



MEETING MINUTES  
NORTH HAMPTON PLANNING BOARD  
Work Session  
Tuesday, November 18, 2008  
Mary Herbert Conference Room  
~~Draft Draft Draft Draft~~

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These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription.

**Members present:** Phil Wilson, Chairman; Joseph Arena, Laurel Pohl arrived at 7:25pm, Barbara Kohl, and Craig Salomon, Selectmen's Representative.

**Members absent:** Shep Kroner, Vice Chairman and Tom McManus

**Others present:** David West, RPC Circuit Rider and Wendy Chase, Recording Secretary.

**Alternates present:** None

Mr. Wilson convened the meeting at 7:10pm and noted for the record that the agenda was properly posted and that there was a quorum.

### Public Hearing

Amendment to Section 506.5 Prohibited signs to include:

F. Internally Lighted Signs – Internally Lighted Signs are prohibited.

Mr. Wilson explained that internally lit signs were discussed at great length last year, and that the Board concluded that the combination of the "dark sky" standards in the Site Plan Review Regulations with the sign ordinance actually prohibited internally lit signs, but the Building Inspector informed the Board that he could only apply provisions from the sign ordinance, and since the prohibition of internally lit signs was not a part of the ordinance then he could not enforce it. Mr. Wilson also said that the sign ordinance was amended last year to allow the Building Inspector the authority to grant sign permits if the sign were in compliance with the ordinance. He further stated that the Board decided to bring the amendment forward this year, and to be placed on the Town Warrant for the voters to decide.

Mr. Wilson received an email from Mr. Shep Kroner regarding internally lit signs and read it into the record: *I would like it known publicly that I support the Prohibition of Internally lit signs. Today roughly half of the signs in North Hampton are internally lit, contributing to a continued trend toward the "Woodberry Avenue" look to the town's commercial district. While I admit that this change will in effect make half of the signs in town non-conforming, I believe that efforts to improve the aesthetics of North Hampton's*

*commercial zone will in fact raise property values, make the town more appealing to prospective commercial interest, and most importantly separate our commercial zone from the national trend in garish looking, cookie cutter clutter which ultimately leads to the long term degradation of the commercial zone. If you want to understand that future, look no further than the left over remains of the former Shaw's plaza on Lafayette Road in Portsmouth. If the town's business owners feel this ordinance somehow negatively impacts there businesses, I would point them in the direction of several flourishing business in town which have embraced signs which are not internally lighted such as Al's Seafood, Regal Limousine, North Hampton Animal Hospital, Wing's Your Way, and the newly owned Staples. This ordinance change would not have been suggested if it were not for the conflict between the town's building inspector and the planning board's interpretations of our zoning ordinance and site plan review regulations. It is this conflict that has resulted in the need to plainly spell out the requirement. Ultimately it is not his board's final decision which matters but the town's Legislative Body which is our voting citizenry. The town's commercial business leaders will have every opportunity to plead their position on this matter directly to the voter.*

Dr. Arena said that he agreed with Mr. Kroner's email. He said that he had thought in the past that he would agree to certain internally lit signs, such as signs with black backgrounds and white lettering, but admitted that quite a few signs have appeared along Route 1 that are internally lit, and said that he is not very proud of any of them.

Mr. Salomon agreed that the proposed amendment should be decided on by the voters, and also added that some flexibility in deferring to the judgment of the people who have businesses as to how best to promote them is a good idea too.

Ms. Kohl agreed with what everyone said.

Mr. West opined that it would be best for the proposed amendment to go before the voters.

Mr. Wilson opened the Public Hearing at 7:15pm.

Mr. Ted Turchan, 125 Lafayette Road, asked if the Board were working more toward the "dark sky" standards or the aesthetics on amending the sign ordinance. He opined that there is a lot more light pollution from upward lighting than from internally lit signs, and that in the winter the snow reflects the light from the downward lighted signs upward.

Mr. Wilson said that the Board is working with both aspects in regards to the proposed amendment to the ordinance.

Mr. Wilson commented on the Abercrombie internally lit sign in that it produces too much light and is distracting. He further commented that it was installed without Planning Board approval, and because it was materially altered the owners should have appeared before the Planning Board with a Conditional Use Sign application.

