Uses

The following uses are prohibited within the entire Water Supply Protection District unless otherwise noted.

1. Business and industrial uses, not agricultural, which manufacture, use, process, store, or dispose of hazardous materials or wastes subject to MGL 21C and 310 CMR 30.000 as amended as a principal activity, including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning, and auto body repair, or which involve on-site disposal of process waste waters, except for the following:

- (a) very small quantity generators of hazardous waste, as defined by 310 CMR 30.00 as amended;
- (b) treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

2. Trucking terminals, bus terminals, car washes, commercial outdoor washing of vehicles, motor vehicle gasoline sales, automotive service and repair shops.

3. Solid waste landfills, landfills receiving only wastewater residuals and/or septage, dumps, auto recycling, auto graveyards, junk and salvage yards.

4. All underground storage tanks.

5. Outdoor storage of salt, de-icing materials, fertilizers, pesticides, or herbicides

6. Dumping or disposal on the ground, in water bodies, in residential septic systems or in other drainage systems of any toxic chemical, including but not limited to septic system cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane, and other household hazardous wastes. (See list of prohibited chemicals available from the Hatfield Town Clerk's office).

commercial fuel oil storage and sales;

8. petroleum, fuel oil and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC Codes are established by the U.S. Office of Management and Budget and may be determined by referring to the publication, Standard Industrial Classification Manual and any subsequent amendments thereto;

9. storage of sludge and septage, as defined in 310 CMR 32.05, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

10. treatment or disposal works subject to 314 CMR 5.00 for wastewater other than sanitary sewage. This prohibition includes, but is not limited to, treatment or disposal works related to activities under the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6) (Title 5), except the following:
  - (a) the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s); and
  - (b) treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or 5.05 (13); and
  - (c) publicly owned treatment works, or POTWs.
11. Within the Zone A and Zone II of the Water Supply Protection District, stockpiling and disposal of snow or ice removed from highways and streets located outside of the Zone A or Zone II that contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.
12. Treatment or disposal works subject to 314 CMR 3.00 and 5.00 within the Zone A and Zone II of the Water Supply Protection District, except the following:
  - (a) The replacement or repair of an existing treatment or disposal works that will not result in a design capacity greater than the design capacity of the existing treatment or disposal works;
  - (b) Treatment or disposal works for sanitary sewage if necessary to treat existing sanitary sewage discharges in non-compliance with Title 5, 310 CMR 15.00, provided the facility owner demonstrates to the Massachusetts Department of Environmental Protection's satisfaction that there are no feasible siting locations outside of the Zone A. Any such facility shall be permitted in accordance with 314 CMR 5.00 and shall be required to disinfect the effluent. The Department of Environmental Protection may also require the facility to provide a higher level of treatment prior to discharge.
  - (c) Treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or 5.05(13).
  - (d) Discharge by public water system of water incidental to water treatment processes.
13. In the Zone A of the Water Supply Protection District, facilities, that through their acts or processes, generate, treat, store or dispose of hazardous wastes that are subject to M.G.L. c. 21C and 310 CMR 30.000, except for the following:
  - (a) very small quantity generators of hazardous waste, as defined by 310 CMR 30.00 as amended;
  - (b) treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters;
14. cemeteries (human and animal) and mausoleums within the Zone A and Zone II of the Water Supply Protection District;
15. solid waste combustion facilities or handling facilities as defined at 310 CMR 16.00 within the Zone A and Zone II of the Water Supply Protection District;
16. Sand and gravel operations within the Zone A and Zone II of the Water Supply Protection District.
17. In the Zone A of the Water Supply Protection District, the rendering impervious of more than 15% of any lot, or more than 20% with artificial recharge or 2,500 square feet of any lot, whichever is greater.
18. No stabling, hitching, standing, feeding or grazing of livestock or other domestic animals shall be located, constructed, or maintained within 100 feet of the bank of a surface water source or tributary thereto.

#### 2.5.6 Restricted Uses

1. Outside of Zone A and Zone II, excavation for removal of earth, sand, gravel and other soils is permitted, but shall not extend closer than five (5) feet above the historic high ground- water table (as determined from monitoring wells and historical water table fluctuation data prepared by the United States Geological Survey). A monitoring well shall be installed by the property owner to verify groundwater elevations. This section shall not apply to excavations incidental to permitted uses, including but not limited to providing for the installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal or wetland restoration work conducted in accordance with a valid Order of Conditions issued pursuant to M.G.L. c. 131 § 40..

- a. Access road(s) to extractive operation sites shall include a gate or other secure mechanism to restrict public access to the site.
  - b. Upon completion of earth removal operations, all altered areas shall be restored with topsoil and vegetative plantings. All fine materials, such as clays and silts, removed as part of the earth removal operation and leftover as by-products, shall be disposed of off-site to prevent damage to aquifer recharge characteristics.
2. Sodium chloride for ice control shall be used at the minimum salt to sand ratio which is consistent with the public highway safety requirements, and its use shall be eliminated on roads which may be closed to the public in winter.
  3. Storage of sodium chloride, chemically treated abrasives, sanding materials or other chemicals used for the removal of ice and snow on roads, shall be within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
  4. Fertilizers, pesticides, herbicides, lawn care chemicals or other leachable materials shall be used with manufacturer's label instructions and all other necessary precautions to minimize adverse impacts on surface and groundwater. The storage of commercial fertilizers and soil conditioners shall be within structures designed to prevent the generation and escape of contaminated run-off or leachate. All new permanent animal manure storage areas shall be covered and/or contained in accordance with the specifications of the Natural Resource Conservation Service to prevent the generation and escape of contaminated run-off or leachate.
- Above-ground storage of liquid hazardous material as defined in M.G.L.c.21E, or liquid propane or liquid petroleum products, except for the following:
- (a) The storage is incidental to:
    1. normal household use, outdoor maintenance, or the heating of a structure;
    2. use of emergency generators;
    3. a response action conducted or performed in accordance with M.G.L.c.21E and 310 CMR 40.000 and which is exempt from a groundwater discharge permit pursuant to 314 CMR 5.05(14); and
  - (b) The storage is within container(s) or above-ground tank(s) within a building, or outdoors in covered container(s) or above-ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater. However, these storage requirements do not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in accordance with applicable state and local requirements;
6. On-site sewage disposal systems shall not be installed in areas where soil percolation rates are faster than two minutes per inch without additional measures imposed by the Board of Health. (See Board of Health Regulations). All on-site subsurface sewage disposal systems, as defined in 310 CMR 15.000 (Title 5), shall be in compliance with the requirements of 310 CMR 15.000.

2.5.7 Drainage

1. For commercial and industrial uses, to the extent feasible, run-off from impervious surfaces shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration. Dry wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. All recharge areas shall be permanently maintained in full working order by the owner(s).

2.5.8 Special Permit Uses

1. Uses Allowed by Special Permit

The following uses may be allowed by Special Permit obtained from the Planning Board:

- a. Commercial and industrial uses which are allowed in the underlying district;
- b. Any enlargement, intensification or alteration of an existing commercial or industrial use;
- c. The rendering impervious of greater than 15% of any lot or 2,500 square feet whichever is greater, provided that the project is not located within the Zone A and a system for artificial recharge of precipitation is developed. The management of stormwater and any artificial recharge systems developed shall be designed so as not to result in the degradation of groundwater.

For commercial uses, a stormwater management plan shall be developed which provides for the artificial

recharge of precipitation to groundwater, such that post-development recharge is equivalent to pre-existing conditions to the maximum extent practicable. Recharge shall be attained through site design that incorporates natural drainage patterns and vegetation, and through the use of stormwater infiltration basin, infiltration trenches, porous pavement or similar systems. All infiltration practices shall be preceded by oil, grease, and sediment traps or other best management practices to facilitate removal of contamination.

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

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

## 2. Requirements for Special Permit in the Water Supply Protection District

The applicant shall file seven (7) copies of a site plan prepared by a qualified professional with the Planning Board. The Planning Board shall be forward one copy of the complete application to the DPW Director for review and comment. The site plan shall at a minimum include the following information where pertinent.

- a. A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.
- b. Those businesses using or storing such hazardous materials shall file a hazardous materials management plan with the Planning Board, Hazardous Materials Coordinator, Fire Chief, Water Department and Board of Health which shall include:
  - (1) Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.
  - (2) Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.
  - (3) Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Mass. Department of Environmental Protection.
- c. Drainage recharge features and provisions to prevent loss of recharge.
- d. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.

## 3. Additional Procedures for Special Permit in the Water Supply District

- a. The Planning Board shall follow all special permit procedures contained in Section 5.0.
- b. The Planning Board may grant the required special permit only upon finding that the proposed use meets the following standards and those specified in Section 5.0 of this bylaw. The proposed must:
  - (1) in no way, during the construction or thereafter, adversely effect the existing or potential quality or quantity of water that is available in the Water Supply Protection District, and;
  - (2) be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.
- c. The Planning Board shall not grant a special permit under this section unless the petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite and credible information to support positive findings in relations to the standards given in this section.

### 2.5.9 Non-conforming Use

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

## **2.6 RIVERFRONT OVERLAY DISTRICT**

### **2.6.1 Purposes**

The purposes of the Riverfront Overlay District (RO) are to:

- Protect the sensitive natural resources and rural character of the lands adjacent to the Connecticut River in Hatfield;
- Promote the preservation of agricultural lands along the Connecticut River; and
- Preserve the natural flood control and flood storage characteristics of the floodplain areas in the Riverfront Overlay District.

### **2.6.2 District Delineation**

- a. The Riverfront Overlay District (RO) is herein established as an overlay district and includes all those geographic areas designated on the map entitled, "Hatfield Riverfront Overlay District – March 17, 2003" on file with the Town Clerk, and hereby made a part of this ordinance.
- b. This overlay district shall be superimposed on other districts established by these zoning bylaws. Restrictions and prohibitions of land use in the underlying district(s) shall remain in full force and shall not be modified by the conditions of the RO District unless superseded by the restrictions and prohibitions of the RO District.

### **2.6.3 Development Regulations**

- d. All development, including structural and non-structural activities, whether permitted as a right or by special permit must be in compliance with the Hatfield Wetlands Bylaw, the Mass. Wetlands Protection Act, Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code 780 CMR 744.0 pertaining to construction in the floodplain (where applicable), with the Mass. Rivers Protection Act (where applicable), with the State Environmental Code (Title V). and must comply in all respects to the provisions of the underlying districts and other overlay districts, except where the Riverfront Overlay Zoning imposes additional regulations such regulations shall prevail.

### **2.6.4 Prohibited Uses**

- c. The following uses shall be prohibited within the Riverfront Overlay District:
  - (9) All those uses prohibited in the Floodplain Overlay District Section 2.4.5 a. (1) through 2.4.5 a. (7); and,
  - (10) Seasonal lodging or camps in permanent or semi-permanent structures.

## **3.0 USE REGULATIONS**

### **Applicability of Use Regulations**

Except as provided by law or in this By-Law, no building or structure shall be erected, and no building, structure or land or part thereof shall be used for any purpose or in any manner other than one (1) or more of the uses hereinafter set forth as permitted by right, permitted by site plan review, or as permissible by special permit and so authorized.

Any use not specifically permitted is prohibited.

See Table 1 –Table of Use Regulations, on accompanying pages, which are declared to be part of this bylaw.



Abbreviations for Zoning Districts.

In the Table of Use Regulations, the following abbreviations for Zoning Districts shall apply:

<b>AG</b>	Agricultural District
<b>RR</b>	Rural Residential District
<b>OR</b>	Outlying Residential District
<b>TC</b>	Town Center District
<b>TCB</b>	Town Center Business District
<b>B</b>	Business District
<b>I</b>	Industrial District
<b>LI</b>	Light Industrial District
<b>FP</b>	Floodplain Overlay District [Overlay]
<b>WS</b>	Water Supply Protection Overlay District [Overlay]

The Floodplain District and Water Supply Protection District are overlay zoning districts, and are not shown in the Table of Use Regulations (see Sections 2.4, and 2.5, respectively, for use regulations).

3.3 Use Designations.

In the Table of Use Regulations the following abbreviations and use designations apply:

<b>Y</b>	Permitted (By Right)
<b>N</b>	Not Permitted
<b>SPB</b>	Use allowed with Special Permit from the Planning Board
<b>SPA</b>	Use Allowed by Special Permit with Site Plan Approval from the Planning Board
<b>SPR</b>	Use Allowed by Site Plan Review – Administrative Review from the Planning Board

Use	RR	OR	TC	TCB		B	I	LI	AG	Notes
<b>1.0 RESIDENTIAL USES</b>										
1.11 One-Family Detached Dwelling	Y	Y	Y	Y		SPB	N(1) (2)	N(1) (2)	SPR	(1) In the I and LI districts, one single-family residence may be permitted as an accessory use with a Special Permit from the Planning Board. (2) Residential structure must be located on the same parcel as the primary use. This accessory use structure cannot be subdivided as a separate parcel from that parcel upon which the primary use is located.
1.12 Two-Family Detached Dwelling	Y	SPB	Y	Y		SPB	N	N	N	
1.13 Multi-Family Dwelling/ Townhouse (3 – 6 d.u.)	SPA	N	SPA	SPA		SPA	N	N	N	
1.14 Conversion of existing single-family to two-family use; not in a Mixed Use Development	SPB	SPB	SPB	SPB		SPB	N	N	SPB	
1.15 Open Space Community	Y	Y	Y	Y		N	N	N	SPR	Refer to Section 6.2, Development Methods, for standards applicable to Open Space Community Development.
1.16 Seasonal Farm Labor Housing	N	N	SPR	SPR		SPR	N	N	SPR	
1.17 Back-land Lot	N	N	N	N		N	N	N	N	
1.18 Mobile Home	N	N	N	N		N	N	N	N	
1.19 Residential Trailer or Mobile Home – Temporary Use	Y	Y	Y	Y		Y	Y	Y	Y	Permitted as a temporary use by the owner and occupier of a residence which has been destroyed by fire or other natural holocaust. Permitted only on the site of such residence for a period not to exceed twelve months while the residence is being rebuilt.
1.20 Nursing Home or Convalescent Facility	SPA	SPA	SPA	SPA		SPA	N	N	N	
1.21 Boarding House with Resident Family	SPA	SPA	SPA	SPA		SPA	N	N	N	Limited to five (5) non-family persons
1.22 Assisted Living Facility	SPB	SPB	SPB	SPB		N	N	N	SPB	

1.23 Congregate Housing for the Elderly and Disabled	SPB	SPB	SPB	SPB		N	N	N	N	Minimum lot area shall be 12,000 sq.ft. or 1,000 sq.ft. per sleeping room, whichever is greater. The building shall be connected with the public sewer system prior to occupancy. Its lot shall fall within one of the following areas: areas close to heavily travelled streets; areas close to business, commercial, and educational districts; areas already developed for multi-family use
1.24 Continuing Care Retirement Community	SPA	N	SPA	SPA		N	N	N	N	
<b>Use</b>	<b>RR</b>	<b>OR</b>	<b>TC</b>	<b>TCB</b>		<b>B</b>	<b>I</b>	<b>LI</b>	<b>AG</b>	<b>Notes</b>
1.25 Accessory Apartment within existing One-Family Detached Dwelling	Y	Y	Y	Y		SPB	N(1) (2)	N(1) (2)	SPB	(1) In the I and LI districts, one single-family residence may be permitted as an accessory use with a Special Permit from the Planning Board. (2) Residential structure must be located on the same parcel as the primary use. This accessory use structure cannot be subdivided as a separate parcel from that parcel upon which the primary use is located.
1.26 Accessory Apartment attached to existing One-Family Detached Dwelling	SPB	SPB	SPB	SPB		SPB	N(1) (2)	N(1) (2)	SPB	(1) In the I and LI districts, one single-family residence may be permitted as an accessory use with a Special Permit from the Planning Board. (2) Residential structure must be located on the same parcel as the primary use. This accessory use structure cannot be subdivided as a separate parcel from that parcel upon which the primary use is located.
2.11 Church or Other Structure for Religious Purposes	SPR	SPR	SPR	SPR		SPR	SPR	SPR	SPR	
2.12 Public school, Private School, Nursery School, Other Structures for Public or Non-profit Educational Purposes	SPR	SPR	SPR	SPR		SPR	SPR	SPR	SPR	
2.13 Child Care Center	Y	Y	Y	Y		SPR	SPR	SPR	SPR	
2.14 Adult Care Center	N	N	N	SPB		SPB	N	N	N	
2.15 Public Boathouse, for rental of boats	SPR	SPR	SPR	SPR		SPR	SPR	SPR	SPR	

2.16 Municipal Park, Playground, Nonprofit Recreational Facilities, and Buildings	SPR	SPR	SPR	SPR		SPR	SPR	SPR	SPR	
2.17 Governmental Building (County, state or federal)	SPR	SPR	SPR	SPR		SPR	SPR	SPR	N	
2.18 Municipal Building except Public Works Garage or Fire Station	SPR	SPR	SPR	SPR		SPR	SPR	SPR	N	
2.19 Municipal Public Works Garage or Fire Station	SPR	SPR	SPR	SPR		SPR	SPR	SPR	SPR	
2.20 Cemetery	SPB	SPB	SPB	SPB		N	N	N	SPB	
2.21 Public Library or Museum	SPR	SPR	SPR	SPR		SPR	SPR	SPR	N	
2.22 Philanthropic or Charitable Medical Facility	SPB	N	SPB	SPB		SPB	N	N	N	
2.23 Public Utilities, including uses related to water supply or sewage treatment (2)	SPR	SPR	SPR	SPR		SPR	SPR	SPR	SPR	(2) Not including commercial facilities for storage of, or generation from, liquified natural gas, propane or other fossil fuels.
2.24 Private Membership Clubs, Lodges, Social and Civic Organizations	SPB	SPB	SPB	SPB		SPB	N	N	N	

Use	RR	OR	TC	TCB		B	I	LI	AG	Notes
2.25 For-Profit Hospital, Sanatorium, or Other Medical Facility	SPA	N	SPA	SPA		SPB	N	N	N	
<b>3.0 AGRICULTURAL USES</b>										
3.1 Agricultural, Horticultural, Floricultural, Viticultural,	Y	Y	Y	Y		Y	Y	Y	Y	
3.2 Commercial Greenhouse	Y	Y	Y	Y		Y	Y	Y	Y	
3.3 Farm Business	SPR	SPR	SPR	SPR		SPR	SPR	SPR	Y	
3.4 Farm Stand	Y	Y	Y	Y		Y	Y	Y	Y	
3.5 Lumber Mill or Wood Processing	N	N	N	N		N	SPB	N	N	
3.6 Stables or Riding Academy, on parcels at least five (5) acres in size	Y	Y	Y	Y		Y	Y	Y	Y	
3.7 Commercial Kennel	N	SPB	N	N		SPB	SPB	SP A	N	
3.8 Veterinary Hospital or Clinic	N	SPB	N	N		SPB	SPB	SP A	N	
3.9 Tree Farm or Nursery	Y	Y	Y	Y		Y	Y	Y	Y	
3.10 Commercial Slaughtering	N	N	N	N		N	N	N	SPB	
3.11 Marijuana Cultivation - Outdoors	SPA	SPA	N	N		N	SPA	SPA	SPA	Whether licensed as a marijuana cultivator or craft marijuana cultivator cooperative. See Special Regulations, Section 7B.5.
3.12 Marijuana Cultivation - Greenhouse	SPA	SPA	SPA	N		SPA	SPA	SPA	SPA	Whether licensed as a marijuana cultivator or craft marijuana cultivator cooperative. See Special Regulations, Section 7B.5.

Use	RR	OR	TC	TCB		B	I	LI	AG	Notes
<b>4.0 RETAIL AND SERVICE USES</b>										
4.1 Small-scale Retail Establishment ( $\leq$ 15,000 s.f.)	N	N	SPR	SPR		SPR	SPA (3)	SPA (3)	N	For the purposes of this section, square footage of a proposed retail establishment refers to gross leasable building area.  (3) Permitted by SPB only as part of a Planned Industrial Development. See Section 6.5 for regulations.
4.2 Large-scale Retail Establishment (Over 15,000 s.f.)	N	N	N	N		SPB-PA	N	N	N	For the purposes of this section, square footage of a proposed retail establishment refers to gross leasable building area.  See <u>Major Development Review Bylaw</u> (Section 6.7) for special regulations and application requirements
4.3 Convenience Store	SPA	N	SPA	SPA		SPR	SPA (3)	SPA (3)	N	(3) Permitted by SPB only as part of a Planned Industrial Development. See Section 6.5 for regulations.
4.4 Tavern	N	N	SPA	SPA		SPR	N	N	N	
4.5 Adult Uses	N	N	N	N		N	SPA	N	N	
4.6 Restaurant (seated)	SPA	N	SPR	SPR		SPR	N	SPR	N	<i>Does not include "Fast Food", "Drive-in", "Drive-through", or "Refreshment Stand" establishments.</i>
4.7 Fast-food or Drive-in Restaurant	N	N	N	N		SPA	N	N	N	Must meet Commercial Development Performance Standards in Section 6.3.
4.8 Refreshment Stand	N	N	SPR	SPR		SPR	SPR	SPR	SPR	
4.9 Establishment Selling Motor Vehicles and/or Accessories	N	N	N	N		SPA	SPA	N	N	Display of Vehicles in the front yard limited to seven (7) vehicles. All other display vehicles must be set back at least 35 feet from the front boundary line. Garage, service, or repair bays must be located on the side or rear of buildings. Queuing of vehicles on the site must be accommodated in the side or rear yards of buildings.
4.10 Hotel	N	N	N	N		SPA (4)	N	N	N	(4) Height limited to three (3) floors and 36 feet; See also <u>Design Guidelines Handbook</u>
4.11 Inn	SPA	SPA	SPA	SPA		SPA	N	N	N	Must meet Commercial Development Performance Standards in Section 6.3.

4.12 Motel and Lodging House	N	N	N	N		SPA (5)	N	N	N	(5) Height limited to two and one-half (2&1/2) floors and 35 feet
4.13 Package Store – selling alcoholic beverages for consumption off-premises	N	N	SPB	SPB		SPB	N	N	N	
4.14 Bed and Breakfast Inn	SPR	SPR	SPR	SPR		SPR	N	N	SPB	See Definitions, Section 9.0, for special requirements
4.15 Funeral Establishment	N	N	SPA	SPA		SPR	N	N	N	
4.16 Bank	N	N	SPA	SPA		SPR	N	N	N	
4.17 Personal or Consumer Service Establishment (6)	N	N	SPA	SPA		SPR	N	N	N	(6) Includes uses such as laundry, diaper service, photographic studios, beauty/barber shops, funeral services, clothing rental, and other businesses offering services similar in character to those listed.
4.18 Professional, Medical and Business Offices and Services (≤ 15,000 sf)	N	N	SPA	SPA		SPR	SPA	SPA	N	For the purposes of this section, square footage of a proposed office/service use refers to gross leasable building area.
4.19 Professional, Medical and Business Offices and Services (Over 15,000 sf)	N	N	N	N		SPA	SPA	SPA	N	For the purposes of this section, square footage of a proposed office/service use refers to gross leasable building area.
<b>Use</b>	<b>RR</b>	<b>OR</b>	<b>TC</b>	<b>TCB</b>		<b>B</b>	<b>I</b>	<b>LI</b>	<b>AG</b>	<b>Notes</b>
4.20 Motor Vehicle Repair and Service (including boats, recreational vehicles, trailers, and farm equipment) (7)	N	N	N	SPA		SPR	SPB	N	N	(7) Storage limited to five hulks. Garage, service, or repair bays must be located on the side or rear of buildings. Queuing of vehicles on the site must be accommodated in the side or rear yards of buildings.
4.21 Entertainment Use, including theater and cinema complex	N	N	N	SPA		SPR	N	N	N	
4.22 Amusement or Recreation Service (including batting cages, miniature golf, and related activities, not including golf courses)	N	N	N	SPA		SPR	N	N	N	

4.23 Wireless Communication Facilities	SPA	SPA	SPA	SPA		SPA	SPA	SPA	SPA	
4.24 Commercial Parking Lot	N	N	N	N		N	N	N	N	
4.25 Planned Business Development	N	N	N	SPA		SPA	N	N	N	Limited to 15,000 sq. ft. gross leasable floor area. See Also: Special Regulations, Section 6.5
4.26 Gasoline Sales, Related Services or Other Auto Fuel Sales	N	N	N	N		SPA	N	N	N	Must comply with Commercial Development Performance Standards in Section 6.3.
4.27 Self-service Storage Facility	N	N	N	N		N	SPA	SPA	N	Must comply with Commercial Development Performance Standards in Section 6.3.
4.28 Car Wash	N	N	N	N		N	N	N	N	
4.29 Laundering and Dry Cleaning Plants	N	N	N	N		N	SPA	N	N	
4.30 Off-Premise Outdoor Advertising	N	N	N	N		N	N	N	N	See also Sign Regulations, Section 5.9.
4.31 Bulk Commercial Fuel Storage	N	N	N	N		N	SPA	N	N	
Commercial Recreation Use, including campgrounds, outdoor athletic facilities and similar activities	SPA	SPA	N	N		N	N	N	SPA	
4.33 Golf Course	SPA	N	N	N		N	N	N	SPA	
<b>Use</b>	<b>RR</b>	<b>OR</b>	<b>TC</b>	<b>TCB</b>		<b>B</b>	<b>I</b>	<b>LI</b>	<b>AG</b>	<b>Notes</b>
4.34 Scientific Research Facility	N	N	N	N		SPB	SPA	SPA	N	
4.34.1 Marijuana Independent Testing Laboratory	N	N	N	N		SPA	SPA	SPA	N	See Special Regulations, Section 7B.5.
4.35 Sales, Storage and Distribution of Lumber and Building Materials	N	N	N	N		SPA	N	N	N	
4.36 Crematories	N	N	N	N		N	SPA	N	N	



4.37 Telecommunications business including offices for internet service provider, broadband communications and other data and communications businesses (8)	N	N	SPA	SPR		SPA	SPR	SPR	N	(8) Not including towers or wireless facilities
4.38 Junkyard, including the storage of any unregistered vehicles outside a building or structure	N	N	N	N		N	N	N	N	
4.39 Registered Marijuana Dispensary	N	N	N	N		SPA	SPA	SPA	N	See Notes 10.6
4.40 Medical Marijuana Treatment Center	N	N	N	N		SPA	SPA	SPA	N	See Notes 10.6
4.41 Marijuana Retailer - Off-site Consumption	N	N	N	N		SPA	SPA	SPA	N	See Special Regulations, Section 7B.5.
4.42 Marijuana Retailer - On-site Consumption	N	N	N	N		N	N	N	N	
<b>Use</b>	<b>RR</b>	<b>OR</b>	<b>TC</b>	<b>TCB</b>		<b>B</b>	<b>I</b>	<b>LI</b>	<b>AG</b>	<b>Notes</b>
<b>5.0 WHOLESALE, TRANSPORTATION AND INDUSTRIAL USES</b>										
5.1 Processing plant, distribution and storage of milk, ice cream and other dairy products	N	N	N	N		N	SPA	N	N	
5.2 Manufacture and processing of food products, including candy	N	N	N	N		SPA	SPA	SPA	N	

