

Draft Dated: November 22, 2021

2022 AMENDMENTS TO THE AMHERST ZONING ORDINANCE

PROPOSED BY THE AMHERST PLANNING BOARD

FOR BALLOT VOTE AT THE 2022 TOWN MEETING

The amendments to the Amherst Zoning Ordinance proposed by the Amherst Planning Board are outlined below. *Additions* are shown in ***bold italic text*** and the deletions are shown in ~~strikethrough text~~.

PLANNING BOARD PROPOSED AMENDMENT #1:

1. *Amend Article IV, Zoning Regulations, Section 4.17 Planned Residential Development (PRD), to add requirements that a feasible baseline density plan be submitted; to include language that describes factors that may be incorporated to maintain rural aesthetic and character; to require documentation to ensure protection of open space; to require documentation to demonstrate any restrictions on housing ownership; to require clusters of dwellings as opposed to frontage lots; to specify that the Board may, but is not required to, grant increased unit density and to cap that increased density at 25% and to provide the rationale for why such increase may be granted; to clarify what land is considered to be open space and that such open space shall be open to the public except in certain circumstances and to limit construction within the open space; and to include reference to the goals of the Master Plan, as follows:*

Section 4.17 Planned Residential Development (PRD). (11-2-82)

ALLOWED BY CONDITIONAL USE PERMIT. (3-6-04, 3-14-17)

- A. PURPOSE. Planned Residential Development allows an alternative ~~pattern of~~ ***to the*** land development ~~to the~~ pattern permitted in the Residential/Rural, Northern Rural, Northern Transitional, and Commercial Zones. ***Consistent with the goals of the Town's Master Plan, it*** ~~is~~ intended to encourage the preservation of open space ***and the Town's rural aesthetic*** and, at the same time, provide for a greater variety of housing types and affordability in the Town of Amherst at somewhat greater densities than permitted elsewhere in the Zoning Ordinance, without causing a significant increase in the town-wide population density. It is envisioned that in a PRD, dwelling units will be constructed in clusters which are harmonious with neighborhood developments and housing, and with natural surroundings. ***This section is adopted as an innovative land use control pursuant to RSA 674:21.*** ~~These clusters shall detract~~

neither from the ecological and visual qualities of the environment, nor from the value of the neighborhood, environment, or the Town.

B. REQUIREMENTS. *An applicant for approval of a proposed PRD shall make application to the Planning Board as a Conditional Use Permit but otherwise in the same fashion and with the information specified in the Subdivision Regulations and as set forth below.*

- 1.** *Solely as an aid to the Board, the applicant shall present a "baseline density" plan demonstrating the dwelling unit development density supported by the subject property if applicable statute, ordinance, and regulation requirements are observed without waiver, including, but not limited to, zoning lot size requirements, frontage requirements, wetland and wetland buffer restrictions, septic system reserved areas, wellhead exclusion areas, avoidance of building on steep slopes and in floodplains, and provisions for stormwater management features outside of wetland buffers. The applicant shall be prepared to demonstrate that the baseline density plan is economically feasible (e.g. does not require unusually expensive or elaborate infrastructure). The baseline density plan shall have sufficient detail to aid the Board in reaching its own determination of a reasonable and feasible baseline density but need not include all the detail required of a final plan. The Board may have such plans reviewed for compliance with statutes, ordinances, regulations, and for feasibility by a third party at the applicant's expense.*
- 2.** *The applicant shall submit plans and other documentation for its proposed PRD development in compliance with the following:*
 - a.** *The plan shall maintain the rural aesthetic and character of the town as consistently valued by its residents, including in the Master Plan. The determination of whether rural aesthetic and character is maintained necessarily involves the exercise of discretion by the Board. Factors relevant to the determination will vary from application to application based on unique site characteristics and may include, but are not limited to, the following factors:*
 - 1.** *the density and frontage requirements of the underlying zoning district;*
 - 2.** *the density of the clustered units;*
 - 3.** *retention of views of natural features such as brooks and hills both from existing roads and residences and from housing units proposed for the PRD;*
 - 4.** *retention and integration of rural heritage features such as stone walls and open fields;*
 - 5.** *retention of mature native trees between housing units and in the development in general;*
 - 6.** *use of setbacks in excess of minimum requirements and use of varied setbacks;*
 - 7.** *use of densities and layouts that provide for views of space*

- between units from numerous locations and view angles along adjacent and approaching roads;*
8. *maintenance of views of undeveloped land and of distant locations from existing roads and from proposed PRD units;*
 9. *favoring of harmonious variation in layout and in architectural style rather than repetition;*
 10. *the avoidance of lot placement along frontage of existing public roads rather than in clusters, so as to maintain the presence and views of undeveloped land; and,*
 11. *use of internal central areas such as greens, ponds, gardens, and park areas that permit the sense of a natural core within the cluster.*
- b. *The plan shall preserve open space as required herein and shall provide the documentation the applicant proposes to record to ensure the open space is permanently protected and accessible to the public.*
 - c. *The plan shall include* ~~The PRD should contain~~ *a variety of housing types to accommodate the Master Plan purposes of encouraging a diversity of people, a variety of age groups of different interests, backgrounds, and economic levels. The application shall describe and provide documentation demonstrating how any permissible and applicable restrictions on housing ownership will be administered and maintained. Any such restrictions shall comply with applicable federal and state laws to be approved.*
 - d. *The plan shall depict dwelling units constructed in clusters that are harmonious with neighborhood developments and housing, and with natural surroundings. Clusters shall detract neither from the ecological and visual qualities of the environment, nor from the value of the neighborhood, environment or the Town. Clusters are intended to replace the use of traditional lots with full road frontage rather than be used in addition to such lots.*
 - e. *The plan shall describe how* ~~The~~ *the overall site design and amenities should enhance the quality of living for, and provide benefit to, the residents of the development and, in general, the neighborhood and the Town.*
 - f. *The plan shall meet the conditions for issuance of a Conditional Use Permit set forth in Section 3.18 of the Zoning Ordinance.*

C. BOARD DETERMINATION

1. *The Board shall determine the reasonable and feasible baseline density for the subject property, which shall not be more than the number of dwelling units that could be feasibly constructed on the subject property if applicable statute, ordinance, and regulation requirements are observed without waiver.*
2. *The Board shall determine whether the proposed PRD, namely the subdivision site plan or layout, and number, type, and design of the proposed housing is suitable to the neighborhood within which it is to be located and is consistent*