Mr. Turchan said that national sign companies employ many lighting experts that would be able to determine what kind of lighting shows through fog and mist better than others, and that doesn't produce glare, which could be a safety issue.

Mr. Mike Hart, Hampton Air field, asked the Board what would happen to all of the existing internally lit signs if the proposed amendment passed.

Mr. Wilson explained that they would be non-conforming, but they would be "grandfathered", meaning that if they were to be replaced with exactly what is current today than they would be able to do so without Planning Board approval. If the sign were materially altered in any way the applicant would need approval from the Planning Board by way of a Conditional Use Permit and appropriate waiver requests.

Mr. Hart said that he has driven down Route one at night and counted 50 primary back lit signs. He said 2 or 3 of those signs are not good signs but the rest are easy to read and look okay. He further commented that with the economy the way it is today it is very important for businesses to be noticed. He said with the way businesses are struggling across the Country as well as in North Hampton and visible internally lit signs are a very important and valuable feature for those businesses to have. He said that Route 1 is a business district and compromises need to be made because those businesses on Route 1 help the people of North Hampton with the tax burden. He further opined that some businesses are not as recognizable as businesses like Staples.

Dr. Arena said that that the functions of a sign are to be informative, but how the information is put out is the real problem.

Mr. Wilson said that it is important to focus on the fact that the amendment to the sign ordinance is to prohibit internally lit signs not lighted signs, such as signs with downward lighting.

Mr. Hart opined that it is easier to see and read backlit signs than signs with downward lighting.

Mr. Wilson explained that it is the Board's desire to control light pollution, and to think about the future. He said that there is a lot of redevelopment along Route 1 and the Board is trying to put into place a set of regulations and ordinances that create the kind of vision the townspeople want that's why it should go to a Town Vote.

Mr. Salomon asked the rhetorical question "how would the vote be if the proposal came to the voters as a citizen's petition rather than one sponsored by the Planning Board"? He opined that sometimes people will see a change to the ordinance that has been recommended by the Planning Board and automatically vote for it. He further stated that to a certain extent businesses need to make decisions for themselves about what best promotes their business. He commented that there are approaches which can meet the requirements of business people who want to have internally lighted signs coupled with

the ~~and e that can meet what the business people want to have in internally lighted signs coupled with~~ rules built into the Town's dimensional requirements.

Mr. Turchan opined that the townspeople usually side with the Planning Board's recommendations to any zoning changes without really comprehending the impact those changes would make.

Mr. Wilson responded to Mr. Salomon's rhetorical question and asked how many citizens petitions have been voted down in this town? Mr. Wilson said that the Board became interested in this as a result of various polls taken regarding improving the appearance of Route 1 and the interest the townspeople have in that. He suggested that if the business people want to vigorously oppose the proposed amendment then they should do just that.

Dr. Arena opined that there is a problem with code enforcement and mentioned the flood light next to Lumber Liquidators that blinds Route 1 traffic going north.

Mr. Hart said that there is other lighting contributing to the light pollution along Route 1; it's not just the back lit signs causing it.

Rick Stanton, 108 Walnut Avenue commented on the large amount of temporary signs littering Route 1. He also asked if there were a threshold of the amount of light a luminaire projects that would be acceptable.

Mr. Wilson said that the Board challenged applicants to come before the Board with an internally lit sign that ~~would have a control on the lumens that would minimize the glare and distractions meet the dark-sky standard,~~ but no one has come forward with such a proposal. He further commented that as part of the site plan regulations is states that light is not to spill off of the property.

Ken Ingalls, Atlantic Avenue suggested that maybe the board could produce some sort of slide show on the signs along Route 1 for the townspeople so the voters would be better educated for the vote.

Mr. Wilson closed the Public Hearing at 7:55pm.

**Dr. Arena Moved and Ms. Pohl seconded the Motion to place the proposed Zoning Amendment to Section 506.5 on the 2009 Town Warrant as written.  
The vote was unanimous in favor of the Motion (5-0).**

Mr. Salomon explained that the vote on whether or not the Planning Board recommends a zoning change is only done on citizens petitions; a vote is not taken on whether or not the Planning Board recommends a change to the zoning ordinance if the Board itself sponsors it.