5.3 Manufacture or processing of metal products in a machine shop or blacksmith shop	N	N	N	N		SPA	SPA	SPA	N	
5.4 Printing, engraving and bookbinding, data processing, publishing,	N	N	SPA	SPA		SPA	SPA	SPA	N	Except as defined in 6.22-Home Occupation
5.5 Processing or warehousing of agricultural products	N	N	N	N		SPA	SPR	SPR	N	
<b>Use</b>	<b>RR</b>	<b>OR</b>	<b>TC</b>	<b>TCB</b>		<b>B</b>	<b>I</b>	<b>LI</b>	<b>AG</b>	<b>Notes</b>
5.6 Manufacture or processing of stone, concrete or clay products for structural or monumental purposes	N	N	N	N		N	SPA	N	N	
5.7 Asphalt manufacture or refining of tar products	N	N	N	N		N	N	N	N	
5.8 Drop Forge or Foundry	N	N	N	N		N	N	N	N	
5.9 Volume reduction of solid waste on a commercial basis	N	N	N	N		N	SPA	N	N	Not including incineration or permanent disposition on the site.
5.10 Commercial Earth Excavation and Removal	SPB	SPB	N	N		SPB	N	N	N	
5.11 Processing Earth Products	N	N	N	N		N	SPA	N	N	
5.12 Bulk Storage of soil, stone, gravel, sand, or road material	N	N	N	N		N	SPA	N	N	
5.13 General Manufacturing in enclosed structures	N	N	N	N		SPA	SPA	SPA	N	
5.14 Freight or Trucking Terminal or Trucking Company	N	N	N	N		N	SPA	N	N	Limited to a maximum of twelve (12) permanent and temporary loading docks or stations.
5.15 Warehouse and Storage	N	N	N	N		SPB	SPA	N	N	

5.16 Wholesale Trade and Distribution	N	N	N	N		SPA	SPA	N	N	
5.17 Research Office and Development Activities	N	N	N	N		SPB	SPR	SPR	N	
5.18 Planned Industrial Development	N	N	N	N		N	SPA	SPA	N	See Special Regulations, Section 6.5.
5.19 Facility for the Storage, Transfer, Treatment, or Disposal of Radioactive Wastes	N	N	N	N		N	N	N	N	
5.20 Hazardous Waste Facility	N	N	N	N		N	*	N	N	* (Text disapproved and deleted by the Attorney General – 8/28/03)
5.21 Assembling and Packaging	N	N	N	N		SPA	SPA	SPA	N	
<b>Use</b>	<b>RR</b>	<b>OR</b>	<b>TC</b>	<b>TCB</b>		<b>B</b>	<b>I</b>	<b>LI</b>	<b>AG</b>	<b>Notes</b>
5.22 Millwork, Cabinetmaking, Woodworking, except as defined in 6.22-Home Occupation (9)	N	N	N	N		SPA	SPA	SPA	N	(9) Operation must collect wood chips & dust using an appropriately sized industrial dust collection system.
5.23 Commercial Storage – in sheds, barns, garages, which existed at the time of this original By-Law adoption and which complies with current Board of Health regulations and local fire codes	Y	Y	Y	Y		Y	SPB	SPB	Y	
5.24 Manufacturing – utilizing hazardous or noxious materials including fertilizer, glue or size, linoleum, paint and lacquer, soap, tallow, grease, or lard	N	N	N	N		N	N	N	N	
5.25	(Text disapproved and deleted by the Attorney General – 8/28/03)									

5.26 Renewable or Alternative Energy Development Facilities, Renewable or Alternative Research and Development (R&D) Facilities, or Renewable or Alternative Energy Manufacturing Facilities including for the manufacture and/or assembly of equipment for Solar, Thermal, Solar Photovoltaic, Hydro Electric and Wind Generation	N	N	N	N		N	SPR	SPR	N	The site plan review process shall take no longer than twelve months from the time of application submittal.
5.27 Construction Industry and Suppliers – including open storage of materials and equipment	N	N	N	N		SPA	SPA	SPA	N	
5.28 Any use requiring the establishment of more than twelve (12) permanent and/or temporary loading docks or stations.	N	N	N	N		N	N	N	N	See Section 5.7.6, Truck Bays/Loading Docks for standards regarding the number of allowable loading docks or stations
5.29 Marijuana Product Manufacturer	N	N	N	N		SPA	SPA	SPA	N	See Special Regulations, Section 7B.5.
5.30 Marijuana Cultivation in enclosed structures not a greenhouse	N	N	N	N		SPA	SPA	SPA	N	Whether licensed as a marijuana cultivator or craft marijuana cultivator cooperative. See Special Regulations, Section 7B.5.
5.31 Medium Ground Mount Solar Generating System	SPA	SPA	SPA	SPA		SPR	SPR	SPR	SPA	Solar PV or Thermal System that generates power for resale up to 500 kw or no larger than 2 acres and meets zoning requirements
5.32 Large Ground Mount Solar Generating System	SPA	SPA	SPA	SPA		SPR	SPR	SPR	SPA	Solar PV or Thermal System that generates power for resale over 500 kw or is larger than 2 acres and meets zoning requirements

Use	RR	OR	TC	TCB		B	I	LI	AG	Notes
<b>6.0 ACCESSORY USES</b>										
6.11 Sign in conjunction with permitted uses	Y	Y	Y	Y		Y	Y	Y	Y	Subject to Sign regulations- Section 5.9 of these bylaws
6.12 Accessory use customarily incidental to any permitted use	Y	Y	Y	Y		Y	Y	Y	Y	
6.17 Family Day Care Home	SPR	SPR	SPR	SPR		SPR	SPR	SPR	SPR	State law requires that this use be a permitted use as long as established state standards are met. Appropriate title of use is "Family Day Care Home" and refers to day care services provided in a home setting for up to 6 children. See Definitions section.
6.18 Elder Care Home	SPR	SPR	SPR	SPR		N	N	N	N	
6.19 Accessory Private Garage for Not More Than Three Vehicles	SPA	SPA	SPA	SPA		Y	Y	Y	Y	
6.20 Any Accessory structure for a Residence, including Barns, Breezeways, Garages, Swimming Pools, and Toolsheds	Y	Y	Y	Y		Y	Y	Y	Y	

Use	RR	OR	TC	TCB		B	I	LI	AG	Notes
6.21 Off-street Parking and Loading	Y	Y	Y	Y		Y	Y	Y	Y	See Zoning Bylaw Section 5.7.5.for information regarding Loading Areas.  Special Commercial Parking Regulations: Garaging or parking of one light commercial panel, commercial delivery, or commercial pickup truck shall be a permitted accessory use in any residential district. Garaging or parking of larger commercial vehicles, or more than one commercial vehicle, shall be allowed under a Special Permit issued by the Planning Board.
6.22 Home Occupation	SP A	SPA	SPA	SPR		Y	SPA (10)	SPA (10)	SPA	May be conducted in a dwelling unit, or accessory outbuilding, pursuant to regulations in Section 9.36 of these bylaws.  (10) In the Industrial (I) and Light Industrial (LI) zoning districts, Home Occupations shall be allowed only in those structures in existence on April 1, 2002.
6.23 Roof or Ground Mount Solar Energy System	Y	Y	Y	Y		Y	Y	Y	Y	Solar PV or Thermal System that generates up to 200% of the Property use is “As-of-Right Siting”
6.24 Roof or Ground Mount Solar Electric Cooperative	SP A	SPA	SPA	SPA		SPR	SPR	SPR	SPA	Solar PV Electric System that generates up to 200% of the members use
<b>7.0 MIXED USES</b>										
7.1 Mixed Use Development	SP A	N	SPA	SPA		SPA	N	SPA	N	<i>See Section 6.6 – Mixed Use Development Bylaw</i>
7.2 Mixed Use Infill	SP A	N	SPA	SPA		SPA	N	SPA	N	<i>See Section 6.6 – Mixed Use Development Bylaw</i>

### 3.4 NON-CONFORMING BUILDINGS AND USES

#### 3.4.1 CONTINUATION OF USE

Any lawful building structure, or use of a building, structure or land or part thereof existing at the time of adoption of this By-Law, may be continued. However, a non-conforming building or structure shall not be structurally altered, enlarged, or reconstructed except as hereinafter set forth.

#### 3.4.2 RE-ESTABLISHMENT OF NON-CONFORMING USES

- A. Any non-conforming building structure, or use of a building structure of land which has been discontinued for a period of two years shall not be re-established, and future use shall conform to the provisions of this By-Law except by special permit from the planning board. This regulation shall not apply to land for agriculture, horticulture, or floriculture, where such non-use of non-conforming uses of land, buildings, or structures shall have existed for a period of less than five years.
- B. Any building, structure, or use of land devoted to non-conforming use, or any building, structure, or use of land considered a non-conforming use at the time of adoption of this By-Law may, if damaged or destroyed by fire or other accidental cause, be reconstructed or restored with the same portion of the lot as used before, provided that such reconstruction or restoration is started within 24 months following damage or destruction.

#### 3.4.3 ALTERATION OR EXTENSION

Pre-existing non-conforming structures or uses may be extended or altered when the Planning Board finds that such extension, alteration, or change is not substantially more detrimental to the neighborhood than the existing non-conforming use.

#### 3.4.4 ACCESSORY APARTMENTS

##### A. Purpose

The purpose of the accessory apartment bylaw is to:

- a. Provide older homeowners with a means of obtaining, through tenants in accessory apartments, rental income, companionship, security, and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
- b. Add inexpensive rental units to the housing stock to meet the needs of smaller households, both young and old;
- c. Make housing units available to low and moderate-income households who might otherwise have difficulty finding homes within the town;
- d. Protect stability, property values, and the residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied houses and under such additional conditions as may be appropriate to further the purposes of this bylaw; and
- e. Legalize conversions to encourage compliance with the State Building Code.

##### B. Definitions

Accessory Apartment: A self-contained housing unit incorporated within or accessory to a single family dwelling complete with its own sleeping, cooking, and sanitary facilities and a separate means of egress.

Building, Attached: A building having any portion of one or more walls in common with an adjacent building.

Dwelling, Single-Family: A building designed or used exclusively as a residence and including only one dwelling unit.

Primary Residence: A building in which is conducted the principal use of the lot on which it is located. For residentially zoned lots, such a building would be a dwelling.

##### C. Accessory Apartment Standards

Accessory Apartments that are contained within the existing structure of the primary dwelling unit shall be allowed by-right in all districts. The Special Permit Granting Authority may authorize a Special Permit for accessory apartments that are attached to the existing primary dwelling unit, but that require structural modifications and/or an expansion to the primary dwelling unit in all districts.

An Accessory Apartment in owner-occupied, single-family dwelling, will be allowed by-right or by Special Permit provided that the following standards and criteria are met:

- a. The apartment will be a complete, separate housekeeping unit that functions as a separate unit from the original unit.
- b. Only one apartment will be created on a single-family lot.
- c. When expansion of the principle structure is required to accommodate the accessory apartment, the principle structure and addition must comply with set back and maximum lot coverage requirements for its district.
- d. The owner(s) of the residence in which the accessory apartment is located shall occupy at least one of the dwelling units on the premises.
- e. The accessory apartment shall be designed so that the appearance of the building remains that of a one-family residence as much as feasibly possible. In general, any new entrances shall be located on the side or rear of the building. Any exterior changes made must conform with the single-family character of the neighborhood.
- f. An addition to the original building is permitted provided that the addition does not increase the floor area or volume of the original building by more than half (50%) of the existing total residential space (excluding unfinished attic and basement, garage, porch, and patio).
- g. The accessory apartment shall be clearly a subordinate part of the single-family dwelling. It shall be no greater than (100%) of the existing total residential space or nine hundred (900) square feet, whichever is less.
- h. The accessory apartment shall have no more than 2 bedrooms.
- i. In accordance with Section 5.7 of the Town's zoning bylaw, at least two (2) off-street parking spaces per dwelling unit and one (1) space for guests are available for use by the owner-occupant(s) and tenant(s). Parking spaces shall be located to the side or the rear of the structure, to the maximum extent feasible. Applicant may apply for a waiver from full compliance with Section 5.7 which may be granted at the determination of the Board.
- j. For dwellings to be served by on-site septic system, the owner must obtain a Disposal Works Construction Permit from the Board of Health before a special permit can be obtained. This is to ensure that the existing sewage disposal system is adequate for the proposed accessory apartment.
- k. The construction of any accessory apartment must be in conformity with the State Building Code requirements.

**D. Application Procedure**

- a. The procedure for the submission and approval of a Special Permit for an Accessory Apartment shall be the same as prescribed in the Section 5.3 of the Town's zoning bylaw except it shall include a notarized letter of application from the owner(s) stating that he/she will occupy one of the dwelling units on the premises. A non-refundable fee shall be included with the application for an accessory apartment to cover the cost of processing the application and code inspections. The applicant shall also be responsible for the cost of legal notices. As part of the public hearing process, parties of interest, as defined in M.G.L. Chapter 40A, Sec. 11 must be notified.
- b. Upon receiving a Special Permit or Building Inspector approval, the owner(s) must file on subject property a Declaration of Covenants at the County Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time-stamped copy of the recorded Declaration shall be provided to the Planning Board.
- c. In order to provide for the development of housing units for disabled and handicapped individuals, the Planning Board will allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

**E. Transfer of Ownership of a Dwelling with an Accessory Apartment**

- a. The temporary Special Permit for an Accessory Apartment shall terminate upon the sale of property or transfer of title of the dwelling, unless the Planning Board has approved a transfer of the Special Permit to the new owner.
- b. The new owner(s) must apply for transfer of a Special Permit for an Accessory Apartment and shall submit a notarized letter of application stating that he/they will occupy one of the dwelling units on the premises and a written request to the Planning Board stating that conditions at the time of the original application remain unchanged. Minor changes may be approved without a hearing.



c. Upon receiving the transferred special permit, the new owner(s) must file on subject property a Declaration of Covenants at the County Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time-stamped copy of the recorded Declaration shall be provided to the Planning Board.

**F. Accessory Apartments in Existence Before the Adoption of an Accessory Apartment Bylaw**

a. Statement of Intent

To ensure that Accessory Apartments or conversions built within the 10 years prior to the adoption of this Accessory Apartment Bylaw are in compliance with health and safety requirements included in the State Building Code.

b. Application Procedure

The Planning Board may authorize, under a Special Permit and in conjunction with the Building Inspector, a use known as an Accessory Apartment. The board will review each existing Accessory Apartment constructed after July 1, 2009 on a case-by-case basis to determine if the dwelling conforms to State Building Code Regulations. Owners of properties with an Accessory Apartment that are not compliant with State Building Code must provide plans for bringing the Accessory Apartment up to code and must apply for a special permit in order to continue the use as an Accessory Apartment.

The applicant must follow the same procedure described in this Section including the submission of a notarized letter declaring owner occupancy and a Declaration of Covenants.

c. Pre-existing, non-conforming Accessory Apartments

Accessory Apartments that were constructed prior to July 1, 2009 may continue to operate as a pre-existing, non-conforming use and are subject to the requirements under Section 3.4 (Non-Conforming Buildings and Uses).

**G. Conflict with Other Laws**

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

**H. Severability**

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the town's zoning bylaw.

**3.5 HAZARDOUS WASTE**

- A. (Text disapproved and deleted by the Attorney General – 8/28/03)
- B. Hazardous waste disposal is prohibited within the Town limits of Hatfield. Hazardous wastes definitions and their disposal are defined by the U.S. Environmental Protection Agency under 40 CFR Part 250 and the Hazardous Waste Management Act, Massachusetts General Laws Chapter 21.

**4.0 DIMENSIONAL AND DENSITY REGULATIONS**

**4.1 BASIC REQUIREMENTS**

Buildings and structures erected, reconstructed, or enlarged in any zoning district shall conform to the dimensional and density regulations set forth in the table in Section 4.3.

**4.2 SPECIAL CONDITIONS**

- A. Minimum front yard dimensions required in the dimensional table shall be measured from the street line where a plan of such street or way is on file or plotted with the planning board, or in the absence of such plan or plot, from a line 25 feet from and parallel with the center of such street way.
- B. On 'through lots' the front yard dimensional requirements shall apply to each of the yards of the abutting streets.
- C. On 'corner lots', where the included angle is less than 135 degrees, either street may be considered as the frontage street, but not both together.

- D. Limitations on height of buildings and structures in the dimensional table shall not apply to chimneys, towers, ventilators, spires, antennas, and ornamental features.
- E. A previously plotted lot or parcel of land containing less than the area of frontage required by the dimensional table may be developed for single residential use in accordance with the provisions of chapter 40A. G.L.
- F. Residential storage sheds, to a maximum size of 12' X 16' (or 192 sq. ft.), and a maximum door size of 6' - 0" wide by 6' - 8" high, shall be exempt from the side and rear yard set back requirements set forth in the table in Section 4.3, except that the minimum side and rear yard set back for residential storage sheds shall be 15' from the side property line and 15' from the rear property line in all residential use zones. Such storage shed shall explicitly not be used as a garage for motor vehicles as defined in Mass. General Laws, Chapter 90.

### 4.3 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS

Zoning District	Minimum Lot Area	Minimum Frontage	Minimum Yard Front					
<b>Agriculture</b>								
No Town Services	60,000 sq. ft.	200 feet	35 feet	15 feet	30 feet	35 feet/2.5 stories	25%	
With Town Water	60,000 sq. ft.	200 feet	35 feet	15 feet	30 feet	35 feet/2.5 stories	25%	
With Town Water & Sewer	60,000 sq. ft.	200 feet	35 feet	15 feet	30 feet	35 feet/2.5 stories	25%	
<b>Outlying Residential</b>								
No Town Services	60,000 sq. ft.	200 feet	35 feet	15 feet	30 feet	35 feet/2.5 stories	15%	
With Town Water	60,000 sq. ft.	200 feet	35 feet	15 feet	30 feet	35 feet/2.5 stories	15%	
With Town Water & Sewer	60,000 sq. ft.	200 feet	35 feet	15 feet	30 feet	35 feet/2.5 stories	15%	
2-Family Dwelling	60,000 sq. ft.	200 feet	35 feet	15 feet	30 feet	35 feet/2.5 stories	15%	
<b>Rural Residential</b>								
No Town Services	45,000 sq. ft.	200 feet	35 feet	15 feet	30 feet	35 feet/2.5 stories	25%	
With Town Water	45,000 sq. ft.	200 feet	35 feet	15 feet	30 feet	35 feet/2.5 stories	25%	
With Town Water & Sewer	45,000 sq. ft.	200 feet	35 feet	15 feet	30 feet	35 feet/2.5 stories	25%	
2-Family Dwelling	60,000 sq. ft.	200 feet	35 feet	15 feet	30 feet	35 feet/2.5 stories	15%	
Multi-Family Dwelling	60,000 sq. ft. (plus 4,000 sq. ft. per unit)	200 feet	35 feet	20 feet	50 feet	35 feet/2.5 stories	15%	
<b>Town Center</b>								
No Town Services	45,000 sq. ft.	200 feet	35 feet	15 feet	15 feet	35 feet/2.5 stories	25%	
With Town Water	45,000 sq. ft.	200 feet	35 feet	15 feet	15 feet	35 feet/2.5 stories	25%	
With Town Water & Sewer	45,000 sq. ft.	200 feet	35 feet	15 feet	15 feet	35 feet/2.5 stories	25%	
2-Family Dwelling	45,000 sq. ft.	200 feet	35 feet	15 feet	25 feet	35 feet/2.5 stories	25%	
Multi-Family Dwelling	60,000 sq. ft. (plus 4,000 sq. ft. per unit)	200 feet	35 feet	15 feet	45 feet	35 feet/2.5 stories	15%	
<b>Town Center Business</b>								
No Town Services	45,000 sq. ft.	200 feet	35 feet	15 feet	15 feet	35 feet/2.5 stories	25%	
With Town Water	45,000 sq. ft.	200 feet	35 feet	15 feet	15 feet	35 feet/2.5 stories	25%	
With Town Water & Sewer	45,000 sq. ft.	200 feet	35 feet	15 feet	15 feet	35 feet/2.5 stories	25%	
2-Family Dwelling	45,000 sq. ft.	200 feet	35 feet	15 feet	25 feet	35 feet/2.5 stories	25%	
Multi-Family Dwelling	60,000 sq. ft. (plus 4,000 sq. ft. per unit)	200 feet	35 feet	15 feet	45 feet	35 feet/2.5 stories	15%	

Zoning District	Minimum Lot Area	Minimum Frontage	Minimum Yard Front	Minimum Yard Side	Minimum Yard Rear	Maximum Height	Maximum Lot Coverage
<b>Business</b>							
No Town Services	60,000 sq. ft.	200 feet	35 feet	20 feet	50 feet	35 feet/2.5 stories	25%
With Town Water	45,000 sq. ft.	200 feet	35 feet	20 feet	50 feet	35 feet/2.5 stories	60%
With Town Water & Sewer	45,000 sq. ft.	200 feet	35 feet	20 feet	50 feet	35 feet/2.5 stories	60%
2-Family Dwelling	60,000 sq. ft.	200 feet	35 feet	20 feet	50 feet	35 feet/2.5 stories	15%
Multi-Family Dwelling	60,000 sq. ft. (plus 4,000 sq. ft. per unit)	200 feet	35 feet	20 feet	50 feet	35 feet/2.5 stories	15%
<b>Industrial</b>							
No Town Services	60,000 sq. ft.	200 feet	See Table of Industrial Dimensional Regulations			45 feet/3 stories	30%/70%*
With Town Water	60,000 sq. ft.	200 feet				45 feet/3 stories	30%/70%*
With Town Water & Sewer	60,000 sq. ft.	200 feet				45 feet/3 stories	30%/70%*
<b>Light Industrial</b>							
No Town Services	60,000 sq. ft.	200 feet	See Table of Industrial Dimensional Regulations			45 feet/3 stories	30%/70%*
With Town Water	60,000 sq. ft.	200 feet				45 feet/3 stories	30%/70%*
With Town Water & Sewer	60,000 sq. ft.	200 feet				45 feet/3 stories	30%/70%*
<b>Mixed Use Overlay</b>							
With Town Water & Sewer	45,000 sq. ft.	200 feet	10 feet	20 feet	20 feet	35 feet/2.5 stories	60%

\* The maximum coverage of a lot with buildings may be up to thirty (30) percent of the gross lot area. The maximum coverage of a lot with buildings, parking and equivalent impervious surfaces may be up to seventy (70) percent of the gross lot area.

#### 4.4 INDUSTRIAL AND LIGHT INDUSTRIAL LOT CHARACTERISTICS

##### A. Setback Requirements – Abutting Zoning Districts

<b>Building Setback</b>						
Front Yard	50 feet	50 feet	50 feet	50 feet	50 feet	50 feet
Side Yard	100 feet (1)	100 feet (1)	50 feet (2)	50 feet	25 feet	50 feet
Rear Yard	100 feet (1)	100 feet (1)	50 feet (2)	50 feet (2)	25 feet	50 feet
Parking & Truck Loading	100 feet (1)	100 feet (1)	50 feet (2)	50 feet (2)	25 feet	50 feet

- (1) Setback area must include a continuous vegetated screen at least fifty (50) feet in width
- (2) Setback area must include a continuous vegetated screen at least twenty-five (25) feet in width

##### B. Vegetative Screens

- 1. Vegetative screens must be designed to reach a height of six (6) feet within four (4) years of installation.
- 2. All parking and loading areas must be landscaped or fenced so as to form a continuous visual screen from all access streets, highways, and adjacent properties.
- 3. Refuse collection, trucking, loading and storage areas shall be visually screened from abutting uses, streets, and residential uses.

**5.0 SPECIAL PERMITS, SITE PLAN APPROVAL AND SITE PLAN REVIEW**

**5.1 PURPOSES**

- 5.11 The purpose of this section is to provide a comprehensive review procedure for projects which may have significant impacts on the Town of Hatfield, to minimize the impacts of such developments, and to ensure compliance with the following goals of the Town:
- A. To promote the safety of vehicular and pedestrian movement within the site and in relation to the adjacent areas and to protect the capability of state and local roads to conduct traffic smoothly and efficiently;
  - B. To promote attractive and viable commercial and industrial districts;
  - C. To protect the rural character, aesthetic qualities, natural, environmental, and historical features, and property values of neighboring properties and the Town;
  - D. To discourage unlimited commercial “strip development” and curb cuts along highways, and encourage compact commercial growth in nodes and clusters;

**5.2 PROCEDURES**

5.21 This section describes the procedures for application, review and decision for three distinct processes:

- A. **Special Permits:** The Planning Board may issue a Special Permit for uses designated in certain districts, in accordance with the procedures in Section 5.3.
- B. **Special Permits with Site Plan Approval:** The Planning Board must review and approve a site plan, which must be submitted as a mandatory part of the Special Permit approval process, in accordance with the procedures in Section 5.4. The Planning Board has authority to approve, approve with conditions, or deny the application.

**Site Plan Review:** For designated uses permitted by right, the Planning Board reviews site plans, in accordance with the procedures in Section 5.5, and may approve the plan or impose conditions which further compliance with the purposes and criteria in this bylaw.

In cases where applicants are making minor alterations to a site plan, the Planning Board may waive strict adherence to the application procedures in Section 5.4 and 5.5. The Table of Use Regulations in Section 3.3 designates which of these three processes are required for each use and in each district.

**5.3 SPECIAL PERMITS**

**5.3.1 Uses Requiring Special Permits**

- A. Uses, structures, or conditions which require a Special Permit are designated within the Table of Use Regulations, Section 3.3. A Special Permit shall be granted only after written application to, and a hearing by, the Planning Board and shall be subject to the provisions of Chapter 40A of the Massachusetts General Laws and this bylaw.

**5.3.2 Special Permit Granting Authority**

For all Special Permit applications, the Special Permit Granting Authority shall be the Planning Board.

**5.3.3 Special Permit Applications**

- A. For uses requiring a Special Permit, the current owner of record, or any person authorized in writing by the owner of record, shall file an application and the required fee with the Town Clerk. The applicant shall also file eight (8) copies of the application and any required supporting materials with the Planning Board, including the date and time of filing certified by the Town Clerk. The Planning Board may request additional copies as it deems necessary. Specific rules governing the application and fee shall be adopted by the Planning Board along with its rules of procedure. The stamp of the Town Clerk shall designate the date of filing. Application forms are available from the Planning Board.

Required Special Permit Application Contents

- A. The following contents are required for all Special Permit applications:
  - 1. All plan drawings and supporting documentation illustrating the proposed project, and including the following information:
  - 2. Name of the project, locus, date and scale plan;

3. Name and address of the owner of record, developer, and original seal of the engineer, landscape architect, architect, or surveyor;
  4. A single-sheet locus plan at a scale of 1" = 100' showing the location and owner's names of all adjacent properties and those within 300 feet of the property line, and all zoning district boundaries;
  5. Existing and proposed topography at a two foot contour interval, the location of wetlands, streams, waterbodies, drainage swales, areas subject to flooding and base flood elevations and unique natural land features;
  6. Existing and proposed structures, locations including dimensions, elevations, all exterior entrances and exits, and distance of exterior walls from each nearest property line;
  7. The location of parking spaces and loading areas, public and private ways, driveways, pedestrian walkways, access and egress points to and from adjacent streets;
  8. The location and description of all proposed septic systems, percolation tests when necessary, water supply, storm drainage systems including existing and proposed drainlines, culverts, drainage swales, catchbasins, utilities, hydrants, manholes and lighting fixtures;
  9. Drainage calculations and subdrainage along with soil logs;
  10. Refuse and other waste disposal methods;
  11. Proposed landscape features including the location and description of buffers, creening, fencing, and plantings, including the size and type of plant materials;
  12. The location, dimensions, height, color, illumination and characteristics of existing and proposed signs;
  13. For alterations to any existing or new business, commercial, or industrial uses a table containing the following information:
    - a. Maximum area of building to be used for sales offices, business, industrial or other uses.
    - b. Maximum number of employees, where applicable.
    - c. Maximum seating capacity, where applicable.
    - d. Number of parking spaces existing or required for the intended uses.
  14. Elevation plans at a scale of 1/4" = 1'0" for all exterior facades of the proposed structure(s) and/or existing facades plus addition(s) showing design features and indicating the type and color of materials to be used.
  15. Plans for clearing, stockpiling or removal of topsoil on the site, including whether such topsoil is to be permanently removed from the site.
- B. The Planning Board may waive any information requirements it judges to be unnecessary to the review of a particular plan. Such waiver decisions must be documented in writing by the Planning Board.