- with the Master Plan and its reasonable growth objectives. (3-14-89) *The Board shall be guided by the objectives and standards set forth in the Purpose and Requirements sections above in making its determination.*
3. *In doing so, the Planning Board in its discretion may, but is not required to, allow a dwelling unit density greater than the reasonable and feasible baseline density for the subject property, to the degree the applicant's proposal provides benefits to the residents and the Town commensurate with any such increased density. For purposes of this density determination, the Board shall count each proposed Accessory Dwelling Unit as a separate dwelling unit. Whether to award such an increase in density, and, if so, the degree or amount of the increased density allowed (within the limitations established herein) are discretionary decisions of the Board and are not a right of the applicant.*
 4. *In no case shall the Board permit a dwelling unit density increase of more than 25% above the reasonable and feasible baseline density it has determined for the subject property. There shall be no presumption that 25% or any lesser density increase is required to be granted, and the 25% maximum increase is an absolute cap that shall not be exceeded.*
 5. *This limitation on dwelling unit density increase in a PRD is implemented for the following reasons:*
 - a. *To provide appropriate incentive levels to applicants to propose PRDs. A PRD may reduce an applicant's cost of development by reducing per lot infrastructure and site development costs, and thereby provide an incentive to propose a PRD in lieu of a traditional subdivision. This incentive may be present even in the absence of increased dwelling unit density. A limitation helps to ensure the Town is not providing unnecessary or excessive incentives.*
 - b. *To ensure the level of development allowed is at a level that is harmonious with the requirements of the underlying zoning district.*
 - c. *To guard against potential harm to natural resources (including to wildlife habitat and water resources) from excessive development density.*
 6. *If the Board is satisfied that the application conforms to the requirements of this and other applicable sections of the ordinance and regulations,*
- ~~C. CONDITIONS. An applicant for approval of a proposed PRD shall make application to the Planning Board in the same fashion as specified in the Subdivision Regulations and Section 4.16 — IHO. In the course of review of the proposal by the Planning Board, the Board shall hear evidence presented by the applicant and determine whether, in its judgment, the proposal meets the objectives and purpose set forth above, in which event the Board may grant approval to the proposal subject to such **additional** reasonable conditions and limitations as it shall deem appropriate. (3-14-17)~~

~~D. (Deleted 3-10-15)~~

~~E. (Deleted 3-10-15).~~

D. PERMITTED USES.

1. There may *be* permitted in any PRD, single family detached and single family attached, and multi-unit structures of any type without regard to dwelling unit configuration or form of ownership. It is envisioned that the housing types, ~~while having~~ *may have* different internal configurations, *but* will have an external appearance that complements and is in general harmony with the natural surroundings of the PRD. ~~Up to ten percent (10%) of the dwelling units may be mobile homes.~~ The maximum height of any dwelling structure shall be thirty-five (35) feet, exclusive of chimneys or cupolas, measured from the lowest adjacent exterior elevation. For the purposes of this ordinance, the following definitions shall apply:
 - d. Single Family Detached Dwelling Unit - any building designed for and occupied by not more than one (1) family and which is not attached to any other dwelling unit by any means.
 - e. Single Family Attached Dwelling Unit - a single family dwelling attached to one other single family dwelling by a common vertical wall *or shared ceiling/floor*.
 - f. Multi-unit Structure - a building which contains from three (3) to six (6) dwelling units.
2. The Board shall ~~determine~~ *approve* the mix of housing types, number of dwelling units and structures, and the number of bedrooms for each dwelling unit. These shall be determined at the Final Review and be noted on the Final Plat.

E. OPEN SPACE.

~~All land~~ *Land* in the PRD ~~which~~ *that* is not covered by buildings, septic systems, wells, paved areas, service areas, ~~or which~~ *signs, or other structures, and that* is not set aside as private yards, patios, ~~or~~ gardens, *sidewalks, or other walkways* for the residents ~~shall~~ *may* be ~~treated~~ *designated* as open space. The area of the open space shall be at least forty percent (40%) of the total area of the PRD tract. *To be counted toward the 40% requirement, Such such* land shall have a shape, dimension, character, and location suitable to assure its use for park, recreation, conservation, or agricultural purposes ~~by at least all the residents of the PRD~~. *In evaluating the adequacy of the open space proposed to be provided, including for purposes of determining whether to award and the amount of any density increase to be allowed in the PRD, the Board may consider the nature of the open space including, by way of example only, whether the proposed open space would have been accessible and developable if not set aside.*

Open space shall be retained in perpetuity for one ~~(1)~~ or more of the following uses: conservation, agriculture, recreation, or park. *Any such conservation or agricultural*

uses shall have such protections memorialized in an easement to the Town or a "qualified organization" as set forth in RSA 36-A:4-a. The applicant shall provide commensurate levels of protection for recreation or park uses.

Provisions shall be made for the open space to be held in common, equally, by all the owners of the PRD. ~~Such provision shall further hold that all the~~ *The open space shall be readily accessible to all the residents of the PRD and that such open space **the public except to the extent that (1) the liability protections provided by RSA 212:34 and RSA 508:14 would not apply; (2) the applicant chooses to restrict public access to designated trails and areas of the open space, provided the Board agrees such restrictions are reasonable; or (3) if necessary for proper conservation or agricultural purposes. Any such proposed restrictions shall be specified in the application.***

No building or construction ~~whether it be~~ *(including, but not limited to, structures, wells, or septic systems, or stormwater management features)* shall take place in the open space *except as is (1) consistent with the permitted uses of conservation, agriculture, recreation, or parks (including permitted public access); (2) in the best interest of the Town; and (3) with the permission of the Planning Board.* Harvesting of trees in the open space is permitted if it is done according to ~~good~~ *a forestry practice plan incorporating Best Management Practices* and with the expressed permission of the Planning Board. (3-13-84)

~~F. (Deleted 3-10-15)~~

F. ARCHITECTURAL DESIGN.

~~As a condition of final approval, the~~ *The applicant must shall* obtain the Board's approval of the external architectural design of the PRD to ensure that it complies with the goals of harmonious existence with the neighborhood and the environment as stated in the ~~paragraph on PURPOSE at the beginning of this ordinance~~ *section and is otherwise consistent with the goals of the Master Plan.* The approval of the architectural design shall be a part of the Final Review approval.

G. LIMITATION OF SUBDIVISION.

No lot shown on a plan for which a permit is granted under this ordinance may be further subdivided and a note to this effect shall be placed on the Final Plan.

~~H. (Deleted 3-10-15)~~

RATIONALE:

This proposed amendment would require the applicant to submit a baseline density plan for a Planned Residential Development proposal that meets all the Town's ordinance and regulation requirements. The amendment clarifies how any density increases may be granted by the

Planning Board while also including factors to be considered to retain the Town's rural character. The amendment also includes application submittal requirements and open space access clarification.

PLANNING BOARD PROPOSED AMENDMENT #2:

2. *Amend Article III, General Zoning Provisions, Section 3.18 Conditional Use Permits, Subsection 3.18 C.1.d. to add water usage, septic loading, and stormwater runoff to the list therein, and Subsection 3.18 C.1.e. to add surface water as well as reference to the Floodplain Conservation and Wetland and Watershed Conservation Districts as well as the Aquifer Conservation and Wellhead Protection District, and to add a new Subsection 3.18 C.1.g. to include factors for the Planning Board to consider relevant to the rural aesthetic and character of the town; to amend Section 3.18 C.3.a. to specify a timeframe for subsequent applications to be obtained and for construction to begin following CUP approval; and, to amend Section 3.18 C.3.b. to specify how an extension to the CUP timeframe may be obtained if the requirements in Section 3.18 C.3.a. are not met, as follows:*

Section 3.18 Conditional Use Permits

C. STANDARDS APPLICABLE TO ALL CONDITIONAL USE PERMITS.

1. Conditions for Conditional Use Permits.

Before the Planning Board considers the approval of an application for a Conditional Use Permit, the applicant shall prove to the satisfaction of the Planning Board that all the following conditions have been met:

- d. That the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, ***water usage, septic loading, storm water runoff*** or inappropriate lighting than any use of the property permitted under the existing zoning district ordinances.
- e. That the proposed use will not adversely affect the ***surface or*** ground water resources of Amherst, ~~in particular~~ ***including but not limited to the Flood Plain Conservation District as defined in Section 4.10, the Wetland and Watershed Conservation District as defined in Section 4.11, and the Aquifer Conservation and Wellhead Protection District as defined in Section 4.13 of the Amherst Zoning Ordinance.***
- g. ***The proposed use is consistent with the rural aesthetic and character of the town. The determination of whether rural aesthetic and character is maintained necessarily involves the exercise of discretion by the Board. Factors relevant to the determination will vary from application to application based on unique site characteristics and may include, but are not limited to, the following factors:***