Susan Morse from the Hampton Union asked if this amendment was on last year's Town Warrant. Mr. Wilson said that there were changes to the sign ordinance last year but

prohibiting internally lit signs was not one of them. The Board held Public Hearings on it but it was decided not to place it on the March 2008 Town Warrant.

## Minutes

**June 5, 2008** – There were not enough members present who attended the June 5, 2008 meeting to vote on the minutes. The June 5, 2008 minutes were tabled to the December 16, 2008 meeting.

**October 2, 2008** – The October 2, 2008 meeting minutes were tabled to the December 16, 2008 meeting.

**October 21, 2008** -

**Dr. Arena Moved and Ms. Kohl seconded the Motion to approve the October 21, 2008 meeting minutes.**

**The vote passed (3 in favor, 0 opposed and 2 abstentions). Ms. Pohl and Mr. Salomon abstained.**

**November 6, 2008** – There were many amendments made to the minutes. The Board decided to table the minutes and requested a copy of the revised minutes.

**Mr. Salomon Moved and Dr. Arena seconded the Motion to table the November 6, 2008 meeting minutes to the December 16, 2008 meeting.**

**The vote passed (3 in favor, 2 opposed and 0 abstentions).**

## Old Business

### New Business

**Discussion on draft warrant article to eliminate Section 406.2: *Any lot of record existing at the effective date of this Ordinance and then held in separate ownership different from the ownership of adjoining lots may be used for the erection of a structure conforming to the use regulations of the district in which it is located, even though its area and width are less than the minimum requirements of this Ordinance.***  
**\*3/5/74.**

The Board discussed eliminating Section 406.2 from the Ordinance altogether because it has been a problematic issue within the Ordinance.

Mr. Salomon said that the intent of the Ordinance was to recognize “grandfathered” lots. He suggested that the Ordinance not be eliminated in its entirety, and volunteered to work on changing the language and try to simplify it.

Mr. Turchan said that many cases were forwarded to the ZBA because all the requirements were met to erect structures on lots but did not have the two acres. He said

the Ordinance was created to negate all those types of cases from having to go before the ZBA for a variance. He further stated that however the Board changes the language it should be done so that it is easy to understand.

Mr. Stanton said that it is very confusing as it is currently written; he read it several times and does not understand it.

Mr. Wilson explained that what the board is trying to get across is that if someone has a lot that was recorded as a lot of record prior to March 5, 1974, and does not have the required area of 2 acres, and/or does not have the required frontage then the owner of that lot is entitled to erect a structure on it if that structure conforms to the use and dimensional requirements without seeking a variance.

Mr. Stanton said that the Ordinance needs to have that type of clear language so it is clear to the people as well as to the Building Inspector.

Mr. Wilson said that by the way it was originally written its intention was to force the owner to voluntarily merge the lots. He asked if it were the Board's preference to force people to voluntarily merge their lots.

Mr. Salomon said that it should be up to the property owner, not the Town, to voluntarily merge their lots.

The sense of the Board was to protect the lots that preexisted that don't have enough area or frontage but meet the setback and use requirements, and allow them to remain buildable lots, and not to implement affirmative mergers.

Mr. Salomon will work on changing the language to Section 406.2 and present it to the Board for further review and discussion.

#### **Discussion on amending Section 409.12**

Mr. Wilson presented amendments he made to this Section. He eliminated *approved building* in the beginning paragraph and added the following to 409.12 E *and shall not diminish the natural resource values of affected wetlands in any appreciable way.*

Mr. Stanton asked what the impact would be if 409.12 was eliminated altogether?

Mr. Wilson said that they would have to get a variance, and asked Mr. Stanton if that would be preferable to the ZBA? Mr. Stanton said that he could not speak for the ZBA, but felt that historically more people are using that avenue on applications involving wetlands rather than applying for a variance because it's an easier route to take because it is more difficult to prove "hardship" in the Boccia variance test. He also commented on the language in section D regarding no reasonable and economically viable use, he opined that it needed more clarification as well.

Dr. Arena stated that the sanctity of the wetlands should be upheld, and that it is not protecting the wetlands if it is allowable for building to take place very close to the wetlands.