**5.3.5 Procedures for Review and Referral of Special Permit Applications**

- A. The Planning Board may adopt and revise reasonable regulations for the administration of Section 5.3.5.
- B. Technical Review Fees
  1. If, after receiving an application, the Planning Board determines that in order to review that application it requires technical advice unavailable from municipal employees, it may employ outside consultants. Whenever possible the authority shall work cooperatively with the applicant to identify appropriate consultants and to negotiate payment of part or all of the consultant fees by the applicant. The authority may, by majority vote, require that the applicant pay a reasonable review fee for the employment of outside consultants chosen by the authority alone.

2. A review fee may be imposed only if the work is in connection with the applicant's specific project and all written results and reports are made part of the record before the authority.
3. A review fee may be imposed only after the Planning Board has complied with the Uniform Procurement Act, M.G.L. c. 30B, and with the special account procedures set forth in M.G.L. c. 44, Section 53G.

C. Referral to Town Boards and Departments

1. The Planning Board shall within ten (10) days of receiving a Special Permit/Site Plan Approval/Site Plan Review application, give notice to the Building Inspector, Department of Public Works, Conservation Commission, Select Board, Board of Health, Redevelopment Authority, Fire Department, Police Department, Agricultural Advisory Commission and Historical Commission, that an application has been received and is available for review for their recommendations and comments to the Planning Board concerning:
  - a. the adequacy of the data and methodology used by the applicant to determine the impacts of the proposed developments;
  - b. the impacts of the proposed development, and;
  - c. recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.

Failure of a board or department to make recommendations within 30 days of the referral of the application shall be deemed to be lack of opposition.

**5.3.6 Public Hearing Requirements**

A. Public Hearing

A public hearing shall be held within 65 days after the filing of a Special Permit application, in accordance with the procedures in Massachusetts General Laws, Chapter 40A, Section 9, and this bylaw.

B. Public Hearing Notice Requirements

1. In all cases when notice of a public hearing is required, the board holding such hearing shall post notice of the hearing by publication in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing, and by posting such notice in a conspicuous place in the town hall for a period of not less than 14 days before the date of such hearing. In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid to "parties of interest" as defined in M.G.L. Chapter 40a, section 11. The assessors maintaining any applicable tax list shall certify to the board holding the hearing the names and addresses of parties in interest, as defined in this Bylaw and such certification shall be conclusive for all purposes. The board holding the hearing may accept a waiver of notice from, or an affidavit or actual notice to any party in interest, or in his stead, any successor owner of record who may not have received a notice by mail, and may order special notice to any such person, giving not less than 5 or more than 10 additional days to reply.
2. Publications and notices required by this section shall contain the name of the petitioner, a description of the area or premises, street address, if any, or other adequate identification of the location of the area or premises which is the subject of the petition, the date and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested if any. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in the town.

**5.3.7 Special Permit Decisions and Criteria**

A. The Planning Board shall grant a Special Permit if the following criteria are met:

1. The use requested is designated in the Table of Use Regulations, Section 3.3 as permitted by Special Permit in the district for which application is made.



2. The use is in compliance with all provisions and requirements of this Bylaw, and in harmony its general intent and purpose.
3. The requested use is not detrimental to the public convenience or welfare.
4. The requested use will not create traffic congestion or impair pedestrian safety.

The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting health, safety or the general welfare.

6. The requested use will not impair the integrity or character of the district or adjoining zones, not be detrimental to the health, safety or welfare.
8. Any required site plan approval has been requested and obtained.
9. The proposed project shall not create a significant adverse impact to the quality of surface water or groundwater during and after construction, and provision shall be made for ensuring groundwater recharge.
11. The design of the project shall provide for adequate methods of disposal and recycling of sewage, refuse or other wastes generated by the proposed use.

The design of the project shall minimize the visibility of visually degrading elements and protect the neighboring properties from potentially detrimental or offensive uses of screening or vegetated buffer zones.

**B. Special Permit Decisions**

1. The Planning Board shall make a decision on the Special Permit within 90 days following the public hearing. Failure to take final action upon an application for a Special Permit within said 90 days shall be deemed to be a grant of the permit applied for.
2. The approval of a Special Permit requires the affirmative vote of at least four members of a five member Planning Board, as required in Massachusetts General Laws, Chapter 40A, Section 9.

No Special Permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision has been recorded by the applicant or his/her agent in the Hampshire County Registry of Deeds, bearing the certification of the Town Clerk that either:

- twenty (20) days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or;
  - an appeal has been filed, and it has been dismissed or denied.
- The applicant shall submit proof of the recording to the Town Clerk.
4. Any extensions, modifications or renewals of a Special Permit shall follow the same procedures as are required for the original granting of a Special Permit.

**5.3.8 Special Permit Conditions, Safeguards, and Limitations**

A. The Planning Board may also impose in addition to any applicable conditions in this Bylaw such conditions and safeguards as it finds or otherwise serve the purposes of this Bylaw, including, but not limited to, the following:

1. Requirement of screening, buffers or planting strips, fences or walls.
2. Modification of the exterior appearance of the structure(s).
3. Limitations of signs or other advertising features beyond the minimum established under the Zoning Bylaw.
4. Limitations of number or density of occupants, times or nature of operations, size, scale, or other characteristics of the use or facility.
5. Time duration of permit or extent of facilities.
6. Regulation of the number, design and location of access drives or circulation facilities.
7. Requirements of off-street parking, loading or other features beyond the minimum otherwise required by the Zoning Bylaw.

8. Traffic features in accordance with regulations of loading or other special features different from the minimum required by this Bylaw.
9. Requirements of front, side or rear yards greater or less than the minimum otherwise prescribed by the Zoning Bylaw.
10. Any other conditions, safeguards, and limitations in time and use which are consistent with the purpose of the Zoning Bylaw and which are appropriate to the safeguarding of any neighborhood. Such conditions shall be imposed in writing and the applicant may be required to post bond or other security for compliance with said conditions in any amount satisfactory to the Special Permit Granting Authority.

**5.4 SPECIAL PERMITS WITH SITE PLAN APPROVAL**

**5.4.1 Uses Requiring a Special Permit with Site Plan Approval**

Uses, structures, or conditions which require a Special Permit with Site Plan Approval are designated within the Table of Use Regulations, Section 3.3. A Special Permit with Site Plan Approval shall be granted only after written application to, and a hearing by, the Planning Board and shall be subject to the provisions of Chapter 40a of the Massachusetts General Laws and this bylaw.

**5.4.2 Site Plan Approval Authority**

For all Special Permit with Site Plan Approval applications, the reviewing authority shall be the Planning Board.

**5.4.3 Site Plan Approval Applications**

For uses requiring a Special Permit with Site Plan Approval, the current owner of record, or any person authorized in writing by the owner of record, shall file an application and the required fee with the Town Clerk. The applicant shall also file eight (8) copies of the application and any required supporting materials with the Planning Board, including the date and time of filing certified by the Town Clerk. The Planning Board may request additional copies as it deems necessary. Specific rules governing the application and fee shall be adopted by the Planning Board along with its rules of procedure. The stamp of the Town Clerk shall designate the date of filing. Application forms are available from the Planning Board.

**5.4.4 Required Contents of Site Plans for Approval**

All site plans shall be prepared by a registered architect or landscape architect, or a professional engineer or land surveyor unless this requirement is waived by Planning Board because of unusually simple circumstances. Any plan presenting a determination of a property line must be prepared and endorsed by a registered Professional Land Surveyor. Any plan presenting design by a civil engineer, such as that of a drainage or sewer system, must be prepared and endorsed by a registered Professional Engineer.

All site plans must be accurately drawn to appropriate scale (not less than 1"=40') on sheet or sheets having dimensions of not less than 11" x 17", with additional narrative as necessary. Elevation plans at an appropriate scale (not less than 1/4"-1'0") are required for all exterior facades of the proposed structure(s), showing design features and indicating the type and color of materials to be used.

C. For all projects requiring Site Plan Approval or Site Plan Review, a site plan shall be submitted to the Planning Board, which shall comply with the following requirements:

1. All contents required in the Special Permit application, in accordance with Section 5.3.4.

The plan shall contain evidence of compliance with the Commercial or Industrial Development Performance Standards in Sections 6.3 or 6.4.

3. The plan shall describe estimated daily and peak-hour vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site.
4. A detailed Traffic Impact Statement is required in each case where a proposed new building, use or project will contain more than 10,000 square feet, or will include one of the following uses which generates high volumes of trips:

automobile service station; fast-food or drive-in restaurant; convenience store; bank; or post office. The Traffic Impact Statement shall contain:

- a. Traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred feet of the site.
  - b. A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities, and impacts on intersections.
  - c. A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means;
  - d. An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.
5. The plan shall illustrate the location and contain a description of any proposed open space or recreation areas;
  6. A plan for the control of erosion, dust and silt, both during and after construction, temporary and permanent erosion control, and protection of water bodies is required.
- D. The Planning Board may waive any information requirements it judges to be unnecessary to the review of a particular application. Such waiver decisions must be documented in writing by the Planning Board.

#### **5.4.5 Referral and Review Procedures**

A. The Planning Board shall follow the procedures described in Section 5.3.5 for referral and review of site plans.

#### **5.4.6 Public Hearing Requirements**

In cases where Site Plan Approval is required with the Special Permit, a joint public hearing to address both the Special Permit application and the Site Plan Approval application shall be held within sixty-five (65) days of the filing of the applications with the Planning Board, however, a public hearing shall not be held until a response has been received from the Boards/Departments as required under Section 5.3.5, or the required comment period has elapsed.

The Planning Board shall follow all public notice requirements for public hearings specified in Section 5.3.6.

#### **5.4.7 Site Plan Approval Decisions and Criteria**

- A. In reviewing and evaluating the site plan, and in making a final determination regarding site plan approval/site plan review, the Planning Board shall consider the following criteria:
1. The site plan complies with the Performance Standards in Sections 6.1 – 6.7 where applicable;
  2. The site plan shall address, to the extent feasible and practical, the recommendations of the Hatfield Design Guidelines, as adopted by the Planning Board;
  3. The site plan minimizes traffic and safety impacts of the proposed development on adjacent highway or roads, and maximizes the convenience and safety of vehicular and pedestrian movement within the site;
  4. The proposed development, to the extent feasible:
    - a. is integrated into the existing landscape and protects abutting properties;

- b. minimizes adverse environmental impacts on such features as wetlands, floodplains, and aquifer recharge areas;
  - c. minimizes obstruction of scenic views from publicly accessible locations;
  - d. preserves unique natural or historical features;
  - e. minimizes tree, vegetation and soil removal and grade changes;
  - f. maximizes open space retention; and
  - g. screens objectionable features from neighboring properties and roadways.
5. The architectural design, layout and landscaping of the proposed development is in harmony with the historic, rural character of the neighborhood and the Town of Hatfield. The neighborhood shall be considered an area within 1500 feet of the proposed development.
  6. The proposed development is served with adequate water supply and waste disposal systems and will not place excessive demands on Town services and infrastructure.
  7. The site plan shows adequate measures to prevent pollution of surface or groundwater to minimize erosion and sedimentation, minimize changes in groundwater levels, and assure no increase in run-off or potential for flooding.
  8. The site plan shows that, to the extent feasible, adequate measures have been taken to protect historic structures and sites at the location of the proposed development.

Electric lines, telecommunications lines and other such utilities shall be underground .

#### Site Plan Approval Decisions

1. The Planning Board shall make a decision on the Special Permit with Site Plan Approval within 90 days following the public hearing. Failure to take final action upon an application for a Special Permit with Site Plan Approval within said 90 days shall be deemed to be a grant of the permit applied for.
2. For applications requiring a Special Permit with Site Plan Approval, the Planning Board shall render separate and distinct decisions for the Special Permit and for the Site Plan Approval. The Planning Board shall render a decision on the Site Plan Approval Application prior to a decision on the Special Permit. Each vote of the board shall be taken and recorded separately for the purpose of maintaining a clear record of actions.
3. The Planning Board's final action on applications for Site Plan Approval shall consist of either:
  - a. A written approval of the application based on a determination that the proposed project will constitute a suitable development and is in compliance with the criteria and standards set forth in this bylaw;
  - b. A written denial of the application based on a determination that the proposed project does not meet the standards for review set forth in this bylaw, stating the reasons for such denial, or;
  - c. Approval subject to any conditions, modifications and restrictions, which will ensure that the project meets the standards and criteria in this bylaw.
4. No Special Permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed; or is such appeal has been filed, that it has been dismissed or denied, is recorded in the Hampshire County Registry of Deeds.
5. Any extensions, modifications or renewals of a Special Permit shall follow the same procedures as are required for the original granting of a Special Permit.

B. In reviewing and evaluating the site plan for a medium or large solar ground mount energy system, and in making a final determination regarding site plan approval/site plan review, the Planning Board shall consider the following criteria and require the following:

1. The site plan shall include in addition to relevant requirements in 5.4.7-A the following:
  - a. A list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment, as appropriate;
  - b. Blueprints or drawings of the solar installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
  - c. A copy of an Interconnection Application filed with the utility including a one or three line electrical diagram detailing the solar electric installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
  - d. Documentation of the major system components to be used, including the electric generating components, transmission systems, mounting system, inverter, etc.;
  - e. Documentation by an acoustical engineer of the noise levels projected to be generated by the installation, or equipment documentation relative thereto;
  - f. Name, address, and contact information for proposed system installer;
  - g. Name, address, phone number and signature of the project proponent, (and/or their agents) as well as all co-proponents or property owners, if any;
  - h. An operation and maintenance plan;
  - i. Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
  - j. Proof of liability insurance;
  - k. Emergency Response Plan signed by Fire Chief and local utility.
2. Design and Performance Standards for Large Solar Ground Mount Systems:

*Lighting*

Lighting of solar energy installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Lighting of the solar energy installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

*Signage*

Signs on Large-Scale Ground-Mounted Solar Energy Installations shall comply with Hatfield's sign bylaw. A sign consistent with Hatfield sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar energy installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy installation.

*Control of Vegetation*

Herbicides may not be used to control vegetation at the solar energy installation. Mowing, grazing or using geotextile materials underneath the solar array are possible alternatives.

*Annual Reporting*

The owner or operator of the installation shall submit an Annual Report which certifies compliance with the requirements of this bylaw and their approved site plan including control of vegetation, noise standards, and adequacy of road access. The Annual Report shall also provide information on the maintenance completed during the course of the year and the amount of electricity generated by the facility. The Annual Report shall be submitted to the Planning Board, Building Inspector, and Conservation Commission (if Wetlands Permit was issued) no later than 45 days after the end of the calendar year.

#### *Abandonment*

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar energy installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board.

#### *Removal Requirements*

Any Large-Scale or Medium-scale Ground-Mounted Solar Energy Installation which has reached the end of its useful life or has been abandoned shall be removed. Hatfield encourages the Property Owner to include a decommissioning agreement with the solar system owner/lessee as part of any lease agreement. The owner or operator shall physically remove the installation within 150 days of abandonment or the date of decommissioning. The cost for the removal will be charged to the property owner in accordance with the provisions of M.G.L. 139, Section 3A as a tax lien on the property. The property owner shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

#### *Extended Commissioning*

Should any Planning Board approved Large-Scale or Medium-scale Ground-Mounted Solar Energy Installation change ownership, renewal of a lease agreement, or in the event of an expired lease the property owner takes active possession of the system, the Planning Board should be notified. In the event of a lease renewal, or change of ownership (new lessee), all related documents should be included as part of this notification.

## **5.5 SITE PLAN REVIEW**

### **5.5.1 Uses Requiring Site Plan Review**

Uses, structures, or conditions which require a Site Plan Review are designated within the Table of Use Regulations, Section 3.3. Site Plan Review requires a written application to the Planning Board and shall be subject to the provisions this bylaw.

### **5.5.2 Site Plan Review Authority**

For all Site Plan Review applications, the reviewing authority shall be the Planning Board.

### **5.5.3 Site Plan Review Applications**

A. For uses requiring a Site Plan Review, the current owner of record, or any person authorized in writing by the owner of record, shall file an application and the required fee with the Planning Board. The applicant shall file eight (8) copies of the application and any required supporting materials with the Planning Board, on forms provided by the Planning Board. The Planning Board may request additional copies as it deems necessary. Specific rules governing the application and fee shall be adopted by the Planning Board along with its rules of procedure. When the application has been received in a complete form as defined by said rules, a copy shall be forwarded to the Town Clerk. The stamp of the Town Clerk shall designate the date of filing.

### **5.5.4 Required Contents of Site Plans for Review**

For all projects requiring Site Plan Review, a site plan, which shall comply with the requirements in Section 5.4.4, shall be submitted to the Planning Board.

**5.5.5 Referral and Review Procedures**

A. The Planning Board shall follow the procedures described in Section 5.3.5 for referral and review of site plans.

**5.5.6 Public Meeting Requirements**

Site Plan Review applications shall be reviewed and acted upon at any regular meeting of the Planning Board. A public hearing shall not be required, however the Planning Board shall notify all abutters within three hundred feet of the application property and shall make its determination within sixty-five (65) days of the filing of the application with the Board.

**5.5.7 Site Plan Review Decisions and Criteria**

- A. In reviewing and evaluating the site plan, and in making a final determination regarding site plan review, the Planning Board shall consider the criteria in Section 5.4.7, except with regards to medium and large solar ground mount systems, shall include 5.4.7-B and 5.0 Special Permits
- B. The Planning Board’s final action on applications for Site Plan Review shall consist of either:
  - 1. A written determination that the proposed project will constitute a suitable development and is in compliance with the criteria and standards set forth in this bylaw; or
  - 2. A written statement of any conditions, modifications and restrictions, which will ensure that the project meets the criteria and standards in this bylaw.

## **FILING AND ENFORCEMENT**

### **5.6.1 Filing Requirements**

A. The decision of the Planning Board on a Special Permit, Special Permit with Site Plan Approval, or Site Plan Review shall be filed with the Town Clerk along with detailed reasons therefore and all plans as finally approved. Certified copies shall be sent to the Building Inspector and to the applicant in accordance with the Zoning Act. Issuance of a Special Permit, Site Plan Approval, or a Site Plan Review Determination does not constitute issuance of a building permit.

B. No Special Permit or Special Permit with Site Plan Approval, or any extension, modification or renewal thereof, shall take effect until a copy of the decision has been recorded by the applicant or his/her agent in the Hampshire County Registry of Deeds, bearing the certification of the Town Clerk that either:

1. twenty (20) days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or;
2. an appeal has been filed, and it has been dismissed or denied.

The applicant shall submit proof of the recording to the Town Clerk.

C. Once a Special Permit, Site Plan Approval or Site Plan Review Determination has been issued, the application for a building permit shall be filed with the Building Inspector. The building permit application shall include the plan, if any, approved by the Planning Board, including all conditions set forth by the Planning Board when approving the plan. In cases where the setbacks of single-family houses have been prescribed in a Special Permit, the Building Inspector shall verify that the building permit application for each lot is in conformity with the Special Permit.

### **5.6.2 Enforcement**

A. The Planning Board may require the posting of a bond or other adequate security to assure compliance with the Special Permit, site plan and conditions and may suspend any permit or license when work is not performed as required.

B. All conditions of the Planning Board determination must be satisfied prior to the issuance of an occupancy permit. The Zoning Enforcement Officer shall determine if the Planning Board conditions have been satisfied by the applicant.

C. Special Permits may run with the land or be limited to the applicant.

D. A Special Permit must be filed with the Registry of Deeds to be in effect and before work may begin and before any other permits may be issued.

### **5.6.3 Expiration of Permits**

A Special Permit, Site Plan Approval or Site Plan Review Determination granted under this Bylaw shall lapse within 2 years of the date of approval if a substantial use thereof has not sooner commenced except for a good cause or in the case of a permit for construction if construction has not begun by such date except for a good cause.

## **5.7 PARKING REQUIREMENTS**

The intent of this section is to insure that there is sufficient parking and loading for each lot so that parking and loading does not occur on a public way and that abutting properties are not negatively impacted by parking or loading activities.

### **5.7.1 Off-street Parking General Requirements**

Off-street parking spaces, with proper access from a street, alley or driveway, shall be provided in the amount indicated in Section 5.7.2.

Such parking spaces shall be provided in connection with the construction, conversion, change in use, or increase by units or dimensions of any building or structure and shall be used solely by the uses located on the lot and for which the parking is required.

Nothing in Section 5.7 shall prevent the collective provision of off-street parking facilities for two (2) or more buildings or uses, provided that the total of such off-street parking facilities shall be not less than the sum of the requirements for various individual uses computed separately.

The Planning Board, by a majority vote, shall retain the right to waive or alter any of the requirements of Section 5.7, provided that:

The waiver shall not derogate from the intent of Section 5.7 of the Hatfield Zoning By-Laws.

The waiver shall not have a negative impact upon abutting properties or upon the neighborhood.



The term of such waiver shall expire with a change in use, an increase in the dimensions of any building or structure on the lot, or with the subdivision of the lot.

### **5.7.2 Parking Space Requirements**

For dwelling units, including apartments and condominiums – two (2) parking spaces for each family unit, plus common parking area for guests.

For all lots improved with only a single family detached dwelling unit, a driveway shall constitute a parking space or parking spaces provided that the area provided meets the minimum dimensional requirements in Section 5.7.3.

In the case of any multi-family dwelling specifically designed for the elderly, the minimum off-street parking requirement shall be one (1) space for each two dwelling units.

Hotels, motels, inns, boarding and lodging houses shall have one (1) space for each rental room.

Farm labor boarding facilities used specifically for migratory or transient labor shall provide one (1) space for each four beds.

Rest homes, convalescent and nursing homes, and residential rehabilitation centers shall have one (1) space for each two (2) beds.

Indoor place of assembly without fixed seats, including dance halls, skating rinks, or other places of amusement shall have one (1) space for each two hundred (200) square feet of floor area in public use.

Indoor places of assembly with seating facilities including auditorium, theater, assembly hall, church, arena, or convention center, shall have one (1) space for each four (4) seats.

Restaurant or similar establishment shall have one (1) space for each fifty (50) square feet devoted to patron use plus one (1) space for each two employees on the largest shift.

Retail sales of furniture, automobiles, recreational vehicles, nursery stock, etc. involving extensive display areas in relation to customer traffic shall have one (1) space for each eight hundred (800) square feet of gross floor area in such use, plus one (1) space for each one thousand (1,000) square feet of lot area devoted to display.

Other buildings for retail sales and services shall have one (1) space for each three hundred (300) square feet of gross floor area.

Professional offices and office buildings, including sales space, shall have one space for each two hundred fifty (250) square feet of gross floor area.

Buildings for manufacture, assembly, processing or packaging shall have one (1) space for each employee on the largest shift.

Storage, wholesale establishments, freight terminals and similar uses shall have one (1) space for each three thousand (3,000) square feet or one (1) space for each employee on the largest shift, whichever is greater.

Any business establishment, such as, but not restricted to, a bank or restaurant, with a drive-up service window will provide a vehicular storage lane for no fewer than ten (10) cars.

Buildings or uses, other than those specified above, shall have no fewer than one (1) space for each one thousand (1,000) square feet of gross floor area.

### **5.7.3 Design Standards for Parking Areas**

No parking area shall require backing on to a public way.

Parking areas shall be paved with bituminous concrete, concrete, asphalt, decorative paver bricks, or other approved hard surfacing.

Curb radii, driveway widths, driveway pitch or elevation, and other such dimensions shall comply with standards established by the Department of Public Works and by the subdivision regulations adopted by the Planning Board.

Off-street parking spaces required herein shall be provided either on the lot with the principal use, or on any other associated premises within 300 feet. In an industrial or light industrial district, off-street parking shall be contained within the industrial or light industrial district.

In a parking lot, or parking building, no fewer than sixty percent (60%) of the spaces must be nineteen (19) feet long and nine (9) feet wide. The remaining forty percent (40%) of the spaces may be sixteen (16) feet long by nine (9) feet wide to accommodate smaller vehicles. In the case of perpendicular parking, a minimum aisle width of twenty four (24) feet must be maintained.

No parking space may be constructed within five (5) feet of a structure.

All artificial lighting used to illuminate any parking space or spaces shall be arranged so that all direct light from such lighting falls entirely within such parking space or spaces.

Any use in the Agricultural, Rural Residential, Outlying Residential, or Town Center District that has more than five (5) parking spaces shall be subject to the following screening requirements. All parking spaces not within a building shall be provided with a suitable fence, wall or evergreen planting screen of at least five (5) feet in height, designed to screen visibility and headlight glare, and located between such parking spaces and any other lot that abuts directly or across a street. In the case of any development not subject to a special permit and/or site plan approval with a parking lot for more than twenty (20) vehicles, the parking lot shall be subject to Site Plan Review and the procedures for Administrative Review from the Planning Board shall apply.

**5.7.4 Common Facilities**

Parking spaces for one use shall not be considered as providing the required facilities for any other use; however, a Special Permit with Site Plan Approval may be authorized by the Planning Board where it is clearly demonstrated that the need for parking occur at different times.

**5.7.5 Off-Street Loading**

Adequate off-street loading and unloading space with proper access from a street, highway, common service driveway, or alley shall be provided on any lot on which a business or institutional use is located. No parking service or loading facility shall require using the public roadway for maneuvering or parking. Adequate off-street loading facilities and space must be provided to service all needs created by new construction, conversion of facilities, additions to existing structures, or by changes of use to existing structures. Each required loading space shall be not less than ten (10) feet in width and of such length that any truck or trailer occupying such a space shall be located entirely on the lot with the building it is to serve, and shall not extend into sidewalks or the street. In addition, all loading areas must comply with Section 4.3 with respect to yards and setbacks.

**5.7.6 Loading Docks/Truck Bays**

The following standards shall apply regarding the number of allowable truck bays and loading docks per use in all zoning districts:

**Table - Loading Docks/Truck Bays Allowed**

Size of Primary Structure	Number of Bays and Docks Allowed
Less than 80,000 square feet	6
80,000 square feet or greater	12

**5.7.8 Abandoned Property**

- A. No person shall abandon any vehicle on property within the Town of Hatfield and no person shall leave any vehicle on property within the town for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.
- B. No person in charge or control of any property within the town, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, wrecked, junked or discarded vehicle to remain on such property longer than seventy-two (72) hours; and no person shall leave any such vehicle on any property within the town for a longer time than seventy-two hours; except that this By-Law shall not apply with regard to a vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise; or a vehicle in a storage place maintained for said purpose in a lawful place and manner in the town.

**5.7.9 Materials Storage in Trailers**

The permanent or temporary storage of materials in trailers shall not be allowed in the Light Industrial District.

**5.8 COMMON DRIVEWAYS**

The purpose of this by-law is to:

- A. Enhance the safety and welfare of residential lots served by common driveways
- B. Clarify the rights and responsibilities of builders and residents of common driveways

- C. Preserve, protect and enhance environmentally sensitive land that might otherwise be cleared, excavated, filled and/or covered with impervious surface
- D. Provide access to lots, over a common driveway, which might not have access through the street frontage due to topography or environmental conditions.
- E. Encourage the protection and preservation of natural and roadside vistas.