1. *the density and frontage requirements of the underlying zoning district;*
2. *retention of views of natural features such as brooks and hills;*
3. *retention and integration of rural heritage features such as stone walls and open fields;*
4. *retention of mature native trees;*
5. *use of setbacks in excess of minimum requirements and use of varied setbacks;*
6. *use of densities and layouts that provide for views of space between proposed features from numerous locations and view angles;*
7. *maintenance of views of undeveloped land and of distant locations;*
8. *favoring of harmonious variation in layout and in architectural style rather than repetition; and*
9. *use of internal central areas such as greens, ponds, gardens, and park areas that permit the sense of a natural rural core.*

3. Limits on a Conditional Use Permit.

- a. *For projects requiring an associated Site Plan or Subdivision approval, such approval must be obtained within one (1) year of the Planning Board approval of the Conditional Use Permit. For all other projects, substantial construction must commence within one (1) year of the Planning Board approval of the Conditional Use Permit and Site Plan Approval.*
- b. *If, as applicable, site plan or subdivision approval is not obtained, or construction is not commenced within this period, the Conditional Use Permit approval may be extended for up to one (1) additional year upon approval of the Amherst Planning Board provided applicant has been diligent in proceeding with its project and in requesting the extension. Any extension request shall be made in writing prior to the conclusion of the original approval period and in the appropriate time for consideration by the Planning Board at a regularly scheduled public meeting. If approvals are not obtained or construction is not commenced within this extended period, as applicable, the Conditional Use Permit is declared null and void.*

RATIONALE:

This proposed amendment adds to the list of things the Planning Board should consider before granting a Conditional Use Permit, including the proposal's potential objectionable impact on neighboring properties from water usage, septic loading and stormwater runoff and its potential impact on surface water resources as well as groundwater resources. Factors for the Planning Board to consider with regard to rural aesthetics and character are included. The proposed amendment also clarifies the timeframe for future applications to be obtained and for

construction to commence as well as how to apply for an extension if the timeframes cannot be adhered to.

PLANNING BOARD PROPOSED AMENDMENT #3:

3. *Amend Article IV, Zoning Regulations, Sections 4.3 D.3., Residential/Rural Zone, 4.4 D.3., Northern Transitional Zone, and 4.5 E.3., Northern Rural Zone, to add a requirement that on a corner lot accessory buildings require a 50' setback from all the streets bordering the lot, as follows:*

Section 4.3 Residential/Rural Zone (RR). (3-12-63, 3-11-93, 3-10-15)

D. YARD REQUIREMENTS.

3. Any accessory buildings or structures shall be set back at least twenty (20) feet from side and rear lot lines and at least fifty (50) feet from the front lot line and not exceed twenty-two (22) feet in height. ***In the case of corner property, the setback distance shall be at least fifty (50) feet on any side bordering a street, lane, or public way.*** The height requirement may be waived for farm structures. (3-12-63, 3-10-87, 3-8-05, 3-11-08)

Section 4.4 Northern Transitional Zone (NTZ). (3-8-88)

D. YARD REQUIREMENTS.

3. Any accessory building or structure shall be set back at least thirty (30) feet from the side and rear lot lines and at least fifty (50) feet from the front lot line and shall not exceed twenty-two feet in height. This requirement may be waived for farm structures or buildings. ***In the case of corner property, the setback distance shall be at least fifty (50) feet on any side bordering a street, lane, or public way.*** (3-8-88, 3-11-08)

Section 4.5 Northern Rural Zone (NR). (3-2-76, 3-10-15)

E. YARD REQUIREMENTS.

3. Any accessory building or structure shall be set back at least thirty (30) feet from side and rear lot lines and at least fifty (50) feet from the front lot line and shall not exceed twenty-two (22) feet in height. This height requirement may be waived for farm structures or buildings. ***In the case of corner property, the setback distance shall be at least fifty (50) feet on any side bordering a street, lane, or public way.*** (3-11-80, 3-9-82, 3-12-85, 3-10-87, 3-11-08)

RATIONALE:

This proposed amendment clarifies that accessory buildings or structures on corner lots shall be setback fifty feet from each road that borders the lot.

PLANNING BOARD PROPOSED AMENDMENT #4:

4. *Amend Article IV, Zoning Regulations, Sections 4.3 C.2., Residential/Rural Zone, 4.4 C.2., Northern Transitional Zone, 4.5 D.2., Northern Rural Zone, 4.6 B.2., General Office Zone, 4.7 C.2., Commercial Zone, 4.8 C.2., Limited Commercial Zone, and 4.9 D.2., Industrial Zone, to require frontage to be provided on all sides of a lot that abut a street, as follows:*

Section 4.3 Residential/Rural Zone (RR). (3-12-63, 3-11-93, 3-10-15)

C. AREA AND FRONTAGE REQUIREMENTS.

2. Each new lot shall have a minimum frontage of two hundred (200) feet on a publicly maintained road, unless frontage has been approved and recorded as reduced frontage lot/s; in which event, thirty-five (35) feet shall be sufficient. (3-4-75, 3-10-87) *Corner lots shall have the minimum required frontage on all sides of the lot that abut a street or road.*

Section 4.4 Northern Transitional Zone (NTZ). (3-8-88)

C. AREA AND FRONTAGE REQUIREMENTS.

2. Each lot shall have a minimum frontage of three hundred (300) feet on the principal route of access to the lot. *Corner lots shall have the minimum required frontage on all sides of the lot that abut a street or road.*

Section 4.5 Northern Rural Zone (NR). (3-2-76, 3-10-15)

D. AREA AND FRONTAGE REQUIREMENTS.

2. Each new lot shall have minimum frontage of three hundred (300) feet on a publicly maintained road, unless frontage has been approved and recorded as reduced frontage lot/s, in which event thirty-five (35) feet shall be sufficient. (3-9-82, 3-10-87) *Corner lots shall have the minimum required frontage on all sides of the lot that abut a street or road.*

Section 4.6 General Office Zone (GO). (3-12-85, 3-10-15)

B. AREA AND FRONTAGE REQUIREMENTS.

2. Each lot shall have a minimum frontage of two hundred (200) feet on the principal route of access to the lot. (3-12-85) *Corner lots shall have the minimum required frontage on all sides of the lot that abut a street or road.*

Section 4.7 Commercial Zone (C). (3-10-15)

C. AREA AND FRONTAGE REQUIREMENTS.

2. Each new lot shall have a minimum frontage of two hundred (200) feet on a publicly maintained road, unless frontage has been approved and recorded as reduced frontage lot/s, in which event thirty-five (35) feet shall be sufficient. (3-14-78, 3-9-82) *Corner lots shall have the minimum required frontage on all sides of the lot that abut a street or road.*

Section 4.8 Limited Commercial Zone (LC). (3-2-76, 3-10-15)

C. AREA AND FRONTAGE REQUIREMENTS.

2. Each new lot shall have a minimum frontage of two hundred (200) feet on a publicly maintained road, unless frontage has been approved and recorded as reduced frontage lot/s, in which event thirty-five (35) feet shall be sufficient. (3-14-78, 3-9-82, 3-10-87) ***Corner lots shall have the minimum required frontage on all sides of the lot that abut a street or road.***

Section 4.9 Industrial Zone.