Mr. Stanton said that the ZBA has been criticized about approving all the applications dealing with wetlands. He explained that there are critical wetlands and not so critical wetlands. He said that there is new technology brought before the ZBA such as “rain gardens”, which is basically soil science with known vegetation to be able to dissipate the effect of water runoff.

Dr. Arena said that there are animals that depend on the wetlands, and “rain gardens” are great but what about the effect they will have on the ecology of that area?

Mr. Salomon said that to continue to deal with these situations by way of a special exception makes sense because the distinction between a special exception and a variance is that a variance allows someone to make a use of the property that doesn't conform to the Ordinance, special exception is a permitted use if certain conditions are met. The wetlands district is where people who have property rights are being impacted by the wetlands ordinance. He opined that it's important to determine how valuable each particular wetland is and how a particular proposal would impact it because wetlands are not all the same. He opined that the mechanism of the special exception works better than the mechanism of the variance.

Mr. Wilson said that “rain gardens” are designed to protect water quality rather than quantity, and they aren't designed to replace detention ponds. He said they are designed to capture the runoff water and filter out the pollutants in it before it runs into wetlands.

**Mr. Salomon Moved and Ms. Kohl seconded the Motion to place the amendments to Section 409.12 on the March Town Warrant.**

**The vote was unanimous in favor of the Motion (5-0).**

#### **Discussion of Draft Inclusionary Zoning Ordinance <sup>1</sup>**

Mr. Wilson explained that the latest draft (#3, dated November 10, 2008) of the inclusionary zoning ordinance was forwarded to Attorney Matthew Serge from Upton and Hatfield for his review and he replied with suggested amendments to it. Mr. Wilson worked on integrating Attorney Serge's changes into the draft resulting in the 4<sup>th</sup> draft.

Mr. Hart asked for a summarization of the proposed Ordinance. Mr. Wilson explained that the Governor signed into law after the last Legislative Session, Senate Bill 342 – Workforce housing which requires towns to provide reasonable and realistic opportunities for the creation of workforce housing. Workforce housing is defined as housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the US Department of Housing and Urban Development, and rental housing which is

affordable to a household with an income of no more than 60 percent of the median income for a 3-person household. It is also defined in terms of income of people who qualify for that housing. The Rockingham Planning Commission has done an analysis of the housing that is available in all of the Rockingham County communities, and an analysis of what each community has for a fair share of workforce housing, and it is up to individual towns to come up with an ordinance to meet the requirements of the law before the deadline of July 1, 2009. He further explained that if the Town can prove that it already meets its fair share of workforce housing then the Town is exempt from the law. Mr. Wilson has requested information from the Town Assessors that would help him in determining what single-family homes may already qualify as affordable housing. He said that manufacture housing counts as affordable housing. He said that there are approximately 1,900 dwelling units in North Hampton and 46.9% of those need to qualify as affordable housing.

Mr. West pointed out that it's based on the average income in this area, and that it's not low income housing, it's workforce housing that the law is addressing.

Mr. Wilson explained that it would be better because of time constraints to adopt an inclusionary zoning ordinance rather than changing all of the zoning. He explained that any proposal that comes before the Board would have to allow 46.9% of it to be affordable and the units need to remain affordable until the town reached its fair share number. Any development would have to enter into an agreement to have a monitoring agent monitor it. The Committee wanted to make sure that the units remained affordable by building in deed restrictions to keep them affordable, and in addition to that have someone monitoring the situation. Mr. Wilson said that the committee is working on drafting an inclusionary ordinance for the Town to adopt.

Mr. Stanton asked what would happen if the proposed article did not pass in March. Mr. Wilson explained that the first application to come before the Town would be directed to the ZBA because they would need a lot of variances.

Dr. Arena commended the Workforce Housing Committee (Mr. Wilson, Ms. Kohl and Mr. McManus, along with Mr. West) for all of their hard work. He opined that the entire thing needs to be looked at realistically and that it is coming down from Concord and the question is how many workforce housing units do we really need in our area? He said that it has never been determined. He opined that the people in Concord are working in a "perfect vacuum", and that they are creating a problem that doesn't fully exist right now. He further opined "We are governed by those who we put in government, and they are not doing what we want them to do, and it is up to us to tell our State Representatives to repeal this law because it is not a law that is going to help the State or the Town; it's going to mean one thing, and that is a marked importation of people". He opined that the Town should not go along with it and the Town should get to the "root" of the problem because it is faulted. He said "the Town will have to monitor the monitoring and it will become a cumbersome problem that shouldn't exist, and we need to let the people in Concord know that".