5.8.1 Scope:

Common driveways may be allowed by the Planning Board, for residential use lots, by Special Permit with Site Plan Approval (SPA), in accordance with Section 5.0 Special Permits, Site Plan Approval and Site Plan Review of this Zoning By-law. Each of the lots associated with the use of a common driveway must meet the minimum street frontage, area, set back and coverage requirements set forth in Section 4.3 Table of Dimensional and Density Regulations of this by-law. Common driveways shall not be considered public ways and shall not provide lot frontage. Each lot must provide off-street parking in accordance with the criteria set forth in this by-law. The Town of Hatfield shall not be required to provide construction, reconstruction, maintenance, snow plowing, school bus pick-up or police patrols along a common driveway.

5.8.2 Common Driveway Standards:

The Planning Board may grant the Special Permit with Site Plan Approval for the use of a common driveway. The following conditions must be met and shall be shown on the plan submitted for approval.

A. Dimensional Requirements:

1. The width of the right of way shall be a minimum of thirty five (35) feet.
2. The width of the common driveway surface shall be eighteen (18) feet.
3. The common driveway shall have three (3) feet of gravel shoulder on each side of the surface.
4. The common driveway shall not exceed 600 feet in length to the last lot line.
5. The slope or grade of a common drive shall in no place exceed 8% if unpaved or 10% if paved surface.
6. The common driveway shall intersect a public way (street) at an angle of not less than 80%
7. Alignment and sight distances should be sufficient to support a designed speed of fifteen (15) m.p.h. and the minimum roadway curvature at the point of the driveway intersection shall be sufficient for an emergency vehicle to negotiate (no less than a radius of fifty (50) feet).
8. In areas where town water is available, a fire hydrant shall be required if the terminus of the common driveway is greater than five hundred (500) feet from an existing hydrant on a public way (street).
9. The common driveway shall be capable of providing access for emergency vehicles with wheel base of up to a fifty (50) feet.
10. There shall be a turnaround located at the end of the common driveway adequate for fire and other emergency vehicles.
11. The common driveway shall enter the public way (street) within the frontage of the lots being served and shall lie entirely within the lots being served by the common driveway.
12. The common driveway shall provide common vehicular access to more than one, but not more than three (3) residential use lots.

B. Construction:

1. A common driveway shall be constructed and paved in accordance with Town of Hatfield Rules and Regulations Governing The Subdivision of Land , (Section 5.0 Design Standards, Sub-Section 5.3 Streets and Ways, Paragraph H.1,2,3,4,5).
2. The Planning Board may require engineered plans for the driveway construction, storm water drainage system and above grade and underground utility entrances.
3. For applicants having special circumstances or short length design the Planning Board may allow an alternative construction standard consisting of a minimum of 12" deep gravel base with oil/ chip-seal (trap-rock) paving. The paving shall consist of three (3) successive layers consisting of ¾" trap-rock stone base, oil, ½" trap-rock middle course, oil, and ¼" trap-rock stone top course. The trap-rock paving shall be at least 1 ½" thick compacted measure.
4. Drainage shall be adequate to dispose of surface storm water runoff. Culverts shall be installed if deemed necessary by the town's Department of Public Works.
5. Any additional storm water runoff generated by the new driveway shall not run onto any adjacent property and to the extent possible be recharged on-site.
6. Any utility extensions contained within the common driveway shall be considered privately owned and maintained.
7. Certain construction standards may be waived if, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intend of the Zoning By-law.

C. Alignment and Design:

1. The common driveway, at its intersection with the street, must provide a leveling off area with a slope no greater than 2% for the first twenty (20) feet and slope no greater than 5% for the next thirty (30) feet.
2. There shall be a minimum of two hundred (200) feet between entrances of any two common driveways onto any public way (street).
3. The common driveway shall enter a roadway at a point separated by at least one hundred (100) feet from an intersection. On a state highway, the common driveway shall enter the public way (state highway) at a point separated by at least on hundred (100) feet from any other driveway, curb cut or intersection, except when Massachusetts Department of Transportation requirements are more stringent.
4. The common driveway shall have adequate sight distance at its intersection with the public roadway (street) and shall not create traffic or pedestrian safety hazards to its user or the public.
5. The common driveway shall access the property over the frontage of at least one of the lots being served by the driveway.
6. The common driveway shall provide the only vehicular access or egress to the lots being served by the common driveway, and this shall be stated in the deed to the subject lots.
7. Permanent signage, sufficiently readable from the public way (street) to serve the purpose of emergency identification, indicating the street numbers address assigned to each lot served by the common driveway, shall be installed within ten (10) feet of the intersection of the common driveway with the public way (street) as well as within ten (10) feet of the intersection of an individual lot driveway

with the common driveway. The individual homes on each of the lots shall also display the assigned street numbers. These requirements may be expanded upon at the request of the Fire Chief, Police Chief, Highway Department or Building Commissioner of the Town of Hatfield.

8. Common driveway design shall, to the greatest extent possible, minimize adverse impact to wetlands, farmland or other natural resources; allow reasonable, safe and less environmentally damaging access to lots characterized by slopes or ledges; and retain existing vegetation and topography.
  9. Neighborhood mail boxes, and newspaper boxes, for the residences located along the common driveway, shall be located in a pull-off within the common driveway right-of-way, and shall be constructed in accordance with U. S. Postal Service standards. This area shall be shown on the application plans.
- D. These standards may be modified or waived when, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intent of the Hatfield Zoning By-law. Such waivers, or request for modifications of the standards, must be submitted to the Planning Board, in writing, by the applicant.
- E. No common driveway shall be extended or connected to any other public way (street), or private way, other than the approved point of intersection with the public way (street) providing frontage to the development lots.
- F. All lots served by a common driveway must meet the requirement of a lot, and the dimensional requirements, as defined in the Hatfield Zoning By-laws, Section 4.3 Table of Dimensional And Density Regulations, including, but not limited to, set back, dimensions of front, side, and rear yards as measured in relation to the public way (street) serving as the legal frontage for the lots, and shall be the same as would be required for those lots had they not shared a common driveway.
- G. Each residential lot having access from an approved common driveway may be improved with no more than one (1) dwelling unit and related accessory buildings and uses.
- H. The landowners of a residences served by a common driveway shall be granted a right-of-way corresponding with the layout of the common driveway. Such rights-of-way shall be recorded at the Hampshire County Registry of Deeds within thirty (30) days of approval by the Planning Board, together with a statement of covenants as follows:
1. Common driveways shall at no time be used to satisfy zoning frontage requirements. Each lot served by the common driveway shall have frontage on a public way (street) which serves to satisfy the frontage requirements of each of the lots.
  2. The common driveway shall at no time become the responsibility of the Town of Hatfield.
  3. Each landowner, served by the common driveway, shall be jointly and severally responsible, and liable, for the repair and maintenance of all portions of the common driveway, and utilities contained within, to which more than one landowner holds a right-of-way. Specific responsibilities shall be stipulated in a covenant included in the deed for each property served by the common driveway.
  4. A covenant shall be entered into between the owner or developer, utility companies, and the Town of Hatfield, in a form acceptable to the Planning Board which binds current and future owners of each lot served by the common driveway, prohibiting the sale of lots and

erection of buildings, except for lots approved prior to the adoption of this by-law, until such time as the common driveway has been constructed and inspected at accepted construction stages in accordance with an approved plan design. A draft covenant shall be submitted for approval with the Special Permit Application and shall include but not be limited to specific standards for maintenance and repair of the common driveway, drainage system and other utilities, provision for allocating financial responsibility, and a procedure for resolution of disagreements. If the Special Permit is granted, said covenant shall be recorded at the Hampshire County Registry of Deeds and shall be made part of every deed to each lot served by the common driveway.

5. A common driveway shall not be approved until the utility design approvals and agreements, a declaration of covenants, easement and restrictions for the use and maintenance of the common driveway has been approved by the Town Counsel for the Town of Hatfield.
- I. The Planning Board may require a performance bond or other security for the completion of the common driveway. Such security shall be posted, with the Town of Hatfield, prior to construction the common driveway. The driveway shall be completed, inspected by the Planning Board, or its designee, and the security released prior to the issuance of Occupancy Permits for the lots served by the common driveway.
- J. The Planning Board shall follow the procedural requirement for Special Permits as per Massachusetts General Law, Chapter 40A and the requirements set forth in the Town of Hatfield Zoning By-law, Section 5.0 Special Permits, Site Plan Approval and Site Plan Review.
- K. Common Driveways shall not service more than 3 lots.

## 5.9 SIGNS

### 5.9.1 General

The following shall apply to an industrial or business use in any district, except in the case of industrial, business, home business or home occupation use in any residential district (including Town Center), where there shall be no display visible from outside the building other than an identification sign not larger than four (4) square feet. (Amended ATM 5/9/00, approved 8/17/00)

### 5.9.2 Sign criteria

1. Signs displayed on any lot shall meet the following criteria:
  - a) Signs identifying the use or establishment will be limited to two (2) signs per establishment: one (1) freestanding and one (1) attached.
  - b) Attached signs shall not exceed ten percent (10%) of the wall area to which it is attached and shall not project more than twenty-four (24) inches from the vertical plane of the wall to which such sign is attached.
  - c) Freestanding signs identifying a use or establishment shall not be higher than ten (10) feet nor more than sixty (60) square feet in area.
  - d) Signs may be lighted, but no sign will be of the traveling, animated or flashing-light types.
  - e) Signs shall not impair pedestrian or automobile traffic flow or sight.
  - f) No signs shall be placed in the public roadway layout. A minimum setback of ten (10) feet is required.
  - g) All signs shall be placed in landscaped areas.

- h) Signs with directional information shall not exceed five (5) square feet in size, nor five (5) feet in height.

## 5.10 PRIORITY DEVELOPMENT SITES

### 5.10.1 Purpose

The purpose of this Section is to further expedite permitting in the Priority Development Sites (PDS), as designated by Town Meeting pursuant to G.L. c. 43D and identified in the Assessor's records as Map 219, Parcel 219-78; and to provide mechanisms for the change of facilities after the issuance of a special permit and/or site plan approval by the designated permit granting authority.

### 5.10.2 Changes to Special Permits or Approved Site Plans

After the issuance of any special permit or site plan approval for a project or land use in the Priority Development Sites (PDS), as designated by Town Meeting pursuant to G.L. c. 43D and identified in the Assessor's records as Map 219, Parcel 219-78; any proposed change(s) to the plans for the project shall be deemed substantial or insubstantial by the permit granting authority upon written request by the applicant. The permit granting authority shall make such determination by a majority vote at a public meeting. Insubstantial changes shall be allowed without the need for further hearing or approval.

1. *Insubstantial Changes.* The following shall be presumed to constitute insubstantial modifications:
  - all underground changes;
  - any reduction in project size;
  - any change in the location of buildings, parking, retaining walls or drainage facilities, provided they do not move closer to a lot line;
  - any change in colors and/or style of materials used for exterior construction; and
  - the addition of non-habitable accessory structures for storage or other purposes that in a single structure do not exceed 2,000 square feet and, in the aggregate, do not exceed 5,000 square feet.
  
2. *Substantial Changes.* The following shall be presumed to constitute substantial modifications:
  - any change in the composition or number of uses on the site that results in an increase in traffic generation of more than 5% above the vehicle trips identified in the record documents;
  - any change in the location of buildings, roadways, parking areas and other accessory structures that decrease the setbacks from lot lines indicated in the record documents;
  - any increase in the number of parking spaces beyond the number(s) indicated in the record documents;
  - any change that results in a net reduction of open space or lot coverage from that indicated in the record documents, with the exception of accessory structures defined as non-habitable above;
  - any change to the building(s) or grading that increases building height beyond that indicated in the record documents;
  - any changes to the building(s) that increases the total floor area of the project beyond that indicated in the record plans; and
  - any change to the architectural character of the building(s), as indicated in the record documents.

Where a modification is deemed substantial, the same standards and procedures applicable to an original application for a special permit or site plan review shall

apply to said modification, and a public hearing shall be required by the designated permit granting authority.

### 5.10.3 Change of Use

After the issuance of any special permit or site plan approval for a project or land use in the Priority Development Sites (PDS), as designated by Town Meeting pursuant to G.L. c. 43D and identified in the Assessor's records as Map \_\_\_, Parcel \_\_\_; Map \_\_\_, Parcel \_\_\_; the following procedures shall govern a change of use therein:

1. *Change of Permitted Use to Another Permitted Use.* A use available as of right in the applicable zoning district may be changed to another use available as of right in said zoning district without modification of the special permit or approved site plan, provided that none of the thresholds in Section 5.10.2(2), above, are triggered.
2. *Change of Permitted Use to Use Available by Special Permit.* A use available as of right in the applicable zoning district may be changed to another use available by special permit in said zoning district without modification of the special permit or approved site plan, provided that none of the thresholds in Section 5.10.2(2), above, are triggered.
3. *Change of Use Authorized by Special Permit to Another Use Authorized by Special Permit.* A use authorized by special permit in the applicable zoning district may be changed to another use available by special permit in said zoning district without modification of the special permit or approved site plan, provided that none of the thresholds in Section 5.10.2(2), above, are triggered.”

### 5.10.4 Appeals

1. Appeals from issuing authority decisions or from a grant by operation of law shall be filed within 20 days after the last individual permitting decision has been rendered or within 20 days after the conclusion of the 180 day period as set forth in subsection (a) of section 5, whichever is later. The 180 day period shall be increased by the number of days in any extension granted under this chapter.
2. A person aggrieved by a final decision of any issuing authority, or by the failure of that authority to take final action concerning the application within the time specified, whether or not previously a party to the proceeding, or any governmental officer, board, or agency, may appeal to the division of administrative law appeals by bringing an action within 20 days after a written decision was or should have been rendered. Appeals from decisions of multiple permitting authorities shall be filed simultaneously and shall be consolidated for purposes of hearing and decision. This section shall not apply to appeals pursuant to sections 40 and 40A of chapter 131, which shall continue to be appealed in accordance with said chapter 131, chapter 30A and applicable regulations.

## 6.0 DEVELOPMENT METHODS

### 6.1 TRANSFER OF DEVELOPMENT RIGHTS

#### 6.1.1 Purposes

A. The purposes of this ordinance are:

1. to protect farmland and open space in Hatfield;
2. to protect property values and provide a fair economic return to property owners ;
3. to foster compact development in areas served by public services and infrastructure.
4. to preserve the remaining rural, historic, and agricultural character of the community by directing new commercial & industrial development to appropriate locations.



### 6.1.2 Transfer of Development Rights

A. Transfer of Development Rights provides for increased density of commercial and industrial development in the designated Receiving Area, when suitable open space land in the Sending Area, is permanently preserved from development. The transfer of development rights is accomplished by the execution of an Agricultural Preservation Restriction or Conservation Restriction, and the increased density is permitted by the issuance of a Special Permit, both as hereinafter provided.

### 6.1.3 Eligibility

A. All lots shown on a plan, or described in a deed, recorded at the Registry of Deeds in the Sending Area are eligible to apply for a Special Permit from the Planning Board to transfer all or part of the development rights on the lot to a lot in the Receiving Area via the Hatfield Land Preservation Fund as described in this bylaw.

### 6.1.4 Establishment of Sending Area and Receiving Area

A. The following districts are hereby established:

1. a Sending Area, which shall consist of all land within the Agricultural (AG), Outlying Residential (OR), and Rural Residential (RR) Zoning Districts. The Sending Area is established so as to designate lands eligible for Agricultural Preservation and Conservation Restriction funding under the Hatfield TDR program.
2. a Receiving Area, which shall consist of all land, which is served with Town water and sewer, within the Business (B), Industrial (I), and Light Industrial (LI) Zoning Districts.

### 6.1.5 Special Permit Process for Transfer of Development Rights

- A. The applicant proposing to develop specified land in the Receiving Area at a density allowed by this ordinance with transfer of development rights shall make an application to the Planning Board for a Special Permit. The application shall clearly illustrate a land parcel or parcels in the Receiving Area proposed for transfer of development rights, and the number of development rights proposed for transfer. Copies of the application package shall be delivered to the Planning Board, Town Clerk, Conservation Commission, and Agricultural Preservation Committee.
- B. The applicant shall submit to the Planning Board a transaction fee, to be used for the administration, recording and monitoring of the transferred development rights and preserved Agricultural Preservation Restriction or Conservation Restriction. The Planning Board may employ a consultant for these administrative purposes. This administrative fee may be in addition to an application fee.
- C. The applicant shall file with the Planning Board a preliminary development plan for the parcel or parcels in the Receiving Area, illustrating the increased development density created using the transferred development rights, and illustrating all wetland and floodplain areas.
- D. Upon final approval of site plans, the Planning Board shall make a decision to grant, deny, or grant with conditions, the Special Permit to increase the density of development in the Receiving Area, based on the table in Section 6.1.7, and as per the process indicated in Section 5.0 of the Hatfield Zoning Ordinance.
- E. The Planning Board shall certify the calculation of the required number of development rights necessary to complete the project as presented by the applicant.
- F. After determining the appropriate number of sending area development rights necessary to increase the density of the proposed development, a cash contribution to the Town of Hatfield's Land Preservation Fund, to be used for the purpose of purchasing Agricultural Preservation or Conservation restrictions or other such use benefiting lands in the Sending Area as deemed appropriate by the Hatfield Agricultural Advisory Committee, shall be documented by the applicant as required by the rules and regulations of the Planning Board.
- G. The cash contribution shall be of a value equal to the value of the required sending area development rights, as determined in the Table of Exchange Standards for Transfer of Development Rights (Table 1). This value shall be determined by multiplying the number of Sending Area Development Rights required in the development proposal by the average cost of a Development Right in Hatfield. The average per acre cost of a Development

Right shall be equal to the difference between the average per acre assessed value of residentially improved land and the average per acre assessed value of unimproved land. These averages shall be those averages determined by the most current Town-wide comprehensive property assessment in the Town of Hatfield. For the purposes of this Bylaw, the cash value of one (1) Sending Area Development Right shall be equal to one and one half (1.5) times the average per acre cost of a development right in the Town of Hatfield.

6.1.6 Receiving Area Regulations

- A. The Planning Board shall not approve a Special Permit for Transfer of Development Rights for a project which is not served by public sewer and water lines in the Receiving Area.

6.1.7 Dimensional and Density Regulations Allowed By the Transfer of Development Rights

- A. Each Sending Area Development Right is equivalent to one of the development rights in the Receiving Area shown in the Table of Exchange Standards for Transfer of Development Rights, found below in this section.

**Table 1. EXCHANGE STANDARDS FOR TRANSFER OF DEVELOPMENT RIGHTS**

Sending Area Development Right	Business (B) Zoning District Receiving Area (Density Bonus)	Notes
One (1) Development Right equals: (see 6.1.5. G for determination of cash value)	2,000 s.f. of additional commercial floor area, plus a 5% increase in building coverage for a single commercial or industrial lot (1)	1) “Additional commercial or industrial floor area” shall be defined as floor area above that which would normally be permitted in the underlying district, under Table 4.3 of the Hatfield Zoning Ordinance. The Planning Board may allow an increase in lot coverage from the maximum lot coverage required in Table 4.3, up to a maximum 75% lot coverage in the Business (B) Zoning District.
Sending Area Development Right	Industrial (I) or Light Industrial (LI) Zoning District Receiving Area (Density Bonus)	Notes
One (1) Development Right equals: (see 6.1.5. G for determination of cash value)	For Use < 30,000 sq. feet (gross building area): A 2% increase in allowable building coverage (2)	2) “Additional commercial or industrial floor area” shall be defined as floor area above that which would normally be permitted in the underlying district, under Table 4.3 of the Hatfield Zoning Ordinance. The Planning Board may allow an increase in building coverage from the maximum building coverage required in Table 4.3, up to a maximum 50% building coverage in the Industrial (I) or Light Industrial (LI) Zoning Districts.
One (1) Development Right equals: (see 6.1.5. G for determination of cash value)	For Use ≥ 30,000 sq. feet (gross building area): 5,000 s.f. of additional gross floor area (2)	

6.1.8 Design Standards for Business and Industrial Receiving Areas

- A. All business and industrial uses developed under this Ordinance must meet the Commercial Performance Standards or Industrial Performance Standards, as appropriate, in this zoning bylaw.

6.1.9 Special Permit Criteria

- A. In addition to the Special Permit criteria in Section 5.0, the Planning Board shall grant a special permit for transfer of development rights if it finds the following criteria are met:
  1. The proposed use is in harmony with the purposes of this Zoning Bylaw:
  2. The proposed use meets all of the procedural, dimensional and density requirements, and design standards of this Zoning Bylaw.
  3. All business and industrial uses in the Receiving Area must meet the Design Standards for Business and Industrial Receiving Areas in Section 6.1.8.

6.1.10 Release of Agricultural Preservation Restriction or Conservation Restriction

- A. No Agricultural Preservation Restriction, which has been conveyed under this Bylaw, may be released unless the provisions for release of Agricultural Preservation Restrictions in M.G.L. Chapter 184, Section 32 have been met, which include:
  1. The restriction must be repurchased from the Town by the landowner at its then fair market value, and funds returned to the Town bank for development rights;
  2. The restriction shall only be released by its holder only if the land is no longer deemed suitable for agricultural or horticultural purposes and unless approved by a two-thirds vote of both branches of the Massachusetts general court.
- B. No Agricultural Preservation Restriction or Conservation Restriction, which has been conveyed under this Bylaw, may be released unless the provisions for such a release are compliant with M.G.L. Chapter 184, Sect. 32.

6.1.11 TDR Volunteer Registry

- A. The Hatfield Agricultural Advisory Committee shall keep a voluntary registry of property owners of land in the Sending Area who are interested in participating in this program

**6.20 OPEN SPACE DEVELOPMENT**

**6.2.1 Open Space Development Allowed By Right**

Open Space Development in accordance with this bylaw shall be allowed by right in the Rural Residential District (RR), Outlying Residential District (OR), Town Center District (TC), and Agricultural District (AG), not including those lands in Hatfield’s Floodplain District (FP). Open Space development shall mean a residential development in which single family residences are clustered together, adjacent to permanently preserved open space.

**6.2.2 Purposes**

The purposes of Open Space development are to:

1. allow for greater flexibility and creativity in the design of residential subdivisions, provided that the overall density of the development is no greater than what is normally allowed in the district;
2. encourage the permanent preservation of open space, agricultural lands, forest lands and other natural resources and encourage a less sprawling form of development that consumes less open land;
3. maintain the traditional New England rural character and land use pattern in which small villages contrast with open space and farmlands;
4. facilitate the construction of streets, utilities and public services in a more economical and efficient manner;
5. ensure that residential developments respect the natural features of the land, including wetlands, watercourses, forests, prime agricultural land, steep slopes, plants, wildlife, historic sites, scenic areas, and rural character;
6. encourage development out of view from the road, and promote alternatives to strip residential development lining roadsides in the town.
7. provide wildlife corridors connecting open spaces, needed by wildlife to ensure their survival.

**6.2.3 Net Developable Area**

1. The net developable area of a parcel for Open Space development shall be the total area of all lots shown to be developable under Town of Hatfield Subdivision Regulations and zoning, and shall be calculated by the following procedure:
  - a. The area of those lots which is determined to be not suitable for on-site sewage disposal shall be subtracted from the developable area of the total parcel.
  - b. Under the supervision of the Conservation Commission, the total acreage of all wetlands, in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Hatfield Wetlands Protection Bylaw shall be identified and their area subtracted from the developable area of the total parcel.
  - c. The area of those lots which is identified as having steep slopes (slopes of 25% or greater) shall be subtracted from the developable area of the total parcel.

**6.2.4 Flexible Area in Open Space Developments**

1. Individual lot areas may be as small as the minimum lot sizes shown in Table of Open Space Development Dimensional Requirements (Table 6.2.13), provided that the average size for all lots created, including any land reserved as open space, shall be no smaller than the required average lot size, shown in Table 6.2.13.
2. The total number of building lots which can be created from any parcel shall be determined by dividing the net developable area (see Section 6.2.3) by the required average lot size shown in the Table of Open Space Development Dimensional Requirements (Table 6.2.13).
3. All land not used for building lots, but not less than 40% of the total parcel area, shall be placed in permanent open space in accordance with Section 6.2.9 of this bylaw.

**6.2.5 Flexible Frontage in Open Space Developments**

1. The frontage of the parcel from which the lots of a Open Space development are created (whether or not by subdivision) shall equal or exceed 60 feet for each lot created in the Open Space development, as shown in the Table of Open Space Development Dimensional Requirements (Table 6.2.13).

2. Provided that all other requirements of this bylaw are met, there shall be no frontage required for individual lots within an Open Space development, with the exception described in Section 6.2.5.3 below. Each lot shall have adequate access on a public way.
  3. To the extent feasible, all buildings shall be located out of view from any road, and protected open space shall be located adjacent to public ways. Any building lot which fronts on an existing public road shall have the frontage normally required in the zoning district.
- 6.2.6 Dimensional Requirements and Landscaped Buffer
1. All lots within an Open Space development shall meet the front, rear and side yard requirements specified in the Table of Open Space Development Dimensional Requirements (Table 6.2.13).
  2. All residential structures and accessory uses shall be set back from the boundaries of the development by a buffer strip of at least fifty (50) feet in width which shall include trees and shall be kept in a natural or landscaped condition.
- 6.2.7 Site Design Standards
1. Each structure shall be integrated into the existing landscape on the property so as to minimize its visual impact through use of vegetative and structural screening, landscaping, grading, and placement on or into the surface of the lot.
  2. Lots shall be laid out and designed, to the greatest extent feasible, to preserve and protect historic and archaeologic sites, farmland, wooded stream corridors, forested areas and large trees, scenic views particularly as seen from public roads, ridgelines and hilltops.
  3. All buildings, roads and driveways shall be located away from soils which are most suitable for agriculture (based on U.S. Soil Conservation Service classifications for prime farmland soils and soils of state and local importance) to the maximum practical extent. This provision does not apply to the location of on-site septic disposal facilities which must be placed in soils meeting the Massachusetts Environmental Code.
- 6.2.8 Utility Requirements
1. On-site Sewage Disposal  
The following standards shall apply to developments requiring on-site sewage disposal:
    - a. The applicant shall submit a septic system design prepared by a certified engineer and approved by the Board of Health and a plan illustrating the location of water supply wells with the application.
    - b. All Open Space developments must meet the minimum state Environmental Code (Title V) requirements for minimum setbacks between private water supply wells and septic tanks or soil absorption systems (310 CMR 15.211).
    - c. All Open Space developments must meet the minimum state Environmental Code (Title V) requirements for nitrogen loading limitations (310 CMR 15.214-15.217). For Open Space developments with individual lot sizes less than 40,000 square feet, applicants must meet the following standards:
      - (1) Applicants must designate, on a plan, specific areas of common open space as "nitrogen credit land", based on the following equation:  

$$(40,000 \text{ square feet} \times \text{number of lots}) - (\text{total square feet in proposed Open Space lots}) = \text{square feet of required nitrogen credit land in common open space}$$
      - (2) Nitrogen credit land must meet DEP qualifications contained in "Guidelines for Title 5 Aggregation of Flows and Nitrogen Loading 310CMR15.216" including, but not limited, to the following qualifications:
        - Must be restricted to prohibit man-made sources of nitrogen, including sewage discharge, nitrogen-based fertilizer or raising and grazing of livestock;

- Must be restricted to prohibit artificially rendered imperviousness (i.e. paved streets, paved parking lots, buildings, structures, etc.);
- Not within a Velocity Zone or Regulatory Floodway identified by FEMA;
- Not under surface water;
- Not already being used as nitrogen credit land.

(3) All designated nitrogen credit land must be permanently restricted from further development under a "Grant of Title 5 Nitrogen Loading Restriction and Easement on Nitrogen Credit Land".

After approval of the Open Space Final Subdivision Plan, applicants must apply to the Board of Health and the Mass. Department of Environmental Protection (DEP) for an aggregate determination of nitrogen loading under 310 CMR 15.216.

d. It is required that septic systems be installed on individually-owned lots.