D. AREA AND FRONTAGE REQUIREMENTS.

2. Each lot shall have a minimum frontage of two hundred (200) feet on the principal route of access. (3-14-78, 3-13-84) ***Corner lots shall have the minimum required frontage on all sides of the lot that abut a street or road.***

RATIONALE:

This proposed amendment clarifies that corner lots shall have the minimum required frontage for the district they are in on each of the streets or roads that they abut.

PLANNING BOARD PROPOSED AMENDMENT #5:

5. *Amend Article IV, Zoning Regulations, Section 4.11 Wetland and Watershed Conservation District, Subsection 4.11, J., Article IV, Zoning Regulations, Section 4.13 Aquifer Conservation and Wellhead Protection District, Subsections 4.13 H.1.i., 4.13 I., and 4.13 I.2.d., to require proof of compliance with applicable stormwater regulations as part of a Conditional Use Permit Application, and to refer to Best Management Practices for the vertical separation of a stormwater facility above the seasonal high water table, as follows:*

Section 4.11 Wetland and Watershed Conservation District. (3-11-14)

J. CONDITIONAL USE APPLICATION REQUIREMENTS.

3. Stormwater management accommodations, both existing and proposed. The applicant shall demonstrate ***the manner in which compliance with applicable stormwater regulations is achieved.***
 - a. ~~Post development peak stormwater discharge volumes exiting the site are less than or equal to pre development discharge volumes for the ten (10) year return frequency design storm;~~
 - b. ~~The volume of site generated stormwater to be infiltrated on site by post development conditions is greater than or equal to the volume infiltrated in the pre development condition based on evaluation of the two (2) year return frequency design storm; and~~
 - c. Stormwater management facilities shall provide for sedimentation removal accommodations;

Section 4.13 Aquifer Conservation and Wellhead Protection District. (3-11-14)

H. **CONDITIONAL USE PERMIT APPLICATION PROCEDURES.**

1.

i. Stormwater management accommodations, both existing and proposed. The applicant shall demonstrate *the manner in which compliance with applicable stormwater regulations is achieved.*

~~i. post development peak stormwater discharge volumes exiting the site are less than or equal to predevelopment discharge volumes for the 10 year return frequency design storm;~~

~~ii. volume of site generated stormwater to be infiltrated on site under post development conditions is greater than or equal to the volume infiltrated under the predevelopment condition based on evaluation of the 2 year return frequency design storm; and~~

~~iii. stormwater management facilities shall provide for the removal of sediment;~~

I. **PERFORMANCE STANDARDS.**

The following performance standards shall apply to all uses of land in the Aquifer Conservation and Wellhead Protection District unless such use or uses enjoy an exemption under Article 4.13.G of this ordinance. *All uses shall comply with all applicable Town stormwater regulations. Stormwater plans shall:*

2.

d. Maintain a vertical separation between the bottom of a stormwater management facility which infiltrates or filters, of not less than ~~four feet~~ *the distance required by the applicable Best Management Practices for the stormwater facility* above seasonal high water table elevation as determined by a licensed hydrogeologist, soil scientist, engineer or other qualified professional as determined by the Planning Board.

RATIONALE:

This proposed amendment would require that CUP applications in the Wetland and Watershed Conservation District and the Aquifer Conservation and Wellhead Protection District comply with applicable stormwater regulations and Best Management Practices rather than including specific details in those sections.

PLANNING BOARD PROPOSED AMENDMENT #6:

6. *This housekeeping amendment would amend Articles II, Establishment of Districts, III, General Zoning Provisions, IV, Zoning Regulations, V, Special Exceptions, VI, Administration, VIII, Miscellaneous Provisions, and IX Definitions; Sections 4.3 A.6., 4.4 B.6., 4.5 B.6., 4.6 A.6., 4.7 A.5., 4.8 A.8., 4.9 A.19, 4.13 F.2.a., 4.17 B., 4.20 A.3., and 9.1, to delete reference to the IHO that was deleted by petition in March 2020; Section 2.1, Division of Town into Districts, to bring out of date district names up to date, correctly name the overlay districts, and remove the list of dates that indicated the original*

adoption date but not any amendments; Section 3.3, Water Pollution Control Regulations, to delete reference to Water Pollution Control Regulations which was renamed the Septic System Ordinance on 7/27/15; Section 3.4, Signs, Section 3.4 C. and C.1. to change Zoning Office to Office of Community Development; Section 3.4 C.2.a and 3.4 I.2. to change Zoning Official to Building Inspector/Code Enforcement Officer; Section 3.4 D.1. and 4.13 D.1. to change Community Development Office to Office of Community Development; Section 3.4 I.2. to change Administrator to Building Inspector/Code Enforcement Officer; Section 3.4 M.1., 3.6 C., 3.8 C.3., 3.16 H.1., 3.16 J.3., 4.15 B., 4.15 E.2., 4.15 F., 4.15 H., 4.15 I.2., 6.2 A.1., 6.2 B.1., 6.2 B.2., and 6.2 B.3. to change Zoning Administrator to Building Inspector/Code Enforcement Officer; Section 3.4 M.2.c. to change Zoning Officials to Building Inspector/Code Enforcement Officer; Section 3.4 M.1. to change Board of Appeals to Board of Adjustment; Section 3.7 A.2., 3.18 D., 5.2 D., 6.2 C.1., 6.2 D.1., 6.2 D.3.a., to change Administrative Official to Building Inspector/Code Enforcement Officer; Section 3.8 A. to change reference to the Historic District and the Wetland and Watershed Conservation Overlay Districts and to change Zoning Administrator to Board of Selectmen; Section 3.8 C.3.b. and 3.8 C.3.b.i. to refer to new permits not renewals; Section 3.15 D.1.f., 3.15 D.2.g., 3.15 D.3.j., and 3.15 F.3. to change Planning Director to Director of Community Development; Section 4.10 D., 4.10 E., 4.10 F., 4.10 G., 4.10 H., 4.10 H.1., and 4.10 H.2. to change Zoning Department to Office of Community Development; Section 4.10 H.5. to require the applicant to provide floodway data rather than the Office of Community Development doing so; Section 4.10 I., 4.10 I.2. and 4.10 J. to require the applicant to provide 100-year floodplain data rather than the Office of Community Development doing so; Section 4.10 N.1. to change Building Inspector to Building Inspector/Code Enforcement Officer; Section 4.14 G.c.i. to add Subdivision as well as Non-Residential Site Plan Review; Section 4.14 G.c.ii. to delete the Note that refers to the Affordable Housing Suitability ordinance that no longer exists; Section 4.14 H. to change Zoning Administrator to Planning Board; Section 4.15 E.1. to delete reference to a zoning permit which does not exist and to break the second sentence into two for clarity; Section 4.19 C. to change the definition of Impact Fee to match RSA 674:21 V.; Section 5.2 A.1.6. to refer to the correct overlay district; Section 5.2 A.2. to change Amherst Zoning/Planning Office to Office of Community Development; to delete Section 6.2 D.3.b.; Section 6.3 D. to change reference to a one year prohibition on refileing an application that is denied to finding that there is a material change in circumstances or a material difference in use; Section 6.3 E.2. to add reference to equitable waivers of dimensional requirements and to change Administrative Official to Office of Community Development; Section 8.1 to delete the word morals; Section 8.2 to delete the 1963 date from the short title by which the Zoning Ordinance shall be known; Section 9.1 to amend the Accessory Apartment definition to refer to detached structures, to delete the definition of Administrative Official since that position no longer exists, to update the Best Management Practices definition to refer to the NH Stormwater Manual, to change the Home Occupation definition to match that in Section 3.15, to delete the definition of Veterinary Clinics from the definition of Kennel, to change the definition of Multi-Family Housing to match the state definition, and to add a definition of Veterinary Clinic, as follows:

Section 4.3 Residential/Rural Zone (RR). (3-12-63, 3-11-93, 3-10-15)

A. PERMITTED USES.

~~6. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)~~

Section 4.4 Northern Transitional Zone (NTZ). (3-8-88)

B. PERMITTED USES.

~~6. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)~~

Section 4.5 Northern Rural Zone (NR). (3-2-76, 3-10-15)

B. PERMITTED USES.

~~6. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)~~

Section 4.6 General Office Zone (GO). (3-12-85, 3-10-15)

A. PERMITTED USES.

~~6. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)~~

Section 4.7 Commercial Zone (C). (3-10-15)

A. PERMITTED USES.

~~5. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)~~

Section 4.8 Limited Commercial Zone (LC). (3-2-76, 3-10-15)

A. PERMITTED USES.

~~8. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)~~

Section 4.9 Industrial Zone.