Mr. Wilson said that the Local Government Center (LGC) did an assessment on the fiscal impact and they determined that it would not have a fiscal impact on the municipalities.

Mr. Wilson said that State Representative Judy Day has been very helpful, and voted against the workforce housing law, and is writing Legislation to address some of the problems with it.

Mr. Salomon thanked the Committee for all their hard work. Mr. Salomon made the following remarks/suggestions:

- Referring to VI, page 4 – contemplates there will be mixed use development, residential combined with commercial, it is not addressed in the density calculation
- VII, C use of units – the draft language sub let units for clarity sake should change the language to say *no work force housing of any type should be leased or sub leased to anyone other than the qualifying occupant.*
- The partnership between the monitoring agency and the developer – not sure how to put in “teeth” into the developers obligation to work with the monitor except by making them post a bond.

Mr. Salomon said he did not know what the solution is to the issues he raised.

Dr. Arena commented on the fact that it is almost impossible to monitor this type of situation and referred to when the Greystone Village development sold and did not notify the Town like they were supposed to.

Mr. Wilson referred to the proposed language regarding liens and asked if that would have the “teeth” Mr. Salomon referred to.

Mr. Salomon said there are issues with liens and they give some “teeth” but you have to be careful once you create a lien because of enforcement issues and agreed that liens are the way to go. He said that he would think about it and come back to the Board with his suggestions.

Dr. Arena said that he had large concerns on the monitoring issues.

Mr. West said that the Town of Exeter is not having problems with any monitoring issues and said that he would find out how they handle it.

Mr. Wilson went through Attorney Matthew Serge’s comments on the proposed ordinance. Mr. Wilson incorporated some of his suggestions into the proposal.

Discussion of Draft Revisions of Article IV - District Regulations of the Zoning Ordinance<sup>ii</sup>

Wilson spoke of the changes to the revisions to Article IV.

Mr. Wilson said that it's the committee's intent to have a wetlands map that the tax map overlays on, and insert a copy into the zoning ordinance books and onto the Town's website.

### Committee Updates

Long Range Planning – Ms. Pohl said that there was no movement.

CIP - Mr. Salomon said that he spoke to Mr. Fournier regarding the information from each of the Departments regarding the seven year capital spending items that Ms. Pohl requested, and said he would speak to him again about it.

### Other Business

Greystone Village update – There was no one was present from Greystone Village to update the board. Mr. Wilson informed the Board that he spoke to Mr. Coutu regarding self calling letters of credit, and Mr. Coutu said that there are no such things. Mr. Turchan suggested that the Board contact the Banking Commissioner. Mr. Wilson said that the real issue is to have enough money to place in a bond to cover the expenses of finishing phase I of the project. Mr. Turchan asked if the Town had permission to go onto the property to finish the project if the Town had to. Mr. Salomon noted for the record that Dr. Arena has always said that the drainage at Greystone Village had to be finished as part of Phase I.

**A motion was made and seconded to adjourn at 10:35pm.  
The vote was unanimous in favor of the motion (5-0).**

Respectfully submitted,

Wendy V. Chase  
Recording Secretary  
Approved January 20, 2009

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**Inclusionary Housing Ordinance**  
**Town of North Hampton**  
**DRAFT - REV. 34**  
**1018 November 2008**

**I. Purpose.** The Town of North Hampton has a legal and moral responsibility to provide its "fair share" of "workforce housing" as defined under RSA 674:58-61. The purposes of this Article are as follows:

- A. To provide, over time, the town's "fair share" of "workforce housing," as determined on the basis of the Rockingham Planning Commission's "Regional Housing Needs Assessment" and the Rockingham Planning Commission's "Regional Fair Share Analysis," both published from time to time, and data about the cost of housing in town relative to income standards defined under RSA 674:58-61;

- B. To encourage and provide “realistic and reasonable opportunities” for the development of “workforce housing” as defined in RSA 674:58-61;
- C. To ensure the continued affordability of workforce-housing dwelling units for home ownership and rental by low to moderate income households that are developed under provisions of this Article;
- D. To meet goals related to housing set forth in the town’s Master Plan; and
- E. To comply with the requirements of SB 342, an act establishing a mechanism for expediting relief from municipal actions which deny, impede, or delay qualified proposals for workforce housing (RSA 674:58-61).