2. Water Supply

a. In order to meet state Title V requirements for separation distances between drinking water wells and septic systems, private drinking water supply wells may be located in the common open space for a Open Space development, provided that the provisions of Section 6.2.10 for a homeowner's association are met.

6.2.9 Common Open Space

1. Common Open Space Requirements

- a. A minimum of 40% of the total development parcel must be permanently protected as common open space. At least 70% of the common open space shall be retained in contiguous areas, unless approved by the Planning Board.
- b. Watercourses, lakes, ponds, wetlands and steep slopes over 25% may not be included in common open space calculations.
- c. The Planning Board may permit up to three (3) percent of the open space area to be paved or built upon for structures accessory to the dedicated use of open space (i.e. pedestrian walks, bicycle paths, playgrounds, farm-related structures).

2. Land Protection Methods for Common Open Space

- a. All land not devoted to buildings, lots, roads and other development shall be permanently protected as common open space for recreation, conservation, forestry or agricultural uses which preserve the land in its natural condition, by using the following method:
  - (1) The land shall be owned by a non-profit land trust or conservation organization, homeowner's association, or individual, and a permanent conservation easement or deed restriction must be conveyed to the Town, with Town approval, or to a non-profit trust or conservation organization whose principal purpose is to conserve farmland or open space.
- b. Further subdivision of common open land or its use other than recreation, conservation, forest or agriculture, except for easements for underground utilities or drinking water supply wells, shall be prohibited.

6.2.10 Homeowner's Association

1. In the event that ownership of the land will remain with the homeowners in the Open Space Development, a non-profit, homeowner's association shall be established, requiring membership of each lot owner in the Open Space development. The association shall be responsible for the permanent maintenance of all common lands, common open space, recreational and thoroughfare facilities (not including drinking water wells), except where such responsibility is assumed by another owner of the common land (land trust or conservation organization). If any drinking water well is located on common open space, the homeowner/s shall own the well and be responsible for any maintenance or related costs associated with their well. A homeowner's association agreement or covenant guaranteeing continuing maintenance of such common utilities, land and facilities, and assessing each lot a share of maintenance expenses shall be submitted with the final

subdivision application. Where no homeowner's association is proposed, an alternative plan shall be submitted with the final subdivision application. Such agreement shall be subject to the review and approval of Town Counsel and the Planning Board, and shall be recorded in the Hampshire County Registry of Deeds. Such agreements or covenants shall provide that in the event that the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement, the town may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the town shall be assessed equally against each of the properties within the development.

6.2.11 Stormwater Management

The Planning Board shall encourage the use of non-structural stormwater management techniques and other drainage systems that reduce impervious surfaces and enable infiltration where appropriate.

1. Stormwater management systems serving the Open Space subdivision may be located within the required common open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space requirement.

6.2.12 Subdivision Approval Procedures

1. Applicants for Open Space development projects shall follow all procedures specified in the Town of Hatfield Subdivision regulations.
2. Reviewing agencies  
The Planning Board shall submit copies of the preliminary and final subdivision plans to the Board of Health, Conservation Commission, Public Works Superintendent, Chief of Police, Fire Chief and the Town Administrator for review and comment.

**6.2.13 Table of Open Space Development Dimensional Requirements**

<b>Zoning district</b>	<b>RR</b>	<b>OR</b>	<b>TC</b>	<b>AG</b>
Min. Lot Area – Standard Subdivision (sq.ft.)	45,000	60,000	45,000	60,000
Min. Lot Area - Open Space Dev. (sq. ft.)	30,000 (1)	30,000 (1)	30,000 (1)	30,000 (1)
Average Lot Area Open Space Dev. (sq. ft.) (2)	40,000	52,500	40,000	52,500
Min. Common Open Space - Open Space Dev. (percent)	40	40	40	40
Min. Frontage – Standard Subdivision (ft.) (3)	200	200	200	200
Min. Frontage for Individual Lots – Open Space Dev. (ft.)	80	80	80	80
Min. Front Setback Open Space Dev. (ft.)	35	35	35	35
Min. Rear Setback Open Space Dev. (ft.)	30	30	15	30
Min. Side Setback Open Space Dev. (ft.)	15	15	15	15
Min. Distance Between Buildings Open Space Dev. (ft.)	30	30	30	30
Max. Impervious Surface Coverage of Buildable Land Open Space Dev. (percent)	25	25	25	25

- (1) All Open Space Developments must meet minimum State Environmental Code (Title V) requirements, as described in Section 6.2.8.1
- (2) Calculations for average lot areas shall be computed by adding the lot sizes for all lots in the Open Space Development subdivision, plus common open space, as described in Section 6.2.9, and dividing by the total number of lots.
- (3) The frontage of the parcel from which the lot of an Open Space Development is created shall equal or exceed at least 60 feet per developable lot created

**6.3 COMMERCIAL DEVELOPMENT PERFORMANCE STANDARDS**

**6.3.1. Purpose**

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



### 6.3.2 General Application

All commercial and mixed use projects which require Special Permit, Special Permit with Site Plan Approval or Site Plan Review shall demonstrate compliance with the following performance standards.

### 6.3.3 Access, Traffic Impacts and Parking

The Planning Board may waive the submittal requirements listed in Sections 6.3.3.1.a. and 6.3.3.1.b..

1. Applicants shall demonstrate that the project will minimize traffic and safety impacts on highways, roads and access ways.
  - a. A traffic impact statement shall be prepared which shall contain:
    - Existing and proposed traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site.
    - An assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities and impacts on intersections.
    - Adequate pedestrian and bicycle access shall be provided as follows:
      - Sidewalk shall be installed to provide access to adjacent properties and between individual businesses within a development.
  - b. No new curb cut shall be allowed that is closer to any existing curb cut than 200 linear feet. In addition, new curb cuts on state and local roads shall be discouraged and developers shall be encouraged to seek access via a common driveway serving an adjacent lot or premises.
  - c. Additional curb cuts shall be prohibited as set forth above; however, in general, one driveway curb cut shall be allowed per business, except that, in the case of a project with multiple businesses on the same premises, two means of ingress and egress shall be allowed and they may be constructed to be less than 200 linear feet apart and separated by a median strip.
  - d. Curb cuts shall be limited to the minimum width for safe entering and exiting. The Mass Highway-Highway Design Manual (most recent published edition-available from the Mass Highway Department) shall be used as a guide for determining adequate traffic design standards for any commercial project
  - e. All driveways shall be designed to afford motorists exiting to highways a safe sight distance, according to standards in the Massachusetts Highway Department's Mass Highway-Highway Design Manual.
  - f. The proposed development shall assure safe interior circulation within its site by separating pedestrian, bicycle and vehicular traffic.
  - g. Adequate pedestrian and bicycle access shall be provided as follows:
    - Sidewalks, or other pedestrian access ways, shall be provided along public ways to allow pedestrian access to adjacent properties, and between individual businesses within a development. The SPGA or SPRA may waive this requirement in a case where such action is in the public interest and not inconsistent with the purposes of the Zoning Bylaws.
    - Adequate bicycle parking shall be provided as required in the Parking Requirements Section 5.7 of these Zoning Bylaws.
  - h. Driveways and Circulation
    - Driveways shall be no greater than twenty-four (24) feet in width.
    - Aisles (the travelled ways within parking lots) shall be not less than twenty (20) feet in width.
    - No portion of an entrance or exit driveway shall be closer than fifty (50) feet to the curblines of any intersecting street, nor closer than fifty (50) feet to any portion of an existing driveway on the same or adjacent lot.
    - Pedestrian walkways shall be integrated into the design of the lot. Where a walkway crosses a vehicular path, the walkway shall be defined through the use of a different paving material or painted lines.
  - i. Parking
    - Parking areas shall be provided pursuant to the Parking Requirements (Section 5.7) of these zoning bylaws.

- (2) Parking shall be located to the side or rear of buildings. In no case shall parking be allowed in the planting strip adjacent to the sidewalk or within the front setback of any lot.

j. Screening and Buffering

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

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

k. Landscaping

The following landscaping standards are established to ensure the design of parking areas that provide a reasonable measure of shade and visual relief. The provisions of Sections 6.3.3.1.k.(1) through 6.3.3.1.k.(4) shall apply to all proposed parking areas containing eight (8) or more vehicle spaces. Applicants proposing smaller parking areas, consisting of seven (7) or fewer spaces, shall be encouraged to provide landscaping that provides a comfortable and attractive environment for pedestrians and motorists.

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

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

Plant materials used to meet the requirements of this Bylaw shall conform to the American Standard For Nursery Stock, (available from the American Standards Institute, Inc.), and shall be planted according to accepted horticultural standards.

Planting strips shall be at least nine (9) feet in width and shall respond to the needs of storing snow, locating light poles, and providing safe pedestrian access.

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

The applicant shall use reasonable efforts to integrate existing mature trees on the site into the proposed landscape plan. Existing trees that are used to meet the requirements of this section shall be protected during construction using the following standards:

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

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

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

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

l. Stormwater Management

- (1) Proposed developments shall meet the requirements of Section 8.0, Stormwater Management Bylaw.

m. Loading Areas

Each off-street loading space shall be not less than twelve (12) feet in width, twenty-five (25) feet in length, and shall be hard-surfaced.

Off-street loading space shall be provided on the same lot with the principal use to which it is accessory. The Planning Board may waive this requirement for a Planned Business Development (Section 6.5)

Off-street loading areas shall be screened from view from neighboring properties and public streets using one of the following techniques:

Dense, hardy evergreen plantings

Evergreen plants shall be at least two (2) feet tall at the time of planting with the capacity to reach a height that fully screens the area. Plantings shall be at least four (4) feet tall at the time of planting when abutting a residential use or zoning district.

Screening structures and plantings shall be properly maintained. Plantings which die or fail to provide adequate screening shall be replaced within one growing season.

Earthen berm

Wall

Fence

Any combination of the above techniques which the Planning Board determines is sufficient to screen the area from view.

No use requiring more than twelve (12) permanent and/or temporary loading docks or stations shall be allowed in any zoning district in the Town of Hatfield. (See Section 5.7.6)

### **6.3.4 Appearance/Architectural Design**

1. Project design should be compatible with the rural character and scale of Hatfield and other similar traditional New England towns through the use of appropriate site design, building design, building materials, and landscaping.
2. For projects within the Town Center and Business Zoning Districts, the applicant shall reference the Hatfield Design Guidelines Handbook for specific guidance regarding design issues.

### **6.3.5 Landscaping**

1. A landscaped buffer strip at least twelve (12) feet wide, continuous except for approved driveways, shall be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, medium height shrubs, and shade trees (minimum 2-inch caliper, planted at least every 50 feet along the road frontage). Artificial trees or plants shall not be used to meet these requirements. At all street or driveway intersections, trees or shrubs shall be set back a sufficient distance from such intersections so that they do not present a traffic visibility hazard. The sidewalk required above may be incorporated into the buffer strip.
2. Exposed storage areas, waste disposal areas including dumpsters, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, earthen berms, walls, fencing, or any combination of these methods so approved by the Planning Board.
3. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.
4. Landscaping shall be in conformance with existing town bylaws and regulations.
5. Completion of the landscaping requirements may be postponed due to seasonal weather conditions for a period not to exceed seven (7) months from the time of project completion.

### **6.3.6 Lighting**

1. No light standard shall be taller than fourteen (14) feet in height.

For projects within the Town Center and Mixed Use Development Zoning Districts, the applicant shall reference the Hatfield Design Guidelines Handbook for specific guidance regarding lighting design issues.

### **6.3.7 Environmental Standards**

#### **1. Storm Water Management**

Proposed developments shall meet the requirements of Section 7.0, Stormwater Management Bylaw.

#### **2. Erosion Control**

Erosion of soil and sedimentation of streams, water bodies, and wetlands shall be minimized by using the following erosion control practices:

An erosion control plan shall be filed with Planning Board at the time of site plan review. No work shall begin until the Planning Board has approved the erosion control plan.

Areas that are exposed or disturbed due to stripping vegetation, soil removal, or regrading shall be permanently stabilized before issuance of an Occupancy Permit.

During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is permanently stabilized, sediment in run-off shall be trapped by using sedimentation traps such as siltation fencing, staked haybales, or stone check dams.

Permanent erosion control and vegetation measures shall be in accordance with the management practices recommended by the Natural Resources Conservation Service.

All slopes exceeding twenty percent (20%), resulting from site development or disturbance, shall be covered with four (4) inches of topsoil and planted with a vegetative cover sufficient to prevent erosion, or stabilized by a retaining wall.

Dust control shall be used during non-agricultural grading operations if the grading is to occur within 200 feet of an occupied residence or place of business. Dust control methods may consist of dampening the ground with water prior to beginning work or grading fine soils only at times of low wind velocity.

### 3. Water Quality

- a. All outdoor storage facilities for fuel, hazardous materials or wastes, and potentially harmful raw materials shall be located within an impervious, diked containment area adequate to hold 110% of the total volume of liquid kept within the storage area. Projects shall comply with all relevant state requirements and Board of Health and Fire Department regulations.

### 4. Explosive Materials

No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, unless prior written approval of the Fire Chief has been obtained by the applicant. The project shall also meet any relevant federal and state regulations.

- b. Propane gas tanks for residential use or in 100-lb. cylinders (and smaller) shall be exempt from these safety regulations.

### 5. Particulate Matter

All cinders, dust fumes, and gases shall be effectively confined to the premises.

### 6. Electromagnetic Interference

Electromagnetic interference shall be regulated according to FCC and other federal and state laws.

### 7. Buildings

All permitted uses, functions, and services shall be conducted entirely within buildings of permanent construction except as otherwise provided herein, except for parking, loading/unloading, open space, and minor accessory uses related to the principal use. All minor accessory uses shall be screened from the view of the public way and adjacent properties with a vegetative screen or fence.

### 8. Storage of Materials

- a. All materials, supplies, and equipment stored in structures shall be stored as to be in compliance with the Fire Prevention Standards of the National Board of Fire Underwriters.
- b. Storage of materials in trailers shall not be allowed in the Light Industrial District.

## **6.4 INDUSTRIAL DEVELOPMENT PERFORMANCE STANDARDS**

### 6.4.1. Purpose

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

### 6.4.2 General Application

All industrial projects which require Special Permit, Special Permit with Site Plan Approval, or Site Plan Review must demonstrate compliance with the following performance standards.

### 6.4.3 Access, Traffic Impacts and Parking

The Planning Board may waive the submittal requirements listed in Sections 6.4.3.1.a. and 6.4.3.1.b..

1. Applicants must demonstrate that the project will minimize traffic and safety impacts on highways, roads and access ways.
  - a. A traffic impact statement shall be prepared which shall contain:
    - Existing and proposed traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site.

An assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities and impacts on intersections.

- b. The Planning Board may require the following additional information for projects proposing over twenty thousand (20,000) square feet of buildings and structures:
  - (1) A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, the preparation of a trip reduction plan, or other appropriate means.
- c. The number of curb cuts on state and local roads shall be minimized. Whenever feasible, access to businesses shall be provided via a cul-de-sac or loop road shared by adjacent lots or premises.
- d. One driveway shall be permitted as a matter of right per business or per project, if a project includes several businesses within a structure or group of structures. Where deemed necessary by the SPGA, two driveways, clearly marked "entrance" and "exit", may be permitted as part of the Site Plan Approval or Site Plan Review process.
- e. Curb cuts shall be limited to the minimum width for safe entering and exiting. The Mass Highway-Highway Design Manual (latest available edition available from Mass Highway Department) shall be used as a guide for determining adequate traffic design standards for any industrial project
- f. All driveways shall be designed to afford motorists exiting to highways a safe sight distance.
- g. Driveways and Circulation
  - No portion of an entrance or exit driveway shall be closer than fifty (50) feet to the curblines of any intersecting street, nor closer than fifty (50) feet to any portion of an existing driveway on the same or adjacent lot.
- h. Parking
  - Parking areas shall be provided pursuant to the Parking Requirements (Section 5.7) of these zoning bylaws.
- i. Screening and Buffering
  - Landscape planting, including trees, shrubs, grass or ground cover, shall be provided and permanently maintained by the owner in the area required for setback from property and street lines. All existing natural growth shall be preserved where practicable.
  - Where an industrial use abuts a parcel zoned for residential use on the side or rear, a dense vegetative buffer, at least fifty (50) feet in width shall be provided and maintained. The board may require more extensive plantings or opaque fencing if unusual conditions demand more screening or noise abatement.
  - Vegetative or structural buffers shall be no less than five (5) feet high and shall be visually impervious throughout the year. Buffers may be a hedge, wall, fence, berm or combination of these choices. The height of any screen shall decrease where driveways approach sidewalks, walking paths, and streets in order to provide adequate visibility of pedestrians from motor vehicles and to maintain a clear line of sight for vehicles entering the roadway.
- j. Landscaping
  - (1) No less than fifteen (15) percent of the area of a parking lot, not including the perimeter area, shall be permanently landscaped using planting strips, planting diamonds, hedges, bushes, groundcovers, trees, and other vegetation. Buffer and screen plantings shall only count toward the required landscaping when they occur in areas other than the perimeter of the parking lot.
  - (2) The applicant shall plant and maintain a minimum of one (1) deciduous tree per eight (8) parking spaces constructed. Trees shall have a minimum size of two (2) inch caliper at the time of planting and shall be located on the site so as to provide shade to paved surfaces of the parking area.
  - (3) Plant materials used to meet the requirements of this Bylaw shall conform to the American Standard For Nursery Stock, American Standards Institute, Inc., 230 Southern Building, Washington, DC 20005 and shall be planted according to accepted horticultural standards.

- (4) Planting strips shall be at least six (6) feet in width and shall respond to the needs of storing snow, locating light poles, and providing safe pedestrian access. When planting diamonds are utilized, they shall measure a minimum of six (6) feet on a side.
- (5) Evergreen trees shall be a minimum of four (4) feet tall at the time of planting.
- (6) Every effort shall be made to integrate existing mature trees on the site into the proposed landscape plan. Existing trees which are used to meet the requirements of this section shall be protected during construction using the following standards:
  - (a) Fencing or other protective barrier shall be used around trees on construction sites.
  - (b) Changes in the normal drainage patterns shall be avoided and appropriate protection shall be provided for trees if a grade change is necessary in the surrounding area.
  - (c) Vehicular (including construction machinery) and pedestrian traffic shall be kept away from trees to prevent soil compaction and destruction of the root system.
  - (d) If a tree is damaged during construction the applicant shall file an amended landscape plan with the Planning Board.

k. Stormwater Management

Proposed developments shall meet the requirements of Section 8.0, Stormwater Management Bylaw.

l. Loading Areas

Each off-street loading space shall be not less than twelve (12) feet in width, twenty-five (25) feet in length and shall be hard-surfaced.

No use requiring more than twelve (12) permanent and/or temporary loading docks or stations shall be allowed in any zoning district in the Town of Hatfield.

6.4.4 Landscaping

- 1. A landscaped buffer strip at least twelve (12) feet wide, continuous except for approved driveways, shall be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, medium height shrubs, and shade
- 2. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.
- 3. Landscaping shall be in conformance with existing town bylaws and regulations.
- 4. Completion of the landscaping requirements may be postponed due to seasonal weather conditions or a period not to exceed seven (7) months from the time of project completion.

6.4.5 Lighting

- 1. Lighting of the site, parking areas and structures shall be accomplished in such a way as to prevent glare on neighboring properties and public streets.

6.4.6. Environmental Standards

All uses will be in accordance with all applicable local, state, and federal environmental regulations.

1. Storm Water Management

- a. Proposed developments shall meet the requirements of Section 8.0, Stormwater Management Bylaw.
- b. The use of shared stormwater management structures and facilities is encouraged.

2. Erosion Control

- a. Erosion of soil and sedimentation of streams, water bodies, and wetlands shall be minimized by using the following erosion control practices:

An erosion control plan shall be filed with the Planning Board at the time of site plan review. No work shall begin until the Planning Board has approved the erosion control plan.

Areas that are exposed or disturbed due to stripping vegetation, soil removal, or regrading shall be permanently stabilized before issuance of an Occupancy Permit.

During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is permanently stabilized, sediment in run-off shall be trapped by using sedimentation traps such as siltation fencing, staked haybales, or stone check dams.

Permanent erosion control and vegetation measures shall be in accordance with the management practices recommended by the Natural Resources Conservation Service.

All slopes exceeding twenty percent (20%), resulting from site development or disturbance, shall be covered with four (4) inches of topsoil and planted with a vegetative cover sufficient to prevent erosion, or stabilized by a retaining wall.

Dust control shall be used during grading operations if the grading is to occur within 200 feet of an occupied residence or place of business. Dust control methods may consist of dampening the ground with water prior to beginning work or grading fine soils only at times of low wind velocity.

3. Water Quality

All outdoor storage facilities for fuel, hazardous materials or wastes, and potentially harmful raw materials shall be located within an impervious, diked containment area adequate to hold 110% of the total volume of liquid kept within the storage area. Projects shall comply with all relevant state requirements and any local Board of Health and Fire Department regulations.

4. Explosive Materials

No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, unless prior written approval of the Fire Chief has been obtained by the applicant. The project shall also meet any relevant federal and state regulations.

In addition, all industrial developments must demonstrate compliance with the following additional performance standards:

5. Noise

- a. Excessive noise at unreasonable hours (between the hours of 11:00 PM and 7:00 AM) shall be muffled so as not to be objectionable to abutters and those working and living in the vicinity due to volume, frequency, shrillness, or intermittence.
- b. The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any use or activity shall not exceed the following limits at the property line of the second source:

Table 3. Sound Pressure Level Limits Measured in dB (A's)

District	7 A.M. - 10 P.M.	10 P.M. - 7 A.M.
General Business	65	60
Industrial	70	65
Residential	55	45

Sound pressure level shall be measured at all major lot lines, at a height of-four (4) feet above the ground surface. Noise shall be measured with a sound level meter meeting the standards of the American Standards Institute, ANSI S1.4-1961 "American Standard Meter for the Physical Measurements of Sound".

- c. Sound levels specified shall not be exceeded for more than 15 minutes in any one day, except for temporary construction or maintenance work, agricultural activity, timber harvesting, traffic, church bells, emergency warning devices, parades, or other similar special circumstances.
- d. No person shall engage in construction activities that result in a violation of items 5.a. or 5.b. on a site abutting residential use between the hours of 9 P.M. of one day and 7 A.M. of the following day.

6. Vibration

No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at, or at any point beyond, the lot line.

7. Air Pollution

Atmospheric emissions of gaseous or particulate matter generated by land use shall conform to the then current regulations of the Massachusetts Division of Environmental Protection (DEP). If the proposed land use shall be of a nature to arouse the concern of the Building Inspector, Planning Board, or Zoning Board of Appeals, the applicant may be required to produce plans and specifications of detail sufficient for review by DEP. Determination by DEP that potential

exists for emissions in excess of allowable limits shall be grounds for permit refusal. In the Industrial (I) and Light Industrial (LI) Zoning Districts, all measurements of air pollution shall be calculated by procedures determined by the Building Inspector.

There shall be no open burning of materials in the Industrial (I) and Light Industrial (LI) Zoning Districts.

8. Nuisance Odors

There shall be no emission of toxic or noxious matter of any kind in such quantity as to be readily detectable at the property line of the lot on which the use emitting the toxic or noxious material or odor is located. For the purposes of this Zoning Bylaw, toxic or noxious materials are any solid, liquid, or gaseous matter including, but not limited to, gases, vapors, dusts, fumes, and mists, containing properties which by chemical or other means are inherently harmful to destroy life or impair health, or capable of causing injury to the well being of persons or damage to property.

9. Particulate Matter

All cinders, dust fumes, and gases shall be effectively confined to the premises.

10. Electromagnetic Interference

Electromagnetic interference shall be regulated according to FCC and other federal and state laws.

11. Buildings

All permitted uses, functions, and services shall be conducted entirely within buildings of permanent construction except as otherwise provided herein, except for parking, loading/unloading, open space, and minor accessory uses related to the principal use. All minor accessory uses shall be screened from the view of the public way and adjacent properties with a vegetative screen or fence.

12. Storage of Materials

a. All materials, supplies, and equipment stored in structures shall be stored as to be in compliance with the Fire Prevention Standards of the National Board of Fire Underwriters.

b. Storage of materials in trailers shall not be allowed in the Light Industrial District.

6.5 PLANNED BUSINESS AND INDUSTRIAL DEVELOPMENT

6.5.1. Definitions

- (1) A Planned Industrial Development shall mean a development constructed on a lot or lots under single ownership at the time of application, planned and developed as an integral unit, and consisting primarily of light industrial uses.
- (2) A Planned Business Development shall mean a development constructed on a lot or lots under single ownership at the time of application, planned and developed as an integral unit, consisting primarily of retail or service uses.

6.5.2 Purposes

- (1) The purposes of the Planned Industrial Development regulations in this section shall include the following:
  - a. to attract light industries;
  - b. to encourage diversity in the community tax base through appropriate industrial development; to minimize potential adverse environmental conditions, such as pollution and noise, associated with industrial development.to encourage the development of flexible industrial space for small and emerging businesses.
- (2) The purposes of the Planned Business Development regulations in this section shall include the following:
  - a. to encourage business development which is clustered to reduce adverse traffic, aesthetic, and environmental impacts on the community;to encourage diversity in the community tax base and clustered commercial development which is consistent with Hatfield's character.  
to encourage the development of flexible commercial space for small and emerging businesses.

6.5.3 Uses Permitted By Special Permit With Site Plan Approval

- (1) Planned Business Development



- a. Planned Business Development shall be permitted in the Town Center, Business or Light Industrial Districts only upon issuance of a Special Permit with Site Plan Approval from the Planning Board.
  - b. Permitted uses within a Planned Business Development may include any retail or service uses which are permitted by right or allowed by Special Permit with Site Plan Approval in the underlying zoning district.
- (2) Planned Industrial Development
- a. Planned Industrial Developments shall be permitted in the Industrial or Light Industrial Districts only upon issuance of a Special Permit with Site Plan Approval from the Planning Board.
  - b. A Planned Industrial Development shall encourage a wide range of manufacturing, research and other uses which can be built and operated with a minimum of noise, smoke, odor and other nuisances and which do not create adverse impacts upon adjacent uses.
  - c. Uses permitted by Special Permit with Site Plan Approval in a Planned Industrial Development shall be limited only to the following:
    - 1. Industry, Utility, and Communication
      - (a) Telecommunications offices and facilities, digital media enterprises, radio, television, and film broadcasting firms.
      - (b) Warehouse for storage, production, assembly and marketing of wholesale goods.
      - (c) Wholesale trade and distribution.
      - (d) Enclosed manufacturing, processing, fabrication, packaging, assembly storage.
      - (e) Construction industry and suppliers.
      - (f) Research offices or establishments for research and development activities.
      - (g) Distributorships dealing with commercial and industrial supplies.
      - (h) The processing of grain, vegetables, or dairy products for human consumption.
      - (i) Repair service establishments.
      - (j) Accessory structures and uses customarily incidental to the above permitted uses.
    - 2. Offices and Services to Serve the Convenience Needs of Persons Working in the District.
      - (a) Miscellaneous professional and business offices and services including medical, legal, finance, and other professional services.
      - (b) Restaurants or other places servicing food or beverages, except those having-drive-in or drive-through facilities.
    - 3. Other Permitted Uses:
      - (a) Agricultural uses including but not limited to nurseries, greenhouses, woodlots, vegetable and fruit growers and similar uses.
      - (b) Recreational uses, parks, picnic areas, and similar uses.
      - (c) Emergency services, including but not limited to, police stations, fire stations, rescue squad, and ambulance service.
      - (d) Public and private non-profit educational institutions.
      - (e) Structures used for religious purposes.
      - (f) Town equipment garage.
      - (g) Medical center including accessory medical research and associated facilities.
      - (h) Trade or industrial schools.
    - 4. Additional Planned Industrial Development Dimensional Regulations:
      - (a) All uses shall be in conformity with the dimensional and density regulations set forth in the Dimensional and Density Regulations in Section 4.0 of the Zoning Bylaw.
      - (b) A 75-foot wide, vegetated buffer is required along side and rear lots abutting any residential or commercial property.