A. PERMITTED USES.

~~19. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)~~

Section 4.13 Aquifer Conservation and Wellhead Protection District. (3-11-14)

F. PROHIBITED USES.

2. EXEMPTIONS. The following uses shall be exempt from the provisions of this ordinance provided they remain in compliance with all applicable local, state, and federal requirements:

- a. Any single or two family dwelling ~~or Integrated Innovative Housing Development by Conditional Use Permit (3-10-15);~~

Section 4.17 Planned Residential Development (PRD). (11-2-82)

B. CONDITIONS. An applicant for approval of a proposed PRD shall make application to the Planning Board in the same fashion as specified in the Subdivision Regulations ~~and Section 4.16 IHO.~~

Section 4.20 Elderly Housing

A. Single or multi- unit residential developments which comply with the Federal Definition of Elderly Housing are allowed by Conditional Use Permit (Section 3.18)

and shall be required to meet any standards set forth in that section, subject to the following:

3. ~~Project density shall be determined using the base density and bonus densities as described in Section 4.16 Integrated Innovative Housing Ordinance (IIHO) (3-14-17)~~

Section 9.1 Meaning of Certain Words.

~~Amenities: (Within the Integrated Innovative Housing Ordinance) (3-10-15)~~

~~Community Space Public: Indoor (clubhouse, meeting room) or outdoor (garden, park, trail network) space which is available to the public, subject to acceptance by the Planning Board and Board of Selectmen.~~

~~Community Space Restricted: Same as above but restricted to use by residents of the development.~~

~~Improved Access to Public Places: Footpaths or sidewalks connected to local sidewalk networks/community spaces, access to transportation services, or a fair share contribution determined by rational nexus evaluation to improve access to public places.~~

~~Open Space – Improved & Accessible to Public: Park, ball field, court, playground, or similar facility open to public use, subject to acceptance by the Planning Board and Board of Selectmen.~~

~~Open Space – Improved Non Public: Same as above but restricted to use by residents of the development.~~

~~Open Space under Restrictive Covenant: Conservation/agricultural Land, “unimproved” open space. May be under easement/deed restriction to third party or Town.~~

~~Open to the Public: Where applicable to the Integrated Innovative Housing Ordinance, refers to amenities available for public use at no cost except for fees as may be assessed or collected by the Town.~~

~~Public Infrastructure Betterment: Improvements to including off site access improvements, bicycle lanes, extension of public utility infrastructure or other improvements beyond those required to meet minimum NRSP criteria, or an in lieu contribution determined by rational nexus evaluation to improve public infrastructure.~~

~~Redevelopment: Conversion of an existing structure into housing units or mixed use (where permitted).~~

~~Walkability Internal (sidewalks, footpaths): Infrastructure designed to enable and encourage residents to walk from place to place within the development.~~

Section 2.1 Division of Town into Districts.

ACWP	Aquifer Conservation <i>and Wellhead Protection Overlay</i> District	(3-13-84)
C	Commercial Zone	(3-12-63)
FP	Flood Plain Conservation <i>Overlay</i>	(3-10-70)
GO	General Office	(3-12-85)
HD	Historic District <i>Overlay</i>	(3-11-86)
I	Industrial Zone	(3-2-76)
LC	Limited Commercial Zone	(3-2-76)
NR	Northern Rural Zone	(3-2-76)
NTR	Northern Transitional Zone	(3-8-88)
RR	Residential / Rural Zone	(3-11-93)
WWCD	Wetland <i>and Watershed</i> Conservation <i>Overlay</i> District	(3-6-73)
WP	Watershed Protection District	(3-2-76)

Section 3.3 Water Pollution Control Regulations.

NOTE: See Section G for ~~Water Pollution Control Regulations~~ *Septic System Ordinance*.

Section 3.4 Signs. (3-12-91)

C. GENERAL REGULATION. Except as otherwise provided, no person shall erect, alter, or relocate any sign without first obtaining a permit from the ~~Zoning~~ Office *of Community Development*. Subsequent to this initial application, no permit shall be required for a sign to be repainted or repaired provided that the sign is returned to its original design, condition, placement or presentation. (3-13-07)

1. Application Procedure. Applications shall be made in writing to the ~~Zoning~~ Office *of Community Development* on forms prescribed and provided by the Town and shall contain the applicable information requested on that form and accompanying sign specification sheet. (3-13-07)
2. Permit.
 - a. Upon the filing of a completed application for a sign permit and the payment of the required fee, the ~~Zoning Official~~ *Building Inspector/Code Enforcement Officer* shall examine the plans, specifications, and other data submitted, and the premises on which the sign is to be erected.

D. SIGN STANDARDS.

1. Temporary Signs for Activities or Events. Temporary signs for special events must receive a temporary sign permit from the *Office of Community Development Office*.

I. REMOVAL OF SIGNS.

2. If the ~~Zoning Official~~ *Building Inspector/Code Enforcement Officer* shall find that any sign regulated in the local ordinance is not used, coded in advertising, is abandoned, unsafe or insecure, or is a menace to the public, the ~~administrator~~ *Building Inspector/Code Enforcement Officer* shall give written notice to the named owner of the land upon which it is located, who shall remove or repair the sign within fifteen (15) days from the date of the said time period. The Selectmen shall revoke the permit issued for such sign and may invoke court action. Failure to remove or repair such sign would be considered a violation of this provision. (3-13-07)

M. ADMINISTRATION.

1. Review and Appeals.

Any person aggrieved by a decision of the ~~Zoning Administrator~~ *Building Inspector/Code Enforcement Officer* relative to the provisions of this local ordinance may appeal such decision, in writing, to the Board of ~~Appeals~~ *Adjustment* as provided in the Zoning Ordinance and shall comply with all procedural requirements prescribed by such board. In granting any variance from the provisions of this ordinance, the Board of ~~Appeals~~ *Adjustment* must find that the variance is necessary for the reasonable use of the land or buildings, that granting the variance is in harmony with the general purposes and intent of this ordinance, that such will not be injurious to the neighborhood character or otherwise detrimental to the public welfare, and that denial of the variance would result in unnecessary hardship to the applicant.

2. Violations and Penalties.

- c. Any sign, permitted or not, placed within any public or private right-of-way or placed so as to impede public access, shall be considered to be a threat to public safety and may be removed at the direction of the public safety officers or ~~Zoning Officials~~ *Building Inspector/Code Enforcement Officer*.