In the course of implementing this Article, the Town of North Hampton has considered the region’s affordable housing needs as described in the Rockingham Planning Commission’s Housing Needs Assessment and the Rockingham Planning Commission’s Regional Fair Share Analysis.

**II. Authority.**

A. This Article is an innovative land use control provision adopted under the authority of RSA 674:21, and is intended as an “Inclusionary Zoning” provision as defined in RSA 674:21(I)(k) and 674:21(IV)(a), as well as RSA 672:1, III-e, effective July 2009, which states:

All citizens of the state benefit from a balanced supply of housing which is affordable to persons and families of low and moderate income. Establishment of housing which is decent, safe, sanitary and affordable to low and moderate income persons and families is in the best interests of each community and the state of New Hampshire, and serves a vital public need. Opportunity for development of such housing shall not be prohibited or unreasonably discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers.

B. The Planning Board may adopt regulations, in addition to or instead of existing Site Plan Review and Subdivision Regulations, needed to implement this Article, including but not limited to regulations that assure that applications for affordable workforce housing do in fact provide such housing and that ensure that such housing approved under this article remains affordable.

**III. Applicability.**

A. Provided that the proposed development meets reasonable environmental standards and conditions allow such development as a prudent for use of the land; – including but not limited to standards and conditions for septic systems, wells for potable water, and storm water management – development in accordance with the provisions of this Article is permitted as a conditional use in the following districts and only in these districts:

- i. Industrial-Business/Residential District (“I-B/R”)
- ii. R-1 High Density Residential District

Taken together, these districts comprise a majority of the land area of North Hampton that is zoned to permit residential use.

- B. **Permitted Uses:** Single-family, duplexes, multi-family and manufactured housing or a mix of housing types within the same development or a mix of commercial and multi-family housing are permitted in an application under this Article. In this respect, provisions of this article take precedence over conflicting provisions of the underlying district in which the development is approved.
- C. **Appeal.** Any person aggrieved by a Planning Board decision that constitutes a denial of a Conditional Use Permit due to noncompliance with one or more of the provisions of this ordinance

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may appeal that decision to the Superior Court, as provided for in RSA 677:15. A Planning Board decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment (RSA 676:5 III).

#### **III.IV. Procedural Requirements/ Applicant**

- A. **Notice of Intent to Build Workforce Housing.** Any person who applies to the Planning Board for approval of a development intended to qualify as workforce housing under this Article shall file a written statement of such intent as part of the application.
- B. **Waiver.** Failure to file such a statement shall constitute a waiver of the applicant's rights under RSA 674:61 (the builder's remedy), but shall not preclude an appeal under other applicable laws.
- C. **Appeal.** In any appeal where the applicant has failed to file the statement required by this section, the applicant shall not be entitled to a judgment by a court on appeal that allows construction of the proposed development, or otherwise permits the proposed workforce housing development to proceed despite its nonconformance with the municipality's ordinances or regulations.

#### **IV. Planning Board Procedural Requirements**

- A. **Notice of conditions.** If the Planning Board approves an application to develop workforce housing subject to conditions or restrictions, within 144 hours (seven days) of that decision it shall notify the applicant in writing of such conditions and restrictions and give the applicant an opportunity to establish the cost of complying with those conditions and restrictions and the effect of compliance on the economic viability of the proposed development. The Board's notice to the applicant of the conditions and restrictions shall constitute a conditional approval solely for the purpose of complying with the requirements of RSA 676:4 I (i). It shall not constitute a final decision for any other purpose, including the commencement of any applicable appeal period.
- B. **Submission of evidence to establish cost of complying with conditions.** Upon receiving notice of conditions and restrictions as described above, the applicant may submit evidence to establish the cost of complying with the conditions and restrictions and the effect on economic viability ~~within the period 60 days, unless otherwise~~ directed by the Board, ~~which shall not be less than 30 days.~~ Upon receipt of such evidence, the Board shall allow the applicant to review the evidence at the Board's next meeting for which 10 days notice can be given, and shall give written notice of the meeting to the applicant at least 10 days in advance. At such meeting, the Board may also receive and consider evidence from other sources. The Board may affirm, alter, or rescind any or all of the conditions or restrictions of approval after such meeting.
- C. **Final decision.** The Board shall not issue its final decision on the application before such meeting, unless the applicant fails to submit the required evidence within the period designated by the Board, in which case it may issue its final decision any time after the expiration of the period. If an applicant notifies the Board in writing at any time that the applicant accepts the conditions and restrictions of approval, the Board may issue its final decision without further action under this paragraph.
- D. **Appeals.** Any person who has filed the written notice and whose application to develop workforce housing is denied or is approved with conditions or restrictions which have a substantial adverse effect on the viability of the proposed workforce housing development may appeal the municipal action to the superior court under RSA 677:4 or RSA 677:15 seeking permission to develop the proposed workforce housing.