#### 6.5.4 General Regulations

- (1) The tract shall be in single or consolidated ownership at the time of application.
- (2) A site plan shall be presented for the entire tract, consistent with the requirements in this section, and in Section 5.0, Special Permits. In addition, subdivision approval by the Planning Board shall be required where a development constitutes a subdivision as per the Subdivision Control Law.
- (3) The development shall be served by a water system adequate in terms of fire protection and domestic use. A designated leaching area, including an expansion area, for on-site septic disposal systems, which meets the minimum requirements of the State Sanitary Code, Art. XI shall be provided if the parcel is not served by public sewer infrastructure.
- (5) All industrial uses must be completely contained within buildings.

#### 6.5.5 Incentives for Planned Business or Industrial Development

- (1) Business uses may be clustered or grouped together. If this option is selected, the following standards are required:
  - a. Individual lot sizes shall not be reduced more than fifty (50) percent below lot sizes normally required in the Dimensional and Density Regulations, Section 4.0 of this Zoning Bylaw.
  - b. The total number of establishments in the development may be increased by twenty (20) percent over and above the number of establishments which could be developed under normal application requirements of the underlying district.
- (2) The maximum building coverage may be increased above the maximum permitted in the Dimensional and Density Regulations, Section 4.0, but shall not exceed fifty (50) percent.
- (3) The development shall be served by common parking areas and by common exit and entrance areas. The Planning Board may waive up to ten (10) percent of the total spaces required. (See Section 5.7 Parking Requirements for specific parking standards)

#### 6.5.6 Performance Standards

- (1) All Planned Industrial or Business Developments must demonstrate compliance with the following performance standards:
  - a. Commercial and Industrial Development Performance Standards  
All uses must comply with the Performance Standards in Sections 6.3 (Commercial) and 6.4 (Industrial).
- (2) In addition, all planned industrial developments must demonstrate compliance with the following additional performance standards:
  - a. Noise
    1. Excessive noise at unreasonable hours (between the hours of 11:00 PM and 7:00 AM) shall be muffled so as not to be objectionable to abutters and those working and living in the vicinity due to volume, frequency, shrillness, or intermittence.
    2. The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any use or activity shall not exceed the following limits at the property line of the second source:

Table 3. Sound Pressure Level Limits Measured in dB (A's)

District	7 A.M. - 10 P.M.	10 P.M. - 7 A.M.
General Business	65	60
Industrial	70	65
Residential	55	45

Sound pressure level shall be measured at all major lot lines, at a height of-four (4) feet above the ground surface. Noise shall be measured with a sound level meter meeting the standards of the American Standards Institute, ANSI SI.4-1961 “American Standard Meter for the Physical Measurements of Sound”.

3. Sound levels specified shall not be exceeded for more than 15 minutes in any one day, except for temporary construction or maintenance work, agricultural activity, timber harvesting, traffic, church bells, emergency warning devices, parades, or other similar special circumstances.
  4. No person shall engage in construction activities that result in a violation of Section 6.5.6.(2).a.1. or 6.5.6.(2).a.2. on a site abutting residential use between the hours of 9 P.M. of one day and 7 A.M. of the following day.
- b. **Vibration**  
No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line.
  - c. **Air Pollution**  
Atmospheric emissions of gaseous or particulate matter generated by land use shall conform to the then current regulations of the Massachusetts Division of Environmental Protection (DEP). If the proposed land use shall be of a nature to arouse the concern of the Building Inspector and/or Special Permit Granting Authority, the applicant may be required to produce plans and specifications of detail sufficient for review by DEP. Determination by DEP that potential exists for emissions in excess of allowable limits shall be grounds for permit refusal.
  - d. **Nuisance Odors**  
There shall be no emission of toxic or noxious matter or objectionable odors of any kind in such quantity as to be readily detectable at the property line of the lot on which the use emitting the toxic or noxious material or odor is located. For the purposes of this Section, toxic or noxious materials are any solid, liquid, or gaseous matter including, but not limited to, gases, vapors, dusts, fumes, and mists, containing properties which by chemical or other means are inherently harmful to destroy life or impair health, or capable of causing injury to the well being of persons or damage to property.
  - e. **Explosive Materials**  
All activities and storage of flammable and explosive materials shall be provided with adequate fire-fighting and fire-suppression devices and equipment.
  - f. **Radioactivity**  
There shall be no activities that emit dangerous levels of radioactivity.
  - g. **Water Pollution**
    1. No non-stormwater discharge, at any point, into a private sewer system, stream, or the ground of any material in such a way, or of nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding or sustenance of rodents or insects shall be permitted.
    2. The use and discharge of substances into lakes, streams, or similar waterbodies shall not violate the rules and regulations of the Hatfield Conservation Commission or the standards of the Massachusetts Department of Environmental Protection.

h. Wastes and Refuse

No waste material or refuse shall be dumped upon, or permitted to remain upon, any part of the lot or tract outside of buildings constructed thereon. Waste material or refuse stored outside buildings shall be placed in completely enclosed containers.

6.5.7 Application for Planned Business or Industrial Development

(1) In addition to the requirements of M.G.L. Chapter 40A, Section 9, and the Special Permit and Site Plan Approval requirements in Section 5.0 of this bylaw, applicants for Planned Business and Industrial Development shall comply with the following:

- a. Applicants for Planned Business and Industrial Development shall submit a development plan on standard twenty-four (24) inch by thirty-six (36) inch sheets, for the entire tract at a scale of one inch equals one hundred (100) feet. The plan shall be submitted to the Planning Board and shall show at least the following:
  - 1. Two (2) foot finished contours on the tract.
  - 2. The location and acreage of areas to be devoted to specific uses.
  - 3. Existing and proposed streets, parking areas, vehicular drives, drainage and utility systems, including water and sewer, street lighting, landscaping, easements, and natural features.
  - 4. The proposed location of parks, open spaces and other recreational uses.
  - 5. Such other information as may be required by the Planning Board.
- b. The Planning Board shall obtain with each submission, a deposit sufficient to cover any expenses connected with a public hearing and review of plans.

## 6.6 MIXED USE DEVELOPMENT

### 6.61 Scope

To regulate Mixed Use Development in appropriate areas of the Town and to protect the public health, safety, and general welfare in the Town of Hatfield by establishing controls that will facilitate flexible development while protecting the public interest.

### 6.62 Purposes

- A. The purpose of this bylaw is to foster a greater opportunity for creative development by providing guidelines which encourage a mix of uses compatible with existing and neighboring properties; to provide housing and business uses in locations where a variety of town services are available; to promote utilization of existing buildings and property, and to encourage the provision of open areas. The intent, furthermore, is to encourage interaction among activities located within a Mixed Use Development, to enhance business vitality, reduce vehicular traffic, provide employment opportunities for residents close to home, ensure the compatibility with each other of the commercial, and residential uses, ensure that the appearance and effects of buildings and uses are harmonious with the character of the area in which they are located by:
  - 1. Allowing a diversity of uses in close proximity in the district within a limited area, including residential, retail, and office;
  - 2. Accommodating mixed-use buildings with neighborhood-serving retail, service and other uses on the ground floor and residential units above;
  - 3. Encouraging development that exhibits the physical design characteristics of pedestrian-oriented storefront-style shopping streets;

4. Promoting the opportunity for people to work, meet, shop and utilize services in the vicinity of their residences,
5. Providing opportunities for the development of affordable housing,
6. Providing opportunities for a mixture of uses in the same building,
7. Promoting a positive pedestrian environment in the district,
8. Facilitating integrated physical design,
9. Promoting a high level of design quality,
10. Encouraging the development of flexible space for small and emerging businesses,
11. Facilitating development proposals responsive to current and future market conditions, and
12. Encouraging the development of open spaces and parks within the district to accommodate workers, residents, pedestrians, and shoppers.

#### **6.63 Establishment and Administration**

- A. The Hatfield Mixed Use Overlay District is an overlay district that is superimposed over the underlying zoning districts and is shown on the Zoning Map as set forth on the map entitled "Hatfield Mixed Use Overlay District", dated October 2012, prepared by Pioneer Valley Planning Commission. This map is hereby made a part of the Zoning Bylaw and is on file in the Office of the Town Clerk.
- B. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those Mixed Use projects undergoing development pursuant to this Section 6.6. Within the boundaries of the Mixed Use Overlay District, a developer may elect either to develop a Project in accordance with the requirements of the Mixed Use Zoning, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).
- C. An applicant may seek development of a Project located within the Mixed Use Overlay District in accordance with the provisions of this Section 6.6, including a request for a Special Permit with Site Plan Approval.
- D. The provisions of this Section 6.6 shall be administered by the Planning Board, except as otherwise provided herein.
- E. The Planning Board may waive any information requirements it judges to be unnecessary to the review of a particular plan. Such waiver decisions must be documented in writing by the Planning Board.

## 6.64 Definitions

- A. The following definitions shall apply to all mixed use applications under these zoning bylaws:
1. **Assisted Living:** Housing for adults, with services provided, such as meals, laundry, and housekeeping.
  2. **Business Services:** Services used in the conducting of business and commerce, including only:
    - a. **Consumer and mercantile credit reporting;**
    - b. **News services;**
    - c. **Research, development and testing;**
    - d. **Business management and consulting;**
    - e. **Insurance company service offices;**
    - f. **Real estate offices.**
  3. **Café:** A coffee house or small restaurant, often with an enclosed or outdoor section extending onto the sidewalk.
  4. **Cocktail Lounge:** Is the use of a site for retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, and similar uses, other than a restaurant use as that term is described in this section.
  5. **Driveway:** A space, located on a lot, built for access to a garage or off-street parking or loading space.
  6. **Fast Food Restaurant:** An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off the premises. Orders are not generally taken at the customers table, and food is generally served in disposable wrapping or containers.
  7. **Live-work Units:** A live/work unit is defined as a single unit (e.g., studio, loft, or one bedroom) consisting of both a commercial/office and a residential component that is occupied by the same resident. The live/work unit shall be the primary dwelling of the occupant.
  8. **Lot Coverage:** The area of a lot covered by the footprint of all structures, as well as decks, balconies, porches, and similar architectural features, driveway areas, expressed as a percentage of the total lot area.
  9. **Mixed Use Development:** The development of a tract of land, building, or structure with two (2) or more different uses such as, but not limited to, residential, office, retail, institutional, or entertainment, in a compact village form, with vehicular access to an accepted public way. A proposed Mixed Use Development shall demonstrate that the project shall be served by town water and sewer service upon completion of the proposed development.
  10. **Municipal Facilities:** Facilities utilized in the provision of services normally provided by municipalities such as schools, parks, playgrounds, municipal office buildings, and maintenance buildings.

11. **Odor:** A strong and unpleasant smell, for example, a garbage or chemical smell.
12. **Personal Services:** Establishments primarily engaged in providing services involving the care of a person or his/her apparel, including but not limited to:
  - a. **Laundering, dry cleaning and garments services not exceeding 5,000 square feet of floor area per establishment;**
  - b. **Coin operated laundries;**
  - c. **Shoe repair;**
  - d. **Photographic services;**
  - e. **Beauty and barber shops;**
  - f. **Apparel repair and alteration;**
  - g. **Funeral services;**
  - h. **Steam baths;**
  - i. **Reducing salons and health clubs;**
  - j. **Clothing rental.**
13. **Professional Services:** Services performed by professional persons for business and personal use, including, but not limited to:
  - a. **Medical and health offices and clinics not exceeding 5,000 feet of floor area per office or group of offices;**
  - b. **Planning;**
  - c. **Engineering and architectural;**
  - d. **Accounting;**
  - e. **Auditing and bookkeeping;**
  - f. **Educational and scientific.**
14. **Senior and/or Handicapped Housing or Senior Apartments:** Age-restricted multi-unit housing for 55 and older adults, or handicapped persons, with self-contained living units for older adults who are able to care for themselves. Usually no additional services such as meals or transportation are provided.
15. **Sit Down Restaurant:** An eating establishment of high quality and with turnover rates generally of at least one hour or longer, serving food and beverages for retail sale, intended for consumption on the premises, and may include the sale and on-premises consumption of alcoholic beverages as an accessory use provided all necessary licenses are secured.
16. **Treebelt:** Can consist of tree planters, brick pavers, and benches with a minimum width of five feet.

## 6.65 Use Regulations

### A. Special Permit Uses in a Mixed Use Development

1. Mixed use developments may be constructed in the Mixed Used Development Overlay District with the approval of a Special Permit with Site Plan Approval granted by the Planning Board. The following uses may be included within a mixed use development:
  - a. **Retail Uses;**
  - b. **Sit Down Restaurants;**
  - c. **Cafes and outdoor dining areas;**
  - d. **Multi-family Residential uses;**

- e. Home Occupations;
  - f. Professional Service Offices;
  - g. Personal Service Establishments;
  - h. Municipal Uses;
  - i. Banks or financial institutions;
  - j. Health club;
  - k. Hotel/Motel not exceeding 10 guest rooms per establishment;
  - l. Bed-and-breakfast establishments;
  - m. Townhouses (single family dwellings connected by one or more walls);
  - n. Cinema, theatre, or auditorium;
  - o. Park, recreation or playground;
  - p. Artist studio/residence;
  - q. Assisted living residential uses, senior apartments and senior housing;
  - r. Artisan manufacturing or production (hand tools only, e.g. jewelry or ceramics);
  - s. Civic uses;
  - t. Live/work units;
  - u. Multiple Uses in the same structure.
2. Within a mixed use development, the following uses shall not be allowed as free standing buildings, and shall not provide drive through service windows:
- a. Fast food restaurants;
  - b. High turnover sit-down restaurants;
  - c. Banks.

#### **B. Prohibited Uses in a Mixed Use Development**

1. The following uses shall not be included within a Mixed Use Development:
- a. Industrial uses;
  - b. Motor vehicle sales, maintenance and repair facilities;
  - c. Gasoline filling stations;
  - d. Dry cleaning, linen cleaning, or diaper services which clean clothing articles on site.
  - e. Adult entertainment uses;
  - f. Animal hospitals, animal sales;
  - g. Automobile or truck sales;
  - h. Bars and cocktail lounges;
  - i. Drive-up services associated with any commercial use;
  - j. Junkyards.

#### **C. Same-structure/On-site Mixed Use**

Within an approved Mixed Use Development or Mixed Use Infill development, there shall be no restriction on combining different categories of use within the same building except any imposed by the State Building Code or other federal, state, or local regulations.

#### **D. Special Permit Criteria for All Mixed Use Developments**

1. All Mixed Use Developments must meet the Special Permit with Site Plan Approval requirements in Section 5.4.



2. All Mixed Use Developments must meet the following additional Special Permit criteria:
  - a. **The project complies with the additional performance standards specific to Mixed Use Developments in Section 6.66 below.**
  - b. **The project is consistent with the purposes of this bylaw, as stated in Section 6.62.**

#### **E. Dimensional Requirements**

The dimensional requirements applicable to the Mixed Use Overlay District are shown in the Table of Dimensional and Density Regulations in Section 4.3.

### **6.66 Performance Standards for Mixed Use Developments**

**To the extent feasible, all Mixed Use Developments must meet the Performance Standards in noted below.**

No use shall be permitted that causes or results in dissemination of dust, smoke, gas or fumes odor, noise, vibration or excessive light under standards set forth in the performance criteria in this chapter.

Any other performance standards of the town shall also apply to uses conducted under this Section 6.6 of the Hatfield Zoning Bylaws.

#### **A. Access and Traffic Impacts:**

1. Traffic and safety impacts to the existing and proposed roads shall be minimized.
2. Access shall be provided to the extent feasible through an existing side street or a shared driveway. Curb cuts shall be limited, and shall be as narrow as is feasible without resulting in traffic safety issues.
3. Pedestrian and vehicular traffic shall be separated; walkways shall be provided for access to adjacent properties and between businesses.
4. Plans must illustrate provisions for automobile, pedestrian and bicycle circulation. Provisions must be made for motor vehicle, bicycle, and pedestrian circulation connections to adjacent lots.
5. The Planning Board shall require a detailed traffic study for high volume traffic generating uses with a trip generation rate over 700 vehicles/day (based on Institute of Transportation Engineers rates found in Trip Generation); for the construction of new Mixed Use Development structure of more than 25,000 square feet in gross floor area; and for any external enlargement that brings the Mixed Use Development total to 25,000 square feet gross floor area for all structures. The Planning Board may waive any or all requirements for a traffic study for external enlargements of less than 2,000 square feet of gross floor area in excess of the 25,000 gross floor area threshold. The traffic impact statement shall contain:
  - a. **The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;**
  - b. **The proposed traffic flow pattern for both vehicles and pedestrian access shall be described and related to the site plan, including**

**vehicular movements at all major intersections likely to be affected by the proposed use of the site;**

- c. Traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site;**
- d. A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities and impacts on intersection. Existing daily and peak hour traffic levels and road capacities shall also be given;**
- e. A parking lot vehicle traffic and pedestrian circulation plan shall be designed to minimize conflicts and safety problems.**

**B. Noise:**

- 1. In order to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the inhabitants of Hatfield through the reduction, control, and prevention of such loud or raucous noise that unreasonably disturbs, injures, or endangers the comfort, privacy, repose, health, peace or safety of reasonable persons, all noise levels, measured at a height of four feet (4') above the ground surface at all property lines, using a sound meter which meets the most current American National Standards Institute's Specification for Type II Sound Level Meters, must not exceed the following standards:

Time of Day	Max. Sound Level (dBA)
7:00 a.m. to 7:00 p.m.	65*
7:00 p.m. to 11:00 p.m.	50
11:00 p.m. to 7:00 a.m.	45

\*Note: 65 dba = normal conversation; 50 dba = noise level of a normal working refrigerator; 45dba = a quiet library

- 2. These standards shall not apply to power tools and equipment (i.e. lawn mowers, leaf blowers, sweepers, snowblowers or snow removal, etc.) used in the normal maintenance of the site's outdoor areas (i.e. lawn, garden, parking, etc.). Such outdoor maintenance shall be limited to between the hours of 8:00 am 7:00 pm.

**C. Emissions and Odors:**

- 1. Emissions and odors shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located. No emissions are permitted which can:
  - cause any damage to health of humans, animals or vegetation
  - cause excessive soiling
  - result in odorous gases or odoriferous matter in such quantities as to be offensive

2. The determination of what emissions are in violation of this provision shall be made by the Zoning Enforcement Officer or his/her designee taking into consideration all of the following:
  - the level of the odor;
  - the nature of the odor is usual or unusual;
  - the origin of the odor is natural or unnatural;
  - the level of the ambient odor;
  - the proximity of the odor to living/sleeping facilities;
  - the nature and zoning of the area from which the odor emanates and the area where it is received;
  - the duration of the odor; and whether the odor is recurrent, intermittent, or constant.

#### **D. Lighting:**

1. Lighting systems should be designed, constructed, and installed in a manner that controls glare and light trespass, minimizes obtrusive light, conserves energy and resources while maintaining safety, visibility, security of individuals and property and curtailing the degradation of the nighttime visual environment. Evenly distributed lighting throughout a site will minimize impacts on surrounding neighborhoods and increase efficiency. By directing light where it is needed and only the intensity necessary to serve the intended purpose, these standards will prevent glare and its harsh shadows and blind spots. All lighting shall comply with the following:
  - Except for approved exterior lighting, operations producing glare shall be conducted entirely within an enclosed building. No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as welding shall be permitted beyond its lot lines onto neighboring properties, or onto any street.
  - Exterior lighting, including but not necessarily limited to lighting of exterior walls of buildings from an external light source, lighting of parking areas, and lighting of walks and drives shall be done in such a manner to direct light away from adjacent lots and public ways.
  - All outdoor light fixtures and illuminated signs shall be designed, located, installed and directed in such a manner as to prevent light trespass beyond the property line, and light above a ninety-degree horizontal plane. If necessary, an applicant may need to provide photometric plans and/or manufacturing specification sheets to show conformance with these standards
  - All nonessential lighting, including display, parking, and sign lighting, shall be turned off after business hours, leaving only the lighting necessary for site and pedestrian security, crime prevention and streetlighting.
  - All lighting shall be recessed and shielded to prevent off-site glare.

- Site lighting shall conform to the following output standards:

Maximum (footcandle)	Site Average (footcandle)	Footcandle at Property Line
5	2.5	0

**E. Storage:**

1. All materials, supplies and equipment shall be stored in accordance with Fire Prevention Standards of the National Board of Fire underwriters and shall be screened from view from public ways and abutting properties.

**F. Waste Disposal:**

1. Waste disposal shall follow State and Town Board of Health regulations.
2. Storage of waste and waste facilities shall be screened from view from public ways and neighboring properties.
3. Appropriate provisions shall be made for the disposal of trash, which may include, but shall not be limited to, the provision of trash compactors within the building or on site, as well as a signed annual contract for rubbish removal.

**G. Loading/Unloading:**

1. The Planning Board, when acting upon an application under Section 6.6 of these Zoning Bylaws, may require that operations, including loading and unloading shall be limited to weekdays between the hours of 8AM and 7PM only.
2. Loading and unloading platforms and doorways specially designed for loading/unloading are prohibited on the front side of any building.

**H. Walkways**

1. For public convenience a pedestrian and/or bicycle way shall connect all uses on the site and otherwise provide appropriate circulation or continuity to an existing pedestrian or bicycle circulation system. These uses include, but are not limited to residential, parking, transit, bicycling, industrial, recreation, and commercial.
2. Walkways must conform to requirements of the American with Disabilities Act (ADA) and the Massachusetts Architectural Access Board (MAAB).
3. Sidewalks are required along all town streets. A treebelt is required adjacent to sidewalk areas. The Planning Board can waive treebelt requirements in situations where they determine that local conditions warrant.
4. The development should provide internal and/or public pedestrian connections that are direct, convenient and pleasant with appropriate amenities (e.g. attractive sidewalks and benches).

**I. Vehicular Access, Parking and Loading, and Shared Parking Requirements**

1. The project shall meet all parking requirements of Section 5.7 of the Hatfield Zoning Bylaw.
2. Parking shall be located to the side or rear of buildings. In no case shall parking be allowed in the planting strip adjacent to the sidewalk or within the front setback of any lot.
3. Parking spaces may be located either on or off the lot. Applicant must show proof of space, its location relative to the dwelling unit, and must indicate if the space is owned or leased.
4. Buildings that do not have frontage on a street must provide access for emergency and service vehicles through the layout and design of driveways, interior service roads, or pedestrian and bicycle circulation corridors.
5. Where there is more than one category of use, then the number of spaces required shall be 70% of the sum of required spaces for each category of use.
6. The Planning Board may reduce the number of required parking spaces for the commercial-portion of the building by 50%.
7. Off-street loading requirements are: Multi-Family Residential, Office, Retail, Consumer Service, and Public Assembly uses require one bay per every 50,000 square feet of floor area.
8. The Planning Board may allow shared parking in a mixed use development as part of the Special Permit approval. The minimum number of parking spaces for a mixed use development or where shared parking strategies are proposed shall be determined by a study prepared by the applicant following the procedures of the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved procedures. A formal parking study may be waived for small developments where there is established experience with the land use mix and its impact is expected to be minimal. The actual number of parking spaces required shall be based well-recognized sources of parking data such as the ULI or ITE reports. If standard rates are not available or limited, the applicant may collect data at similar sites to establish local parking demand rates.

**J. Development Standards**

1. Existing buildings shall be re-used for mixed use developments, where feasible, as a priority over new construction.
2. New construction design shall be in harmony with the existing neighborhood or district.
3. Buildings or structures that are listed or eligible for inclusion on the National Register of Historic Places and/or the Massachusetts Register of Historic Places or within a local historic district as established by M.G.L. Chapter 40C, shall be converted, constructed, reconstructed, restored or altered to maintain or promote the status of the building or structure on, or eligibility for inclusion on the State or National Register of Historic Places.

4. Applicants shall consult the Hatfield Design Guidelines Handbook for guidance regarding design issues for mixed used development. Applicants shall indicate how the proposed development addresses the design issues referenced in the Hatfield Design Guidelines Handbook.

**K. Signs:**

1. Signs shall conform to the existing bylaws of the Town of Hatfield (Section 5.9), except that the following additional standards apply to all mixed uses:
  - a. Permitted signs include: signs located within the sign band on building facades; awning signs; hanging signs projecting from building facades; window signs and un-moveable free-standing signs.
  - b. Temporary signs permitted include: political signs; special events signs; and for sale or for lease signs.
  - c. Prohibited signs include: flashing signs; roof signs; moveable signs; internally lit plastic signs.
  - d. Each business may display not more than two permanent signs.
  - e. Sign materials should be durable and easy to maintain. Signs may be constructed of wood, metal, stone, gold leaf, glass, canvas, stained glass or encased in a wooden frame.
  - f. Sign illumination may include external white light illumination, provided it is shaded from view off the premises, and neon.
  - g. Sign size: Signs may not exceed sixteen square feet in area.
  - h. Sign height: Free-standing pole signs shall have a maximum height of ten feet; other free-standing signs shall have a maximum height of four feet.

**L. Landscaping Requirements:**

1. Screening of mechanical equipment, trash, and loading areas shall be provided through the use of walls, fences, and/or dense, evergreen plant materials.
2. Parking areas shall be screened from adjacent residential uses, streets, and walkways using trees and shrubs adapted to the region, of specimen quality conforming to the American Standard for Nursery Stock, (American Standards Institute, Inc.), and shall be planted according to accepted horticultural standards. Berms may be used for screening along the street in conjunction with plant materials.
3. The landscaped perimeter area shall be at least five feet wide, and can consist of trees, tree planters, brick pavers and benches.
4. Landscaping shall be provided for driveways and other interior vehicular use areas to provide visual and climatic relief from broad expanses of pavement and to channelize and define logical areas for pedestrian and vehicular traffic.

5. The interior parking area shall be landscaped with sufficient shade trees to provide 50% shade within fifteen (15) years of installation.
6. The use of porous pavement and/or perforated brick or block shall be used to the extent feasible to increase on-site water retention for plant material, groundwater supplies, and to reduce problems associated with runoff.
7. Completion of the landscaping requirements may be postponed due to seasonal weather conditions for a period not to exceed six (6) months from the time of project completion.
8. Applicants shall reference the landscaping recommendations of the Hatfield Design Guidelines Handbook when preparing a proposed landscape plan.

**M. Maintenance of Landscaping and Screening:**

1. All landscaping and screening shall be maintained by the property owner.
2. Landscaping and screening plant materials shall not encroach on the public walkways or roadways in a way that impedes pedestrian or vehicular traffic.
3. Shrubs or trees that die shall be replaced within one growing season.
4. If the property owner fails to do so, the town reserves the right to maintain the landscaping and screening after notifying the owners, agents, renters, or lessees by certified mail at their last known address or at the subject property address, that it shall be removed or trimmed within seven days of the notice by the Director of Public Works.
5. The town shall assess the owners, agents, renters, or lessees for the cost of trimming or removal plus an additional amount of up to 20% of the charges for administrative costs, to the owner and to the lessee, agent, occupant, or other person in possession and control of the property.
6. If any property owner fails or refuses to pay when due any charge imposed under this section, the Director of Public Works may, in addition to taking other collection remedies, certify due and unpaid charges, including interest, to the Town Treasurer to be levied against the person's property for collection by the county in the same manner as delinquent general taxes upon such property are collected as provided by the Town of Hatfield.