Section 3.6 Mobile Homes and Trailers.

- C. The temporary use of a registered recreational vehicle by a person for whom a residence is being built on the property may be permitted by the ~~Zoning Administrator~~ *Building Inspector/Code Enforcement Officer*. The ~~Zoning Administrator~~ *Building Inspector/Code Enforcement Officer* shall grant

permission for a period not to exceed three months, excepting that he may renew at his discretion such permission at the expiration of the three-month period (3-8-16).

Section 3.7 Building Regulations.

- A. No building or structure shall be erected, unless in compliance with the following: (3-14-67)
2. On all new buildings, construction must be at least seventy-five percent (75%) complete before occupied as a dwelling, as determined by the ~~Administrative Official~~ **Building Inspector/Code Enforcement Officer**. (3-11-80, 3-14-89)

Section 3.8 Earth Material Removal.

A. AUTHORITY.

Clay, loam, sand, gravel, minerals, and similar earth materials may be removed for either private use, or for sale from any lot parcel of land in any zoning district, except **land subject to** the Historic District and Wetlands **and Watershed** Conservation District **overlays**, only after a special permit for such operation has been issued by the ~~Zoning Administrator~~ Board of Selectmen, in accordance with the provisions of this section. (3-4-75, 11-2-82)

C. PROCEDURE.

3. During the period of the permit, the ~~Zoning Administrator~~ **Building Inspector/Code Enforcement Officer** shall conduct on-site inspections of the earth material removal operation plan. Not less than sixty (60) days prior to the expiration of the permit, the ~~Zoning Administrator~~ **Building Inspector/Code Enforcement Officer** shall conduct a compliance review. This review shall indicate what action is necessary by the operator to: (3-4-75)
 - b. Be eligible to apply for a ~~renewal of the~~ **new** Earth Material Removal Permit. (3-4-75)
 - i. If the operator requests a ~~renewal of his~~ **new** permit, the new application together with an amended operation plan shall be submitted at least forty-five (45) days prior to the expiration of the current permit. (3-4-75)

Section 3.15 Home Occupations. (3-14-95, 3-11-08)

D. CLASSES OF HOME OCCUPATION.

1. Class A Home Occupation. A Class A Home Occupation has no impact on the neighborhood.

- f. Operators of Class A Home Occupations may choose to register with the Town, using the Home Occupation Registration form. A copy of the registration form, signed by the ~~Planning~~ **Director of Community Development**, will be provided to the operator if requested.
2. Class B Home Occupation. A Class B Home Occupation has minimal impact on the surrounding neighborhood.
 - g. Operators of Class B Home Occupations must register with the Town, using the Home Occupation Registration form. A copy of the registration form, signed by the ~~Planning~~ **Director of Community Development**, will be kept on the premises in a readily accessible location.
3. Class C Home Occupation. A Class C Home Occupation has minor impact on the surrounding neighborhood.
 - j. In addition the operator must provide documentation of the adequacy of the septic system for the proposed use, and a sketch of the property demonstrating adequate areas designated for parking of employees and clients/customers, access and turning of delivery vehicles, and safe pedestrian access for clients/customers to the business where applicable. A copy of the registration form, signed by the ~~Planning~~ **Director of Community Development**, will be kept on the premises in a readily accessible location.

F. RENEWAL OR EXPIRATION OF REGISTRATION.

3. Class C Home Occupations shall not exceed the requirements of Section 3.15.D.3 and may be directed by the ~~Planning~~ **Director of Community Development** or designated officer to reduce the impact of the operation or move to a non-residential site within sixty (60) days.

Section 3.16 Personal Wireless Service Facilities. (3-12-13)

H. MONITORING AND MAINTENANCE.

1. Maintenance – The owner of the facility shall maintain the Personal Wireless Service Facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping. The ~~Zoning Administrator~~ **Building Inspector/Code Enforcement Officer** has the authority to inspect approved Personal Wireless Service Facilities for compliance with the approved site plan as necessary.

J. ABANDONMENT OR DISCONTINUATION OF USE.

3. Failure to Remove – If the owner of the facility does not remove the facility upon the ~~Zoning Administrator~~ **Building Inspector/Code Enforcement Officer**'s order, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the

facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

Section 3.18 Conditional Use Permits

D. PERMITS FOR CONDITIONAL USE PERMITS.

A building permit for a Conditional Use Permit use shall not be issued by the Board of Selectmen or their duly appointed representative, the ~~Administrative Official~~ **Building Inspector/Code Enforcement Officer**, until so directed by the Planning Board who shall first be satisfied that all the standards and conditions of this article and the ordinance have been met.

Section 4.10 Flood Plain Conservation District. (3-10-70, 3-11-97)

D. BUILDING PERMIT.

The ~~Zoning Department~~ Office of Community Development shall review all building permit applications for new structures or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.

E. Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the ~~Zoning Department~~ **Office of Community Development** with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding. (3-13-07)

F. For all new or substantially improved structures located in Zones A or AE, the applicant shall furnish the following information to the ~~Zoning Department~~ **Office of Community Development**:

G. THE ~~ZONING DEPARTMENT~~ **OFFICE OF COMMUNITY DEVELOPMENT** shall maintain all records for public inspection, and shall furnish such information upon request. (3-13-07)

H. THE ~~ZONING DEPARTMENT~~ **OFFICE OF COMMUNITY DEVELOPMENT** shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. (3-13-07)

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the ~~Zoning Department~~ **Office of Community Development**, in addition to the copies required by RSA 482-A:3. Further, the applicant shall

be required to submit copies of said notification to those adjacent communities as determined by the Zoning Department, including notice of all scheduled hearings before the Wetlands Bureau. (3-13-07)

2. The applicant shall submit to the ~~Zoning Department~~ **Office of Community Development**, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained. (3-13-07)
 5. The ~~Zoning Department~~ **applicant shall submit to the Office of Community Development** shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring to prove that all development located in Zone A meets the following floodway requirement: “No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.” (3-13-07)
- I. IN SPECIAL FLOOD HAZARD AREAS, the ~~Zoning Department~~ **applicants** shall determine the one hundred (100) year flood elevation in the following order of precedence according to the data available.
2. In A Zones the ~~Zoning Department~~ **applicant shall submit to the Office of Community Development** shall obtain, review, and reasonably utilize any one hundred (100) year flood elevation data available from any federal, state, or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals). (3-13-07)
- J. The ~~Zoning Department~~ **applicant’s** one hundred (100) year flood elevation determination will be used as criteria for requiring in Zones A and AE that: (3-13-07)
- N. VARIANCES AND APPEALS.
1. Any order, requirement, decision or determination of the Building Inspector/**Code Enforcement Officer** made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

Section 4.13 Aquifer Conservation and Wellhead Protection District. (3-11-14)

D. DISTRICT BOUNDARIES.

1. Aquifer Conservation and Wellhead Protection District boundaries are as identified on a map on file with the **Office of Community Development Office**

entitled "Environmental Features" produced by the Nashua Regional Planning Commission.

Section 4.14 Workforce Housing. (3-10-15)

G. MODIFIED LOT SIZE, DENSITY, SETBACKS, and OPEN SPACE:

- c. The Planning Board may waive dimensional standards of lot size, density, setbacks and open space, but only when it has been demonstrated that construction of a "workforce housing project" (as that term is defined below), cannot for economic reasons be feasibly constructed because of those standards. In making such a determination, however, the Planning Board shall ensure that the project complies with the general criteria. Further, the Planning Board, in making such waiver, shall grant only the minimum waiver(s) demonstrated to be necessary to render the project economically feasible.
 - i. An applicant seeking to request a waiver under this section shall apply for the same to the Planning Board according to the procedure set forth in the *Subdivision/Site Plan Regulations*. When making that application, the applicant shall provide sufficient information to the Planning Board to demonstrate the following:
 - ii. The proposed project is incapable of being feasibly constructed within the existing area requirements specified for the applicable zoning district for economic reasons and that the limitations do not permit any other sufficient, realistic or reasonable opportunities to provide workforce housing; and, ~~(NOTE: See Non-Residential Site Review Regulations for Project Suitability Procedure Regulations; "Affordable Housing".)~~

H. RULES AND REGULATIONS. The Planning Board may adopt appropriate rules and regulations to implement the review process contemplated hereunder. Such rules shall provide for the developer and subsequent owners to restrict the sale or lease of the units through appropriate recorded covenants to those who qualify, pursuant to the definition of affordable housing contained in this Ordinance.

Existing housing units previously designated as "Affordable Housing" units that do not have appropriate recorded covenants may elect to present to the ~~Zoning Administrator~~ **Planning Board** appropriate covenants, to be approved by Planning Board, in exchange for a written waiver that allows such existing residential units to legally exceed the previously mandated 1,300 SF size limitation.

Section 4.15 Historic District (HD). (3-11-86, 3-13-01)

B. DEFINITIONS.

Building Permit (or Permit). A certificate issued by the ~~Zoning Administrator~~ **Building Inspector/Code Enforcement Officer** permitting the building, alteration, installation, repair, or change of buildings, fences (within the Historic District), land, or uses as regulated by the Zoning Ordinance. (3-11-03)

E. CERTIFICATE OF APPROVAL REQUIRED.

1. Except as provided herein, it shall be unlawful for any owner or person (including without limitation any municipal or governmental entity) to alter, construct, repair, move, demolish, or change the use of any structure or place located within the Historic District without applying for and receiving from the Commission a Certificate of Approval for such activity. Activities which require Certificates of Approval are intended to include, but are not limited to, such activities as changing the architectural detail of exterior walls, replacement or modification of windows, doors or siding, installation or removal of porches or fire escapes, roofing or chimney modification and installation of antennae or other appurtenances on or near the building exterior or similar activities for which a building ~~or zoning~~ permit *is required*. *Activities which require Certificates of Approval* are also intended to include, but not be limited to, such activities with regard to the balance of the site as re-grading, paving, repaving, removal of mature trees, installation or removal of fences, retaining walls, signage, on-site lighting, commercial style trash receptacles, telecommunication towers, and similar activities but are not intended to include or prevent ordinary maintenance, repair, or grounds-keeping activities.
2. Certificate of Approval Application Procedure.

For purposes of Administration, the Certificate of Approval application procedure involving a structure or place in an Historic District may be combined with building permits which may be required under the Zoning Ordinance and/or Building Code. Materials required as part of a Certificate of Approval application include materials necessary for such building permits as may be required under the Zoning Ordinance and/or Building Code, plus such renderings, elevations, photographs or other materials as the Historic District Commission may specify to the ~~Zoning Administrator~~ **Building Inspector/Code Enforcement Officer** as being necessary for their review and consideration.

F. REVIEW BY HISTORIC DISTRICT COMMISSION.

Prior to the issuance of a building permit for any exterior work or changes of use with respect to any property situated in an Historic District, the owner shall submit a Certificate of Approval application to the Historic District Commission for consideration. The ~~Zoning Administrator~~ **Building Inspector/Code Enforcement Officer** may issue the building permit only following approval of that application by the Historic District Commission or as provided in RSA Chapter 676:8 and 676:9. In any case in which the ~~Zoning Administrator~~ **Building Inspector/Code Enforcement Officer** is unclear as to the applicability of this ordinance to a particular case, he or she may consult with the Commission for an interpretation of the requirements of the Commission.

Although the provisions of this section are not intended to impede the ~~Zoning Administrator~~ **Building Inspector/Code Enforcement Officer** in ordering the correction of unsafe conditions of an emergency nature, he or she shall make every effort to coordinate his or her actions with the interests of the Commission by advising it of any such orders or actions and by involving the Commission in the review of building permits for corrective measures to the extent feasible and practical.

H. INTERPRETATION.

Nothing in this ordinance shall be construed to prevent ordinary maintenance or repair of any structure or place within any Historic District nor to prevent the construction, alteration, repair, moving, or demolition of any structure under a building permit issued by the ~~Zoning Administrator~~ **Building Inspector/Code Enforcement Officer**, or any duly delegated authority, prior to the establishment of such district.

I. MATTERS TO BE CONSIDERED in passing upon appropriateness of erection, reconstruction, or restoration of structures.

2. Exceptions. The ~~Zoning Administrator~~ **Building Inspector/Code Enforcement Officer** is not required to forward the following applications to the Historic District Commission for their review, provided the proposed project complies with the stipulations specified:

Section 4.19 Impact Fee Ordinance.

C. DEFINITIONS.

Impact Fee. A fee or assessment imposed upon new development, including subdivision, building construction, or other land-use change, in order to help meet the needs occasioned by the development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to: water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; ~~public~~ **municipal** road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public libraries; and public recreation facilities, not including ~~permanently unimproved~~ **public** open space. This definition is intended to be the same as that set forth in RSA 674:21, (V), and, in the event of an amendment of that section, such amendment shall be incorporated into the within definition so that the within definition and the statutory definition are identical.

Section 5.2 Standards Applicable to All Special Exceptions.

A. CONDITIONS FOR SPECIAL EXCEPTIONS.

1. Before the Board of Adjustment considers the approval of an application for a special exception, the applicant shall prove to the satisfaction of the Board of Adjustment that all the following conditions have been met:
 6. That the proposed use will not adversely affect the ground water resources of Amherst, in particular the Aquifer Conservation *and Wellhead Protection* District as defined in Section 4-13 of the Amherst Zoning Ordinance.
2. Response to each of the above conditions shall be provided in writing on forms available in the ~~Amherst Zoning/Planning~~ Office *of Community Development*.

D. PERMITS FOR SPECIAL EXCEPTIONS.

A permit for a special exception use shall not be issued by the Board of Selectmen or their duly appointed representative, the ~~Administrative Official~~ *Building Inspector/Code Enforcement Officer*, until so directed by the Board of Adjustment who shall first be satisfied that all of the standards and conditions of this article and the ordinance have been met. (3-12-63)

Section 6.2 Building Permits, Certificates of Occupancy, Earth Removal Permits.