**N. Appearance/Architectural Design**

1. Architectural design shall be compatible with the historic character and scale of building in the neighborhood and the Town of Hatfield through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Applicants should consult the Hatfield Design Guidelines Handbook for specific guidance on design issues.
2. Variations in architectural detail, form and siting shall be used to provide visual interest and avoid monotony.
3. Existing buildings subject to reconstruction or rehabilitation and proposed buildings shall be compatible with the historic character and scale of contiguous buildings within the immediate neighborhood vicinity.

4. Proposed buildings should relate harmoniously to each other with adequate light, air, circulation, and separation between buildings.
5. Buildings shall be designed so that only retail, restaurant, and personal service establishments shall be located on the ground or below grade building levels.
6. The entire building façade must be oriented to front and side street property lines and must be located within ten feet of such property lines, with sidewalks in front of buildings.
7. Public open spaces, such as plazas and pocket parks, are encouraged within the development;
8. In making its decision, the Planning Board may consider whether the building design is compatible with the following design guidelines:
  - 1) exterior facades are faced with wood, metal, or vinyl clapboards, or stone or brick;
  - 2) exterior facade treatment is compatible on all four sides;
  - 3) rooflines are peaked;
  - 4) facades facing town streets have windows facing the street.

**O. Multi-family Housing Limits**

9. Within a mixed use development, multi-family housing units may only be constructed on the second floor of a mixed use structure which has a business, personal or professional services use on the first floor. Senior and/or Handicapped Housing or Senior Apartments are allowed on the first floor to meet accessibility needs.

**P. Green Infrastructure and Stormwater Runoff**

- i. To the extent feasible, Mixed Use Development projects shall recharge all stormwater on site. The use of green infrastructure strategies for stormwater recharge, such as permeable pavements, tree box filters, green streets, rain gardens, stormwater infiltration basins and green roofs, are strongly encouraged. Applicants' site plans shall indicate how the proposed development addresses green infrastructure and stormwater recharge.

**Q. Outdoor Dining**

- i. Outdoor dining shall be permitted by right, as an accessory use for any restaurant use, and must comply with the following standards:
  1. Alcohol may be served to and consumed by patrons in outdoor dining areas, provided that all necessary licenses are acquired. These licenses are to be gathered through the Select Board, the Building Department and the Board of Health.
  2. The hours of operation of outdoor dining areas may be equal to or less than the hours of operation of the main restaurant. Dining areas which abut residential areas must end outdoor dining and seating by 11pm.
  3. Litter must be cleaned up regularly.



## **6.67 Optional Affordable Housing Bonus**

- A. At least ten (10%) percent of the total dwelling units in a mixed use development may be designated as affordable housing. Affordable housing will be defined as those residential units affordable to a household earning up to eighty percent (80%) of the median income in Hatfield's statistical area.
- B. The affordable housing units shall include resale, lease or rental controls that will ensure continued affordability by future low and moderate income households. Deed restrictions or similar devices shall be used to limit future sale or rental prices for these purposes.
- C. The affordable units may be located in an existing structure if their construction constitutes a net increase in the number of dwelling units in the development.
- D. A bonus of twenty-five percent (25%) additional dwelling units – over and above the allowable density - may be awarded if the above criteria are met.
- E. Mixed Use Infill developments shall not qualify for this Affordable Housing Bonus.

## **6.7 MAJOR DEVELOPMENT REVIEW**

6.7.1 Purpose. The purpose of a major development review is to provide for detailed analysis of certain land uses which, because of their scale or intensity of use, have the potential for significant impacts on the health, safety and general welfare of town residents, on the environment, on the overcrowding of land, on the values of abutting properties, on demand for town services and infrastructure, traffic safety, and on municipal revenues. A detailed review of large scale projects will enable the town to avoid injury to these aspects of public interest, and to protect the general welfare.

6.7.2 Application: The provisions of this section shall apply to a retail business uses which would result in any one or more of the following conditions:

Uses that generate 1,000 vehicle trips per day or more;

Uses that involve the physical alteration of 10 or more acres;

Uses that result in a building of 30,000 square feet or more of gross leasable area, whether by new construction or by expansion of existing uses; or a parking lot of 90,000 square feet or larger.

6.7.3 Review Procedures: In addition to the requirements of this section, uses subject to this section shall require a special permit and site plan approval in accordance with the provisions of this Bylaw.

Submittal Requirements: In addition to the submittal requirements for special permits and site plans contained elsewhere in this Bylaw, the following information shall also be submitted:

Impact Statements. An impact statement prepared in accordance with the Major Development Review Rules and Regulations as promulgated for this section. Such impact statements shall include, at a minimum:

- a. A detailed description of the proposed project and its design features;
- b. Reasonably projected impact on traffic based upon a professional traffic impact study.
- c. Impact on municipal utilities and services, including: water supply, sewage disposal, storm drains, solid waste disposal, police, fire protection, emergency services, schools, and other town services;
- d. Impact on the physical and ecological characteristics of the site and surrounding land, including wetlands, floodplain, vegetation, wildlife habitat, and other environmental conditions;
- e. Impact on the character of the community, including scenic, historic or archaeological conditions; scale, placement, lighting, parking, use of open space

- and design of buildings;
- f. A financial cost/benefit analysis of the impact of the project on public revenues, including the impact of the proposed project on the value of other residential and commercial properties in town, and the resulting net change in property tax revenues, and the short and long-term projected costs of municipal services and infrastructure to service the project.

6.7.5 Cost and Conduct of Impact Statements: The cost of all studies conducted in the completion of an Impact Statement shall be assessed to the applicant. Consultants selected to prepare such reports shall be chosen solely by the Special Permit Granting Authority.

6.7.6 Impact Review Standards: The Special Permit Granting Authority shall promulgate a series of Review Standards for assessing the impact statement. The Authority shall determine whether or not the proposed use would have a significant adverse impact on:

- The health, safety or general welfare of town residents
- The environment
- The character of the community
- The property values of other properties in town
- The cost of town services or infrastructure required by the project
- Traffic safety
- Municipal revenues.

6.7.7 Findings: The Special Permit Granting Authority shall

1. Approve a special permit for a Major Development only after a written finding that the proposed land use will not have a significant adverse impact on the community based on the standards in subsection E, or
2. Deny any proposed land use which will have a significant adverse impact on the community based on the standards in subsection E, or
3. Approve a special permit for a major development only after a written finding that the proposed land use will, subject to specific conditions, modifications and restrictions, not have a significant adverse impact on the community based on the standards in section E.

6.7.8 Other Standards: All uses reviewed under this section must satisfy the special permit and site plan criteria contained elsewhere in this Bylaw.

## **7.0 STORMWATER MANAGEMENT**

## **7.0 STORMWATER MANAGEMENT**

### **7.1 Stormwater Management**

#### **7.1.1 Purpose and authority.**

This regulation for the proper management of stormwater is adopted under the provisions of M.G.L. c. 40A. The purpose of this bylaw is to better manage land development in order to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased stormwater runoff.

A. The proper management of stormwater runoff will meet the following objectives:

1. Reduce the adverse water quality impacts of stormwater discharges to surface water bodies, including rivers, lakes, reservoirs and streams in order to attain or maintain state and federal water quality standards.
2. Prevent the discharge of pollutants, including hazardous chemicals, into stormwater runoff.
3. Minimize the volume and rate of stormwater which is discharged to surface water bodies, including rivers, streams, reservoirs, and lakes.
4. Prevent erosion and sedimentation from improper land development, and reduce erosion caused by increased runoff.
5. Provide for the recharge of groundwater aquifers and maintain the base flow of streams.
6. Provide stormwater facilities that are attractive, maintain the natural integrity of the environment, and are designed to protect public safety.
7. Maintain or reduce predevelopment runoff characteristics after development to the extent feasible.
8. Minimize damage to public and private property from flooding and erosion.

**7.1.2 Applicability.**

Prior to the issuance of any development permit for any proposed development listed below, a stormwater management plan, or a waiver of the requirement for a stormwater management plan, must be approved by the planning board. No person shall, on or after the effective date of the bylaw, initiate any land clearing, land grading, earth moving or development activities without first complying with this bylaw. The following uses shall be required to submit drainage reports, plans, construction drawings, specifications and as-built information in conformance with the requirements of this bylaw:

- A. Any development that creates 10,000 sf or more of new impervious surfaces
- B. Any project that results in the disturbance of one (1) acres or more of soil, except for existing agricultural uses, including subdivisions or construction activities of any kind involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common development plan that collectively disturbs one (1) or more acres.

**7.1.3 Submittal of stormwater management plans.**

A. A stormwater management plan or an application for waiver shall be submitted to the planning board for review and approval for any proposed development specified in Section 7.1.2. Eight (8) copies of the stormwater management plan shall be submitted, and clearly labeled, along with other documents required in this zoning bylaw for Special Permit, Special Permit with Site Plan Approval or Site Plan Review. The plan shall contain supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff will be managed from the entire development. The plan shall serve as the basis for all subsequent construction.

B. The applicant may request, and the planning board may grant, a waiver from any information requirements it judges to be unnecessary to the review of a particular plan, upon the recommendation of the Zoning Enforcement Officer.

**7.1.4 Procedures for review and approval of stormwater plans.**

A. The procedures for review and approval of stormwater management plans shall be consistent with, and a part of, the Special Permit, Special Permit with Site Plan Approval or Site Plan Review processes described in Section 5.0, as appropriate to the use.

B. The planning board shall coordinate stormwater management review with the conservation commission’s review under the Wetlands Protection Act and Hatfield Wetlands Bylaw. Before issuing a permit under this section, the planning board shall forward a copy of the application for the special permit to the conservation commission, and the conservation commission shall, within thirty-five (35) days of receipt of a copy of such application, make recommendations to the planning board concerning the application for approval of a the stormwater management plan. The planning board shall not grant any permit under this section until the report of the conservation commission has been received and considered, or until thirty-five (35) days from delivery of the application copy to the conservation commission has elapsed without the receipt or the report from the conservation commission. The planning board shall issue their decision based on the recommendation provided in the conservation commission’s report.

C. In addition to the conservation commission, the planning board shall circulate the plan to the Zoning Enforcement Officer, board of health, department of public works, and the building inspector, to determine compliance with the requirements of this bylaw prior to approval. Said bodies shall have thirty-five (35) days to submit comments and recommendations to the planning board.

**7.1.5 Additional criteria for special permit decisions.**

In addition to other criteria used by the planning board in making Special Permit, Special Permit with Site Plan Approval or Site Plan Review decisions, for the uses specified in this bylaw, the planning board must also find that the stormwater management plan submitted with the Special Permit or Site Plan application meets the following criteria:

- A. The plan is consistent with the purposes and objectives of this bylaw in Section 7.1.1;
- B. The plan meets the performance standards described in Section 7.1.8.

**7.1.6 Inspections.**

A. No plan will be approved without adequate provision for inspection of property before development activity commences. The applicant shall arrange with the Zoning Enforcement Officer for scheduling the following inspections:

- A. Initial inspection: Prior to approval of any plan.
- B. Erosion control inspection: To ensure erosion control practices are in accord with the plan.
- C. Construction inspection: Prior to backfilling of any underground drainage or stormwater conveyance structures.
- D. Final inspection: When all work including construction of stormwater management facilities has been completed.

The Zoning Enforcement Officer shall inspect the work and either approve it or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved plan. Any portion of the work which does not comply shall be promptly corrected by the applicant or the applicant will be subject to the bonding provisions of Section 7.2.1 or the enforcement provisions of Section 7.2.2. The town may conduct random inspections to ensure effective control of erosion and sedimentation during all phases of construction. Laboratory tests may be required at the owner’s expense to verify adequacy of material and/or compaction.

**B. Inspection Fee**

A non-refundable fee of \$250 will be paid upon application of a building permit for on-site stormwater management inspections during and after construction. For subdivisions or construction activities subject to this bylaw involving multiple separate activities in discontinuous locations or on different schedules, a non-refundable fee of \$100 per building lot will be paid upon application of a building permit.

**7.1.7 Contents of the stormwater management plan.**

The applicant is responsible for submitting a stormwater management plan which meets the design requirements provided by this bylaw. The plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The applicant shall certify of the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan. The minimum information submitted for support of a stormwater management plan shall be as follows:

**A. Plan contents:**

- 1. Locus map.
- 2. Drainage area map showing drainage area and stormwater flow paths.
- 3. Location of existing and proposed utilities.
- 4. Topographic survey showing existing and proposed contours.
- 5. Soils investigation, including borings or test pits, for areas where construction of infiltration practices will occur.
- 6. Description of all watercourses, impoundments, and wetlands on or adjacent to the site or into which stormwater flows.
- 7. Delineation of 100-year floodplains, if applicable.
- 8. Groundwater levels at the time of probable high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration.
- 9. Location of existing and proposed easements.
- 10. Proposed improvements including location of buildings or other structures, impervious surfaces, and storm drainage facilities, if applicable.
- 11. Structural details for all components of the proposed drainage systems and stormwater management facilities.
- 12. Timing schedules and sequences of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization.
- 13. Maintenance schedule.

14. Notes on drawings specifying materials to be used, construction specifications, and typicals.
15. Location of areas to be cleared of more than 50 percent of the vegetation.

B. Computations: predevelopment and post-development drainage calculations shall be included for storm events with return periods of 2-, 10-, 25-, and 100-year probability. Calculations for: hydrology and hydraulics shall be included.

C. Estimate of stormwater management operation and maintenance costs, schedule and ownership.

#### **7.1.8 Stormwater Management Performance Standards**

A. Minimum control requirements. The minimum stormwater control requirements are that all developments provide design and management measures necessary to maintain the post development peak discharges for a 24-hour, two-year and ten-year frequency storm events at a level that is equal to or less than the respective, pre-development peak surcharge rates. When the proposed discharge may have an impact upon a sensitive receptor, including streams, storm drains, combined sewers, roads, and/or buildings, the planning board may require an increase in these minimum requirements.

B. Stormwater management measures.

1. Stormwater management measures shall be required to satisfy the minimum control requirements. Stormwater management systems may include the following technologies:
  - (a) Infiltration, flow attenuation, and pollutant removal of runoff through the use of open vegetated swales, natural depressions or underground systems.
  - (b) Use of stormwater on-site to replace water used in industrial processes or for irrigation.
  - (c) Stormwater detention structures for the temporary or permanent storage of runoff.
2. Infiltration practices shall be utilized to reduce runoff volume increases where appropriate. A combination of successive practices may be used to achieve the applicable minimum control requirements. Justification shall be provided by the applicant for rejecting each practice based on site conditions.
3. Best management practices shall be employed to minimize pollutants in stormwater runoff prior to discharge into a storm drainage system, water body, or infiltration system.
4. All stormwater management facilities shall be designed to provide an emergency overflow system, and incorporate measures to provide a non-erosive velocity of flow along its length and at any outfall.

#### **7.1.9 Specific design criteria.**

A. Infiltration systems:

1. Infiltration systems shall be equipped with clean stone and or filter fabric adjacent to the soil and have appropriate sediment removal mechanisms.
2. Infiltration systems shall have a pretreatment system for spill prevention, sediment removal/clean-out and floatables/debris/oil & grease removal.
3. Infiltration systems greater than three feet deep shall be located at least ten feet from basement walls.
4. Infiltration systems shall not be used where there is a likelihood that they may lead to groundwater contamination.
5. Infiltration systems designed to handle runoff from commercial or industrial impervious parking areas shall be a minimum of 400 feet from any water supply well.
6. Infiltration systems shall not be used as sediment control basins during construction unless specific plans are included to restore or improve the basin surface.
7. Infiltration basins shall be constructed with a three-foot minimum separation between the bottom of the structure and the maximum groundwater elevation.
8. Provisions shall be made for safe overflow passage in the event of a storm which exceeds the capacity of an infiltration system.

B. Retention and detention ponds shall be *designed and constructed in accordance with the criteria of the stormwater design manual Stormwater Management Volume II: Stormwater Technical Handbook, Massachusetts Department of Environmental Protection, as updated or amended.*

C. The applicant shall give consideration in any plan to incorporating the use of natural topography and land cover such as natural swales, and depressions as they exist prior to development to the degrees that they can accommodate the additional flow of water.

D. The planning board shall give preference to the use of swales in place of the traditional use of curbs and gutters based on a case by case review of stormwater management plans by the conservation commission and department of public works.

E. The applicant shall consider public safety in the design of any stormwater facilities. The banks of detention, retention, and infiltration basins shall be sloped at a gentle grade into the water as a safeguard against personal injury, to encourage the growth of vegetation and to allow the alternate flooding and exposure of areas along the shore. Basins shall be fenced or shall have a 4:1 slope to a depth two feet below the control elevation. Side slopes must be stabilized and planted with vegetation to prevent erosion and provide pollutant removal. The banks of retention areas shall be designed with sinuous rather than straight shorelines so that the length of the shoreline is maximized, thus offering more space for the growth of vegetation.

F. Where a stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any such rights.

G. All applicants for projects which involve the storage or use of hazardous chemicals shall incorporate handling and storage "best management practices" that prevent such chemicals from contaminating runoff discharged from a site into infiltration systems, receiving waterbodies or storm drains.

H. Recommend resources for the basic design criteria, methodologies, and construction specifications include, but are not limited to:

A. Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas (May 2003, MA Department of Environmental Protection, as updated or amended); and,

B. Massachusetts Nonpoint Source Pollution Management Manual (May 2006, MA Department of Environmental Protection, as updated or amended) located at <http://projects.geosyntec.com/NPSManual/>.

#### **7.1.10 Maintenance.**

##### **A. Maintenance agreement.**

1. Prior to issuance of any building permit for which stormwater management is required, the planning board shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of land served by the private stormwater management facility. Such agreement shall provide for access to the facility at reasonable time for regular inspections by the

town or its authorized representative and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provision established.

2. The agreement shall be recorded by the applicant and/or owner in the land records of the Hampshire County registry of deeds.

3. The agreement shall also provide that, if after notice by the Zoning Enforcement Officer or conservation commission to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within 30 days, the department of public works may perform all necessary work to place the facility in proper working condition. The owner(s) shall be required to reimburse the DPW for any and all costs incurred to correct a violation under this bylaw within 30 days from the time in which said work is performed.

##### **B. Maintenance responsibility.**

1. The owner of the property on which work has been done pursuant to this bylaw for private stormwater management facilities, or any other person or agent in control of such property, shall

maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.

2. A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be printed on the stormwater management plan.

#### **7.1.11 Performance bond.**

The planning board may require from the developer a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the planning board prior to the issuance of any building permit for the construction of a development requiring a stormwater management facility. The amount of the security shall not be less than the total estimated construction cost of the stormwater management facility. The bond so required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this section and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the Zoning Enforcement Officer, submission of "as-built" plans (if required by the Planning Board), and certification of completion by the planning board of the stormwater management facilities being in compliance with the approved plan and the provisions of this bylaw.

#### **7.1.12 Enforcement.**

Enforcement of this Section 7.1 shall be in compliance with Section 8.4 of the zoning bylaw. The Zoning Enforcement Officer shall determine if the Planning Board conditions have been satisfied by the applicant.

#### **7.1.13 Severability.**

The invalidity of any section or provision of this section shall not invalidate any other section or provision thereof.

### **7A.0 MEDICAL MARIJUANA**

#### **7A.1 TERM DEFINITIONS**

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

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

**The Attorney General's Office has not determined if an RMD or OMDD is exempt as an agricultural use under M.G.L. Chapter 40A, Section 3.]**

#### **Off-Site Medical Marijuana Dispensary (OMMD):**

A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related

supplies and educational materials to registered Qualifying Patients or their personal caregivers in accordance with the provisions of 105CMR 725.00.

#### 7A.2 Purpose

It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers and off-site medical marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Registered Marijuana Dispensaries (hereafter referred to as a RMD) as Medical Marijuana Treatment Centers and Off-site Medical Marijuana Dispensary (hereafter referred to as an OMMD) facilities is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Hatfield.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, Registered Marijuana Dispensaries and Off-site Medical Marijuana Dispensaries will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (DPH).

#### **7A.3 Application Requirements**

In addition to the standard application requirements for Special Permits with Site Plan approvals from Planning Board, such applications for an RMD or OMMD facility shall include the following:

- A. The name and address of each owner of the RMD or OMMD facility /operation;
- B. Documentation that demonstrates that said RMD or OMMD facility, and its owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of an RMD in accordance with 105 CMR 725.000 of the Massachusetts Department of Public Health;
- C. Evidence that the Applicant has site control and right to use the site for a RMD or OMMD facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;
- D. A notarized statement signed by the RMD or OMMD organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons;
- E. In addition to what is normally required in a Special Permit with Site Plan approval from the Planning Board, details showing all exterior proposed security measures for the RMD or OMMD including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity;



- F. A detailed floor plan identifying the areas available and functional uses (including square footage):
- G. All signage;
- H. A traffic study to establish the RMD or OMMD impacts at peak demand times;
- I. A description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to OMMDs or off-site direct delivery to patients.

#### **7A.4 Standards and Conditions**

##### **A. Use**

1. RMD and OMMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services.
2. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
3. The hours of operation shall be set by the Permit Granting Authority. but in no event shall an RMD or OMMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.
4. RMD facilities that can demonstrate that they comply with the agricultural exemption under M.G.L. Chapter 40A, Section 3 must still apply for Special Permit with Site Plan approval from the Planning Board.

##### **B. Physical Requirements**

1. All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
2. No outside storage is permitted.
3. No OMMD Facility shall have a gross floor area in excess of 2,500 square feet.
4. All RMD and OMMD facilities shall be ventilated in such a manner that:
  - a. No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and;
  - b. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.
5. Signage shall be displayed on the exterior of the RMD and OMMD facility's entrance in plain sight of clients stating that "Registration Card issued by the MA Department of Public Health required" in text two inches in height.

C. Location

1. No RMD and OMMD facility shall be located within three hundred feet (300') of any building housing:
  - a. a public or private elementary, junior high, middle, preparatory, vocational or high school, college, junior college, university or child care facility or any other use in which children commonly congregate in an organized ongoing formal basis, or;
  - b. another RMD or OMMD facility.
  - c. any residential use, except mixed use buildings.
2. An RMD or OMMD facility shall not be located in buildings that contain any pharmacy, medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana. An exception shall be that the Permit Granting Authority may grant permission for palliative and therapeutic care uses, which are separate facilities from a RMD or OMMD facilities, in the same building:
3. Within a building containing residential units, including transient housing or group housing such as hotels, motels, lodging houses, or dormitories.

D. Reporting Requirements

1. All Special Permit with Site Plan approval, holders for an RMD or OMMD facility shall provide the Police Department, Fire Department, Building Inspector and the Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
2. The local Building Inspector, Board of Health, Police Department, Fire Department and Permit Granting Authority shall be notified in writing by an RMD or OMMD facility owner/operator manager:
  - a. A minimum of 30 days prior to any change in ownership or management of that facility
  - b. A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the RMD or OMMD.

3. Permitted RMD and OMMD facilities shall file an annual report to the Permit Granting Authority no later than January 31st, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the permit.
4. The owner or manager is required to respond by phone or email within twenty-four hours of contact by a town official concerning their RMD or OMMD at the phone number or email address provided to the Town as the contact for the business.
5. Any person, firm, or corporation violating any article or provision of this By-Law shall be fined not more than \$300.00 dollars for each offense, and each day that violation continues shall be constituted a separate offense.

E. Issuance/Transfer/Discontinuance of Use

1. Special Permits with Site Plan approvals from the Planning Board shall be issued to the RMD Operator.
2. Special Permits with Site Plan approvals from the Planning Board shall be issued for a specific site/parcel.
3. Special Permits with Site Plan approvals from the Planning Board shall be non-transferable to either another RMD Operator or site/parcel.
4. Special Permits with Site Plan approvals from the Planning Board shall have a term limited to the duration of the applicant's ownership/control of the premises as a RMD or OMMD, and shall lapse:
  - a. if the permit holder ceases operation of the RMD, and/or
  - b. the permit holder's registration by DPH expires or is terminated
  - c. The permit holder shall notify the Building Inspector and Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration.
5. An RMD or OMMD facility shall be required to remove all material, plants, equipment and other paraphernalia prior to surrendering its State Registration or ceasing its operation.

**7A.5 Findings**

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

1. That the RMD or OMMD facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest
2. That the RMD or OMMD facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and

3. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw;
4. That the RMD or OMMD project meets a demonstrated need;
5. That the RMD or OMMD facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured;
6. That the RMD or OMMD facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

**7A.6 ADDITIONAL NOTES - In the development of this Bylaw a number of things were considered, including:**

1. Only a qualified non-profit can apply for a Registered Marijuana Dispensary (RMD) which includes cultivation, processing and dispensing.
  - The RMD can cultivate process and dispense on a single site, or can cultivate it on one site and sell it on another site.
  - One qualified non-profit can apply for up to 3 separate RMDs which can share cultivation facilities or each can have its own cultivation site.
  - An RMD can either cultivate and sell, or just sell but must be provide its Medical Marijuana (MM) from another RMD that cultivates which is owned by the same nonprofit. One non-profit RMD may not buy cultivated MM from another non-profit's RMD except in emergencies as specified DPH regulations.
2. DPH will be approving RMDs geographically (i.e. spread across the state to provide them within easy access to all communities (reducing hardship cultivation) rather than demographically (i.e. where the population concentrations are).
  - RMDs will likely have smaller facilities in areas serving areas with smaller populations and larger facilities when serving the areas of concentrated populations
3. Production of medical marijuana is really an industrialized process that will be taking place in highly secured, climate controlled structures 24 hours/day, 7 days/week, 52 weeks/year. Production is not just cultivating the plants but also processing of the marijuana into various forms for application (smoked, eaten, rubbed on, vaporized, etc.).
  - Production facilities should be directed to areas where you have large (perhaps already vacant) buildings, likely an Industrial or Heavy Business Zone.
  - We have requested an advisory from the Attorney General's Office as to whether these facilities fall under the Chapter 40A, Section 3 agricultural exemption.

4. Because Medical Marijuana Dispensaries serve an extremely limited clientele (must be a Qualifying Patient registered with the Massachusetts Department of Public Health) and not the general public, they don't need to be located on Main Street or even necessarily in a commercial zone. They are a specific destination for a specific limited clientele and do not need exposure for attracting impulse shoppers.
  - Dispensaries will have to have the same high level of security as production facilities (cameras, fencing, secured windows, etc.) and may not be in character with downtowns and other commercial areas.
5. Home Delivery should be encouraged:
  - Requiring Qualified Patients to take public transit to dispensaries could put them at risk (riding on the bus (or even walking) with large amounts of cash/marijuana).
  - Reducing need for hardship cultivation

## **7B.0 MARIJUANA ESTABLISHMENTS**

**7B.1 Purpose.** The purpose of this section is to regulate the time, place and manner of marijuana establishments as necessary to protect the public health and safety and in a manner consistent with the character of this community and not unreasonably impracticable.

**7B.2 Scope.** Section 7B.0 relates only to marijuana establishments authorized by General Laws, Chapter 94G, and not to medical marijuana treatment centers authorized by General Laws, Chapter 94I, the location and operation of which is governed by Section 7A.0 of these bylaws.

### **7B.3 Definitions**

- A. "Cannabis or marijuana products," means cannabis or marijuana and its products unless otherwise indicated. These include products have been manufactured and contain cannabis or marijuana or an extract from cannabis or marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.
- B. "Commission", means the Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, the act, M.G.L. c. 94G, and 935 CMR 500.000.
- C. "Craft marijuana cultivator cooperative", means a Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.
- D. "Marijuana independent testing laboratory", means a laboratory that is licensed by the commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. c.94C, § 34.