A. BUILDING PERMITS.

1. No building or structure shall hereafter be erected or structurally altered, including the placement of a mobile home, until a building permit has been issued by the Selectmen or their authorized agents, the Building Inspector ~~or Zoning Administrator~~ */Code Enforcement Officer* stating that the building or structure, and use of land shall comply with the ordinances and regulations of the Town. (See the *Ordinances, Laws, and Regulations of the Town of Amherst*. Section H: Building Code for additional information.) (3-14-78, 3-9-10, 3-11-14)

B. CERTIFICATE OF OCCUPANCY.

1. No building or structure hereafter erected or structurally altered shall be occupied or used until a Certificate of Occupancy has been issued by the Selectmen, or their authorized agents, the Building Inspector ~~or Zoning Administrator~~ */Code Enforcement Officer*. The certificate shall be issued only after the Building Inspector ~~or Zoning Administrator~~ */Code Enforcement Officer* makes a finding that the building or structure has been constructed, arranged, structurally altered, or is to be used in conformance with the provisions of this ordinance and all other health, safety and building laws, and that construction be in accordance with all representations made as part of the application for and granting of the building permit. (3-14-78, 3-11-14)
2. As-Built plans shall be submitted prior to the issuance of a Certificate of Occupancy for all new commercial and industrial construction, and may be

required for other types of construction, as determined by the Building Inspector ~~or Zoning Administrator~~ /**Code Enforcement Officer**. (3-11-14)

3. Uses and Certificate of Occupancy. No change shall be made in the use of a building or part thereof now or hereafter erected or structurally altered, or in the use of land now or hereafter occupied, nor shall any use of a building or land be undertaken, without a Certificate of Occupancy having first been issued by the Selectmen, or their authorized agents, the Building Inspector ~~or Zoning Administrator~~ /**Code Enforcement Officer**. No such certificate shall be issued to make such change or undertake such use unless it is in conformity with the provisions of this ordinance or amendments thereto hereafter duly enacted. (3-14-78)

C. EARTH MATERIAL REMOVAL.

No earth material as defined in Section 3.8 hereof shall be removed unless a permit has been applied for and obtained in a fashion consistent with the provisions of Section 3.8 hereof. (3-14-78)

1. The Board of Selectmen, or the ~~Administrative Official~~ **Building Inspector/Code Enforcement Officer**, may require of any applicant for a permit such sketches, drawings, plot plans, or other materials as are deemed necessary to make a decision as to compliance with the provisions of this ordinance. They may require plans, details, specifications for new structures to have been prepared, or sealed, by a licensed architect or engineer. (3-12-63, 3-13-84)

D. ADMINISTRATION

1. The ~~Administrative Official~~ **Building Inspector/Code Enforcement Officer** shall be a salaried employee of the Town and shall be paid a salary as determined by the Selectmen and approved by the Town as part of the annual budget.
3. Upon receipt of the application for a permit with sufficient information to clearly establish the nature and extent of the proposed activity, the ~~Administrative Official~~ **Building Inspector/Code Enforcement Officer** shall determine whether the proposed activity or use constitutes a permitted use within the provisions of this ordinance or whether a special exception or a variance is required. (3-14-78)
 - a. If the proposed use requires a special exception or a variance, the ~~Administrative Official~~ **Building Inspector/Code Enforcement Officer** shall refer the application for permit to the Board of Adjustment for action. (3-14-78)
 - b. ~~If the proposed use or activity is within the provisions of this ordinance, the Administrative Official shall post a notice in two public places in the Town of Amherst, one of which shall be at the Town Hall; and no permit shall be issued until said notice has been posted for a period of seven (7) days. If~~

~~during that period the Administrative Official received objection to the issuance of the requested permit, he may issue the permit, refer the application to the Board of Adjustment for action, or deny the permit. (3-14-78).~~

- eb.* Consistent with State Statues, public utility structures proposed for the Town of Amherst shall obtain building permits and meet zoning requirements. (3-13-84)

Section 6.3 Board of Adjustment.

D. MEETINGS.

All applications shall be acted upon within ninety (90) days after the date of filing the application or within ninety (90) days of the date of filing of any additional information requested by the Board but no later than six (6) months after the date of filing; provided, however, when additional information is not furnished within a reasonable time, the Board may, on notice to the applicant, deny the application without prejudice to the right to re-file. When an application is denied on the merits, ~~the application may not be re-filed for a period of one (1) year after the date of denial.~~ *for any further application it must be found by the Board of Adjustment that a material change of circumstances affecting the merits of the application has occurred or the application is for a use that materially differs in nature and degree from its predecessor. If this is not determined, the Board of Adjustment may not lawfully reach the merits of the application.* (3-6-73)

- E. PROCEDURE ON PERMITS for special exceptions, variances, *equitable waivers of dimensional requirements* and appeals of administrative decisions.
2. Upon receipt from the ~~Administrative Official~~ *Office of Community Development* of an application for a special exception, variance, *equitable waiver of dimensional requirements* or appeal of an administrative decision, the Board of Adjustment shall hold a public hearing. (3-12-91) Notice thereof shall be given as follows:

Section 8.1 Interpretation.

In their interpretation and application, the provisions of this ordinance shall be held as the minimum requirements adopted for the promotion of the public health, ~~moral~~ safety, or the general welfare. Whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

Section 8.2 Short Title.

This ordinance shall be known and may be cited as "The Town of Amherst Zoning Ordinance ~~of 1963.~~"

Section 9.1 Meaning of Certain Words.

Accessory Apartment. A second dwelling unit incorporated within an existing or proposed single family home which is structurally integrated with the existing principal dwelling. ***Accessory apartments located in an accessory building, detached from the principal dwelling, may be permitted as a Conditional Use in accordance with the provisions of Section 3.18.*** (3-8-16, 3-14-17, 3-12-19)

~~Administrative Official. The person delegated by the Board of Selectmen to administer the provisions of this ordinance. (3-12-63)~~

Best Management Practices. A method or technique that has consistently shown results superior to those achieved with other means and that is used as a benchmark. In addition, a "best" practice can evolve to become better as improvements are discovered. BMP's derived from public agencies or other sources shall be utilized as guidelines, the Planning Board may approve an alternative method if it is found to achieve a similar result.

The most recent editions of the following publications are considered Best Management Practices:

- A. Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire prepared by the New Hampshire Department of Resources and Economic Development;
- B. Manual of Best Management Practices for Agriculture in New Hampshire as prepared by the Agricultural Best Management Practices Task Force and the USDA Natural Resources Conservation Service for the New Hampshire Department of Agriculture;
- C. ~~Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire prepared by the New Hampshire Department of Environmental Services in conjunction with the Rockingham County Conservation District~~ ***New Hampshire Stormwater Manual, NH Department of Environmental Services, Volumes 1 - 3;*** and,
- D. Manual of Best Management Practices to Control Nonpoint Source Pollution: A Guide for Citizens and Town Officials prepared by the New Hampshire Department of Environmental Services. (3-11-14)

Home Occupation. ***An occupation or business activity which is conducted by a resident within his/her own dwelling or in a garage or barn-type outbuilding and which is clearly subordinate to the principal residential use.*** ~~A home occupation is an accessory non-retail business or professional use incidental and subordinate to the dwelling use, occupying no more than 20% of the existing gross, heated floor area of the dwelling.~~ (3-2-80, 11-2-82, 3-10-92, 3-11-93, 3-8-94, 3-14-95)

Kennel. Any lot or premises on which four (4) or more dogs, other than personal pets, at least four (4) months of age, are kept, boarded, or trained whether in special structures or runways or not. The foregoing definition shall specifically exclude veterinary clinics.

~~which are defined as a structure in which small animals or pets are given medical or surgical treatment and are cared for during the time of such treatment only. (11-2-82)~~

~~Multi-Family Housing. A structure or parcel of land containing more than one dwelling unit *containing more than two (2) dwelling units, whether or not such development includes a subdivision or resubdivision of the site.* (3-13-90)~~

~~Veterinary Clinic. A structure in which small animals or pets are given medical or surgical treatment and are cared for during the time of such treatment only.~~

RATIONALE:

This proposed housekeeping amendment would take care of those instances where over the years things such as department and position names, statutory references, definition updates, and so on, have changed and not been captured in every section of the Zoning Ordinance. It would also remove reference to old sections or other ordinances or regulations that have been deleted or repealed over the years.

NS/

11/16/21

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