E. “Marijuana cultivator”, means an entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

F. “Marijuana establishment”, means a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

G. “Marijuana product manufacturer”, means an entity licensed by the commission to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

H. “Marijuana Retailer”, means an entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

#### **7B.4 Siting of marijuana establishments and parking requirements**

##### **A. A Marijuana Independent Testing Laboratory**

(1) may be located only in such zoning districts subject to such standards and conditions, including special permit and/or site plan approval, as is required by these bylaws for such a use and purpose [Section 3., Table of Use Regulations, Retail and Service Uses, subsection 4.34.1]; and

(2) shall have the minimum number of parking spaces as is required in Section 5.7.2 for professional offices and office buildings.

##### **B. A Marijuana Product Manufacturer**

(1) may be located only in such zoning districts and subject to such standards and conditions, including special permit and/or site plan approval, as is required by these bylaws, for such a use and purpose [Section 3., Table of Use Regulations, Wholesale, Transportation and Industrial Uses, subsection 5.29]; and

(2) shall have the minimum number of parking spaces as is required in Section 5.7.2 for buildings for manufacture, assembly, processing or packaging.

##### **C. A Marijuana Retailer that does not permit consumption of marijuana on the premises**

(1) may be located only in such zoning districts and subject to such standards and conditions, including special permit and/or site plan approval, as is required by these bylaws for such a use and purpose [Section 3., Table of Use Regulations, Retail and Service Uses, subsection 4.41]; and

(2) shall have the minimum number of parking spaces as is required in Section 5.7.2 for other buildings for retail sales and services.

##### **D. A Marijuana Cultivator, whether licensed as a marijuana cultivator or craft marijuana cultivator cooperative, may be located**

(1) Outdoors only in such zoning districts and subject to such standards and conditions, including special permit and/or site plan approval, as is required by these bylaws for such a use and purpose [Section 3, Table of Use Regulations, Agricultural Uses, subsection 3.11].

(2) In greenhouses only in such zoning districts and subject to such standards and conditions, including special permit and/or site plan approval, as is required by these bylaws for such a use and purpose [Section 3, Table of Use Regulations, Agricultural, subsection 3.12].

(3) Indoors only in such zoning districts and subject to such standards and conditions, including special permit and/or site plan approval, as is required by these bylaws, for such a use and purpose [Section 3, Table of Use Regulations, Wholesale, Transportation and Industrial Uses, subsection 5.30].

## **7B.5 Other standards and conditions**

A. No person shall operate a marijuana establishment without having a license in good standing from the Commission.

B. No marijuana retailer shall be located within three hundred feet (300') of any pre-existing residential use (Table of Use 1.0). The distance under this section shall be measured in a straight line from the nearest point of the residential building to the nearest point of the building housing the proposed marijuana retailer.

C. No marijuana establishment, shall be located within five hundred feet (500') of any pre-existing public or private school or pre-existing licensed child care facility or any other pre-existing use in which children commonly congregate in an organized ongoing formal basis. The distance under this section shall be measured in a straight line from the nearest point of the building housing the facility in question to the nearest point of the building housing the proposed marijuana establishment.

D. No marijuana establishment shall be located within a building containing residential units, including transient housing or group housing such as hotels, motels, lodging houses or dormitories.

E. No marijuana cultivation, whether outdoors or in a greenhouse (Table of Use Regulations 3.11 and 3.12), shall be located (i) in the Rural Residential (RR), Outlying Residential (OR), Town Center (TC) or Business (B) districts within five hundred feet (500') of any pre-existing residential use (Table of Use Regulations 1.0) located on a lot that is not under common ownership with the lot on which the marijuana establishment is proposed, or (ii) in the Agricultural (AG) district within three hundred feet (300') of such a use. No such setback shall apply with respect to marijuana cultivators located in the Industrial (I) and/or Light Industrial (LI) districts. The distances under this section shall be measured in a straight line from the nearest point of the residential building to the nearest point of the security fencing associated with the proposed marijuana cultivator.

F. No more than two (2) marijuana retailers shall be located in town at any one time.

G. The owner or manager of a marijuana establishment is required to respond by phone or email within twenty- four (24) hours of contact by a Town official concerning their establishment at the phone number or email address provided to the Town as the contact for the business.

H. Marijuana establishment operations shall conform at all times to General Laws, Chapter 94G, and regulations issued thereunder.

I. All marijuana establishment signage shall conform to Section 5.9 of these bylaws.

J. No signage, displays or artwork at a marijuana establishment shall state, depict or include the words "marijuana" or "cannabis" or any marijuana plants, products and/or paraphernalia.

K. Marijuana plants, products and paraphernalia shall not be visible from outside the building in which the establishment is located. No outside storage is permitted.

L. No public events shall take place at any marijuana establishment.

M. No odor may be noxious or cause a nuisance or impair public comfort and convenience. Marijuana establishments shall incorporate odor control technology and provisions.

N. The special permit may be limited to the current applicant and provide that the permit shall lapse if the applicant ceases operating the licensed marijuana establishment or if the applicant's license with the Commonwealth of Massachusetts expires or is terminated.

O. The Board may require additional conditions and set standards for performance and maintenance upon finding that such action is reasonably necessary to meet the purpose and intent of Zoning Bylaws.

## **8.0 ADMINISTRATION, ENFORCEMENT AND AMENDMENTS**

### **8.1 EFFECTIVE DATE**

This zoning By-Law shall become effective upon approval, following adoption by the town, by the Attorney General of Massachusetts, and upon publication and posting as required by General Laws.

### **8.2 SEVERABILITY OF BY-LAW**

If any provisions of this By-Law or boundary depicted on the zoning map is held invalid, the validity of the remaining by-Law provisions and boundary lines shall not be affected thereby.

### **8.3 BY-LAW INTERPRETATION**

To the extent that any specific provisions of this by-Law shall conflict with any general provisions thereof, the specific provisions shall prevail.

### **8.4 ENFORCEMENT**

This By-Law shall be enforced by a building inspector appointed by the Select Board and whose qualification, term of office, and general duties and responsibilities shall be in accordance with any or all action necessary to enforce full compliance with any or all provisions of this By-Law and the conditions and stipulations of permits and variances issued thereunder, including notification of non-compliance together with requests for legal action through the Select Board to the town counsel.

### **8.5 BUILDING PERMIT**

In processing an application for a building permit the building inspector shall determine by direct reference to Chapter 40A of the general Laws of the Commonwealth of Massachusetts and the zoning map, soil limitations map, state building codes and flood hazard boundary map, the extent to which any constraints imposed by such maps within the zoning district in question are applicable and shall be adhered to and be guided by such constraints.

### **8.6 CERTIFICATE OF OCCUPANCY**

- A. No building or structure hereafter erected or externally altered shall be occupied or used, until a certificate of occupancy has been issued by the building inspector.
- B. A certificate of occupancy shall be conditional on the full compliance with the provisions of this By-Law in force at time of issuance, or with any restrictions imposed by the board of appeals and it shall so state that any such imposed restrictions have been met.

### **8.7 PERMIT AND CERTIFICATE FEES**

Fees for building permits and occupancy certificates shall be established and revised from time to time as necessary, by the Select Board. Both fees shall be due and payable at the time application is made for a building permit.

**8.8** (Text disapproved and deleted by the Attorney General – 8/28/03)

### **8.9 BOARD OF APPEALS**

A board of appeals of three members and two alternate members shall be appointed by the Select Board in accordance with the provisions of General Law. The board of appeals shall possess and exercise those powers granted by General Law and shall establish procedures consistent with the provisions of this By-Law. The board shall carry out the following specific powers and duties:

- A. Appeals. To hear and decide appeals taken by any person aggrieved by reason of inability to secure a permit from the building inspector pursuant to General Law and this By-Law.
- B. Variances. To hear and decide petitions for variances from the requirements of this by-Law, and to authorize such variances upon appeal, or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing building thereon.
  - 1. Variances shall be granted only when:
    - a) owing to conditions especially affecting such parcel or building but not affecting generally the zoning district in which located. A literal enforcement of the provisions of this By-Law would involve substantial hardship, financial or otherwise, to the appellant, and
    - b) Desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent and purpose of this By-Law, but not otherwise.



## **8.10 RESUBMISSION OF PETITION**

- A. No proposed change or amendment to this by-Law which has been unfavorably acted upon by the town meeting shall be considered anew on its merits by that body within two years following the date of such unfavorable action unless adoption of the proposed change or amendment is recommended in the final report of the planning board.
- B. No appeal or petition for a variance which has been unfavorably acted upon by the board of appeals shall be considered anew on its merits by the board within two years following such unfavorable action unless the said board of appeals by a vote of four members finds specific and material changes in the condition upon which the previous unfavorable action was based and describes such changes in the record of its proceedings and unless all but one of the members of the planning board consents thereto and notice is given to parties of interest of the time and place of the proceeding when the question of such consent will be considered.

## **8.11 PENALTIES**

Any person, firm, or corporation violating any article or provisions of this By-Law shall be fined not more than \$300.00 dollars for each offense, and each day that violation continues shall be constituted a separate offense. (Amended ATM 5/9/00, approved 8/17/00)

## **8.12 AMENDMENT**

This By-Law may be amended from time to time in accordance with the provisions of Ch. 40A G.L.

## **9.0 DEFINITIONS**

Listed below are significant words and titles, together with their definitions which are used throughout this By-Law and which may require explanation and clarification.

### **9.1 Abandonment of Use**

The voluntary, intentional relinquishment of a know right to a building and/or real estate.

### **9.2 Accessory Building**

A building on the same lot with and of a nature customarily incidental and subordinate to the principal structure, except for uses accessory to scientific research development or related production permitted as a matter of right in which case the accessory use does not have to be located on the same lot as the principal use.

### **9.3 Accessory Use**

A use subordinate to and customarily incidental to the principal use.

#### **9.305 Adult Care Center**

Adult care services are all services provided at an adult care program. The general goal of these services is to provide an organized program of services that may include nursing and supervision , therapy, nutrition, counseling, activities, case management.

### **9.4 Adult Use**

An establishment providing entertainment, publications, or other material of a sexual nature.

### **9.5 Agriculture or Farming**

Includes farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, viticultural, floricultural or horticultural commodities, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market. Processing on farms is not classified as manufacturing if the raw material is grown on the farm.

### **9.6 Assembling or Packaging**

An industrial facility for assembling or packaging of manufactured goods.

### **9.7 Assisted Living Facility**

A special combination of housing, supportive services, personalized assistance and healthcare designed to respond to the individual needs of those who require help with the activities of daily living and who cannot or choose not to live alone. Assisted living services usually include: three prepared meals per day, housekeeping services, transportation services, assistance with daily activities such as eating, bathing, dressing, grooming, personal hygiene care, and transferring/walking, laundry services, social and recreational activities, utilities, and 24-hour security and staff.

**9.8 Aquifer**

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

**9.85 Back-land Development (or Back-land Lot)**

A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way. (Also referred to as a Flag Lot, Flag Pole Lot, or Rat Tail Lot.)

**9.9 Bed and Breakfast Inn**

A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises. The use as an inn shall not substantially alter the appearance of the house as a dwelling from other houses within a 1500-foot radius.

**9.10 Building**

Any structure erected for the support, shelter or use of animals, goods, persons, or property.

**9.11 Building Coverage**

That percentage which the first floor area of all principal and accessory buildings is of the gross lot size.

**9.12 Building Height**

The vertical distance between the mean finished grade at the structure and the highest point of the roof of the structure.

**9.13 Café**

An informal restaurant primarily offering coffee, tea, and other beverages, and where light refreshments and limited menu meals may also be sold.

**9.14 Child Care Center**

Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or pre-school, or known under any other name, which receives children not of common parentage under seven years of age, or under sixteen years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents.

**9.15 Commercial Forestry**

Business enterprise in which timber is cut and taken off site for a profit.

**9.151 "Commercial Parking Lot"**

An area of land, whether paved or unpaved, in which automobiles and/or commercial vehicles are parked, out of doors, and the owners/operators of those automobiles or commercial vehicles are paying a fee to park, whether hourly, daily, weekly, monthly or annually, and traveling by other means to an off-site location. This shall include automobile or commercial vehicle dealers, whether new or used, who wish to store a portion of their inventory, whether for a fee or not, on a location remote from the dealership.

**9.152 “Commercial Vehicle”**

Any form of motor vehicle, or combination of motor vehicles, whether motorized or not, used in any trade or commerce to transport passengers, tradesman tools, equipment, goods, or materials. Including but not limited to truck tractors, semi-trailers, delivery trucks, trailers, buses, limousines, passenger vans, tradesman vans, utility bodied trucks and motorized or towed contractor’s equipment.

**9.153 “Common Driveway”**

A form of access, which is not a town way, but extends from a town way (street) to provide common vehicular access to more than one (1) but not more than three (3) residential lots, constructed in accordance with the standards set forth in this by-law, and allowed only by Special Permit with Site Plan Approval. The common driveway shall lie entirely within the residential lots being served.

**9.16 Conforming Use**

The use of buildings, structures or land which meets fully the use, density, and dimensional requirements of the zoning district wherein located.

**9.17 Congregate Housing for Elderly and Handicapped Persons**

A structure or structures arranged or used for the residence of persons age fifty-five (55) or older, or for handicapped persons, who had temporary or periodic difficulties with one or more essential activities of daily living such as feeding, bathing, grooming, dressing or transferring, as defined in Chapter 121B of the M.G.L. with some shared facilities and service which may include meals, housekeeping, and personal care assistance.

**9.18 Continuing Care Retirement Community**

A Continuing Care Retirement Community (CCRC) combines housing specifically designed to accommodate the needs of people as they age with long-term care services including skilled nursing care. Generally, all CCRC’s provide housing accommodations including independent living units, assisted living units, and nursing home beds. General services include homemaking, transportation, meals, and grounds/building maintenance. Health services can include personal care assistance, home health visits, health screening, and nursing home care.

**9.19 Convalescent Facility**

A facility that provides nursing services and custodial care on a 24-hour basis for three or more unrelated individuals who for reasons of illness, physical infirmity, or advanced age, require such services.

**9.195 Corner Lot**

A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

**9.20 Drive-through Restaurant**

An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises. Services are effected principally while patrons remain in their vehicles.

**9.21 Dwelling**

Any building used in whole or in part for residential occupancy, but not a hotel, motel, lodging house, or mobile home.

**9.22 Dwelling Unit**

One or more rooms providing full living facilities for one family.

**9.23 Earth Excavation and Removal**

Excavation, stockpiling, and/or processing, of gravel, sand, peat and loam for commercial purposes.

**9.24 Elder Care Home**

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

**9.25 Encroachment**

Fill, construction of new structures, substantial improvement to existing structures or other development.

**9.26 Extensive Use**

Large scale, expansive, outdoor use of land associated with agriculture, conservation or recreation.

**9.27 Family**

Any number of persons related by blood, marriage, adoption, or guardianship, and not more than three persons not so related, living together as a single housekeeping unit.

**9.28 Family day care home**

Any private residence which on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children under sixteen in a family day care home shall not exceed six, including participating children living in the residence. Family day care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor. (MGLChapter 28A: Section 9)

### **9.29 Farm Business**

Business established for the processing of farm products, fifty percent (50%) by volume of which must have been raised or produced on the premises, or elsewhere in the Town. This use shall not include manufacture of farm machinery or fertilizers—which shall be considered general manufacturing.

### **9.30 Farm Stand**

A booth or stall established for the display or sale of farm products to the general public between the months of May and November, fifty percent (50%) by volume of the products sold at such farm stand must have been raised or produced on the premises or elsewhere in the Commonwealth of Massachusetts.

### **9.31 Fast Food Restaurant**

An establishment that offers quick food service which is accomplished through a limited menu of items already prepared and held for service, or prepared quickly, or heated. Orders are not generally taken at the customer's table, and food is generally served in packages prepared to leave the premises, or able to be taken to a table or counter to be consumed.

### **9.32 Floodway**

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

### **9.33 Floodplain**

Areas which would be flooded during the occurrence of the 100-year flood, shown as Zones A, A1-30 on the Flood Insurance Rate Maps.

### **9.335 Frontage**

The uninterrupted and contiguous side of a lot abutting on a street.

### **9.34 Hazardous or Noxious Materials**

Includes, but are not limited to, inorganic mineral acids of sulfur, fluorine, chlorine, nitrogen, chromium, phosphorous, selenium, and arsenic and their common salts; lead, nickel, and mercury and their inorganic salts or metallo-organic derivatives; coal, tar acids such as phenol and cresols and their salts and all radioactive materials.

### **9.35 Hazardous Waste Facility**

A facility for processing, treating, storing or disposing of hazardous wastes. A hazardous waste is any waste which is hazardous to human health or the environment. Hazardous wastes have been designated by the regulations in 310 CMR 30.130 adopted pursuant to the Massachusetts Hazardous Waste Management Act, Massachusetts General Laws Chapter 21C.

### **9.36 Home Occupation**

Any occupation, including but not limited to professional offices and retail sales of home-manufactured items, conducted in a dwelling unit, or accessory outbuilding, provided that:

The Home Occupation shall be characterized by outward manifestations (such as noise, public service and utility demand, etc.) not unlike those of dwelling units in the neighborhood in which the dwelling is located;

- b. No more than one person, other than members of the family residing on the premises, shall be engaged in such occupation;
- c. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants;

The Home Occupation shall not occupy more than forty (40) percent of the gross floor area of the dwelling unit;

- e. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) non-illuminated sign, not exceeding four (4) square feet in area;
- f. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be off the street and other than in a required front yard;
- g. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference, detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off premises.

### **9.37 Inn**

Any building or group of buildings in which there are 20 or less guest rooms, used for the purpose of offering public lodging on a day-to-day basis, not including a bed and breakfast home.

### **9.38 Kennel, commercial**

An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training or selling of animals is conducted as a business.

### **9.39 Kennel, private**

Any building or land designed and arranged for the care of dogs, cats, or other household pets belonging to the owner of the residential, principal use, kept for purposes of show, hunting, or as pets.

### **9.40 Loading Area**

An off-street paved space, either enclosed or unenclosed available for truck loading and unloading.

### **9.41 Lodging House (Boarding)**

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

### **9.42 Lot**

A single area of land in common ownership with definite boundaries and described on a recorded deed or plan

### **9.43 Lot Area**

The horizontal area of the lot.

### **9.44 Lot Frontage**

That portion of a lot fronting upon a town road to be measured continuously along one (1) street line between the lot side lines and their intersection with the street line, except where such frontage is along a town street line having a sideline outside curve radius of less than one hundred fifty (150) feet in which case frontage shall be measured continuously along a line concentric with the road sideline at the building setback between the lot sidelines and their intersection with said setback line.

### **9.45 Lot Line**

A division line between adjoining properties or lots.

**9.46 Lumber Mill**

A facility for processing and open or enclosed storage and sales of building materials. This does not include custom mill work or cabinet-making.

**9.47 Manufacturing**

Establishments engaged in the mechanical or chemical transformation, fabrication, assembly, conversion, alteration, finishing, or process treatment of materials or substances into new products including the assembling of component parts, the manufacturing or refurbishing of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors.

**9.48 Mobile Home**

Any vehicle without motor power, not including parked and unoccupied camping type trailers, designed or constructed to permit the use and occupancy thereof as a one-family dwelling unit, whether resting on wheels, foundation structures, or other support, but constructed to permit its occasional movement over a street or highway. Any such vehicle or structure shall be deemed to be a mobile home whether or not the wheels have been removed therefrom and whether or not resting upon a temporary or permanent foundation.

**9.49 Multi-Family Dwelling**

A building or group of buildings containing more than two (2) but not more than six (6) dwelling units. [see also *Townhouse*]

**9.50 Non-Conforming Use**

Use of land, buildings, or structures not in conformance with use, dimension and density requirements of the zoning district wherein located, but lawfully existing at the time of adoption of this by-Law.

**9.51 Nursing Home**

A home licensed by the state for the aged or chronically or incurably ill persons in which five or more such persons not of the immediate family are provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

**9.52 Package Store**

Any building designed and arranged primarily for the storage, for the purpose of sale or exchange, or for the sale or exchange of spirituous and alcoholic liquors, either at retail or wholesale, or whether for consumption on the premises or otherwise.

**9.53 Planned Business Development**

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

**9.54 Planned Industrial Development**

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

**9.55 Premises**

A lot together with all buildings, structures and uses thereon.

**9.56 Public Utilities**

Means a structure, use or land designed and maintained as a public or private utility or service facility which qualifies as a public service corporation under M.G.L. Chapter 40A, Section 8 for the provision of services like gas, electric, telephone, radio, television, water, and sewer or a municipal utility or service facility. This does not include liquefied natural gas storage or other private or for profit fuel storage facilities.

**9.57 Refreshment Stand**

A structure for the display and sale of food products, beverages, or desserts with no space for customers within the structure itself.

**9.58 Riverine Material**

Stone, rock, gravel, soil or other materials which comprise the river's bed or riverbank.

### **9.59 Scientific Research (Research and Development) Facility**

A business that engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include but are not limited to: research and development of computer software, information systems, communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use. Such uses shall not violate any odor, dust, smoke, gas, noise, radiation, vibration, or similar pollution standard or pose a health threat to the populace of the town.

### **9.60 Seasonal Farm Labor Housing**

Any living quarters, permanently maintained in connection with any farm work, for the housing of full-time, temporary, or permanent employees engaged in agricultural pursuits.

### **9.61 Self-service Storage Facility**

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

### **9.62 Setback**

The distance required from a street line or lot line to the nearest point of a building.

### **9.63 Site Plan**

The plans for a given development depicting one original design under the control of one agency or developer and indicating various phases of planning and construction including essential architectural, engineering, and landscaping features.

#### **9.631 Solar Energy – As Of Right Siting**

The construction, operation, repair and/or removal of Roof Mount or Ground Mount Solar Energy Installations are defined as providing no greater than 200% of the property owner's energy needs, and are an accessory use to an existing residential or non-residential use are allowed in all zones, but require a building permit and must comply with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements and other provisions of Hatfield's Zoning Bylaws.

#### **9.632 Solar Electric Cooperative**

The cooperative shall follow the guidelines as set out in the 2008 Green Communities Act, and all members must be residents of the town. The construction, operation, repair and/or removal of Roof Mount or Ground Mount Solar Electric Installations are defined as providing no greater than 200% of the Cooperative Members net metered electric needs, either residential or non-residential use, are subject to special Permit with Site Plan Approval and/or Site Plan review and other requirements of this section, require a building permit and must comply with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements and other provisions of Hatfield's Zoning Bylaws.

#### **9.633 Solar Energy Medium-Scale Ground-Mounted Installations:**

Produces solar energy solely for sale up to 500 kW or occupies no larger than 2 acres of land are subject to Special Permit with Site Plan Approval and/or Site Plan Review and other requirements of this section.

#### **9.634 Solar Energy Large-Scale Ground-Mounted Installations:**

Produces solar energy solely for sale larger than 500 kW or occupies more than 2 acres of land on one or more adjacent parcels in common ownership (including those separated by a roadway) are subject to Special Permit with Site Plan Approval and/or Site Plan Review and other requirements of this section.

### **9.64 Special Permit Granting Authority (SPGA)**

The planning board shall be authorized to grant special permits. The planning board shall comply with all provisions of this By-Law and all other By-Laws of the Town of Hatfield. The planning board shall also comply with the General Laws of the Commonwealth of Massachusetts.

### **9.65 Structure**

A building or other object constructed or erected, the use of which requires a fixed ground location, including mobile homes.

**9.66 Substantial Improvement (in the Floodplain Overlay District)**

Improvement to a structure of building which exceeds 25% of the original footprint of such structure or building.

**9.67 Tavern**

An establishment used primarily for the serving of alcoholic beverages to the general public and where food or packaged liquors may be served or sold only as accessory to the primary use.

**9.675 Through Lot**

A lot which fronts upon two parallel streets, or which fronts upon two streets that do not intersect at the boundaries of the lot.

**9.68 Townhouse**

A one-family dwelling unit, with a private entrance, in a row of at least three (3) such units which is part of a structure whose dwelling units are attached horizontally in a linear arrangement and in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls. [see also *Multi-Family Dwelling*]



## **Record of Amendments**

- 5/13/03 Adopted**
- 5/11/04 Deleted Section 3.4.4 Infill Development**
- 5/11/04 Amended Section 4.4(A), Setback Requirements-Abutting Zoning Districts**
- 5/08/07 Amended Zoning Map (Parcels on Pine Edge Way)**
- 5/13/08 Deleted Section 7.0 Stormwater Management and added a new section 7.0**
- 5/13/08 Amended Zoning Map (Map 210, Lot 58)**
- 5/11/10 Added new section, 5.26 to Use Regulations, Table of Use Section 3.3**
- 9/08/10 Amended Zoning Map (Map 224, lots 30 and 31; Map 219, Lot 3)**
- 5/10/11 Amended zoning Map (Map 206, Lots 9 and 9.1; Map 211, Lots 15 and 18.1)**
- 5/10/11 Added subsection 2.14 to Section 3.0 Use Regulations**
- 5/10/11 Added sub-section 9.305 to Section 9.0 Definitions**
- 5/14/13 Amended Section 5.5.7 Site Plan Review Decisions and Criteria**
- 5/14/13 Added new section B to Section 5.4.7 Site Plan Approval Decisions and Criteria**
- 5/14/13 Amended DEFINITIONS by adding subsections 9.631, 9.632, 9.633 and 9.634**
- 5/14/13 Added new sections 6.23, 6.24, 6.25 and 6.26 to Use Table, Accessory Use**
- 5/14/13 Amended Section 2.2 Locations of Districts: Zoning Map**
- 5/14/13 Amended Zoning Map (Map 211, Lot 30-0)**
- 5/13/14 Amended Section 5.3.5 Procedure for Review**
- 5/13/14 Amended-Zoning Map (Map 216, Lots 3, 4 & 5)**
- 5/13/14 Amended Section 9.632 regarding Solar Electric Cooperative**
- 5/13/14 Amended Use Section 3.0, Sub-Section 6.24**
- 5/13/14 Deleted 6.6 Mixed Use Development and added new 6.6 Mixed Use Development & Amended Section 4.3 of the Table of Dimensional Density Regulations**
- 5/13/14 Added Section 7A.0 Medical Marijuana**
- 5/12/15 Revise 2<sup>nd</sup> line of Section 5.7.1**
- 5/12/15 Added Section 5.8, Common Driveways**
- 5/12/15 Added Sections 9.151; 9.152 and 9.153 to Section 9 “Definitions”**
- 5/08/18 Added Section 7B.0 Marijuana Establishments**
- 5/08/18 Added Amendments to Section 3.0 Use Regulations regarding Marijuana**
- 5/14/19 Amended Section 2.4 Floodplain Overlay District**
- 5/14/19 Amend Section 5.0 by adding new Subsection 5.10 Priority Development Sites**
- 5/14/19 Amend Section 3.0 Use Regulations by adding Section 1.25 and 1.26; and Amend Section 3.4, by adding Section 3.4.4 Accessory Apartments;**
- 6/16/20 Amend Section 7B.5 by inserting new Section E and re-lettering existing subsections E-N to F-O, respectively**
- 6/16/20 Amend Table of Uses by moving “Medium Ground Mount Solar Generating System” and “Large Ground Mount Solar Generating System” from Section 6.0 to Section 5.0 and renumbering them 5.31 and 5.32, respectively.**
- 5/11/21 Wherever the words “Board of Selectmen” appear in the Zoning Bylaws, such words shall be replaced with the words “Select Board”.**