#### **V.I. Definitions**

- A. **Fair share:** "Fair share" means the percentage of dwelling units of specified types under RSA 674:58-61 that are required for the Town of North Hampton to demonstrate that the Town is providing the number of units of each type as indicated by the Rockingham Planning Commission's Regional Fair Share Analysis.

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- B. **Affordable:** “Affordable” means housing with combined rental and utility costs or combined mortgage loan debt service, property taxes, and required insurance that do not exceed 30 percent of a household’s gross annual income.
- C. **Multi-family housing:** Multi-family housing for the purposes of this Article, means a building or structure containing five (5) or more dwelling units with at least two (2) bedrooms in 50 percent of the units, with no more than 20 percent of those units having restrictions against children and with each unit designed for occupancy by an individual household.
- D. **Reasonable and realistic opportunities for the development of workforce housing:** Opportunities to develop economically viable workforce housing within the framework of the Town’s ordinances and regulations adopted pursuant to this Article and consistent with RSA 672:1, III-e.
- E. **Workforce housing/owner occupied:** Housing that is intended for sale and is affordable by a household with an income of no more than 100 percent of the median income for a four (4)-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development.
- F. **Workforce housing/renter occupied:** Rental housing that is affordable by a household with an income of no more than 60 percent of the median income for a three (3)-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this Article.
- G. **Area Median Income (AMI):** The median income of the greater region, either the HUD Metropolitan or Non-Metropolitan Fair Market Rent Area to which the Town of North Hampton belongs, as is established and updated annually by the United States Department of Housing and Urban Development. Income considers both wage income and assets.
- H. **Market Rate Housing:** Any units within a development, whether the unit is to be owner or renter occupied, that are intended to be available for sale or occupancy at the prevailing market value in the area for comparable real estate transactions – as determined, if necessary, by a certified residential real estate appraiser.

#### VI.L Density

- A. A site plan or subdivision plan that guarantees a percentage of workforce housing units that is equal to or greater than the Town’s “fair share” of workforce housing, expressed as a percentage of total dwelling units in Town, will be granted relief from the minimum lot size, frontage, front-yard, side-yard and rear-yard setback requirements in the underlying district.
- B. When applying the Town’s “fair-share” percentage to the total number of units proposed in an application under this Article results in a number that is not a whole number, the required number of workforce housing units shall be rounded up to the next whole number.
- C. Relief from minimum lot size, frontage, front-yard, side-yard and rear-yard setback requirements in the underlying district will be granted as follows:
- i. Minimum lot size for single-family dwellings, including manufactured housing units, under this Article shall be one-third (1/3) acre of contiguous upland as long as soil conditions permit the siting of requisite septic systems and wells within the decreased lot size.
  - ii. Minimum lot size for duplexes under this Article shall be one-half (1/2) acre of contiguous upland as long as soil conditions permit the siting of requisite septic systems and wells within the decreased lot size.
  - iii. Minimum lot size for qualifying multi-family housing (cf. Section V.C above) – including both rental units and units under condominium ownership -- under this Article shall be one (1) acre

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of contiguous upland for the first dwelling unit and an additional one-quarter (1/4) acre of contiguous upland for each additional unit so long as soil conditions permit the siting of requisite septic systems and wells within the proposed lot size. Thus, the minimum lot size for a qualifying multi-family housing proposal under this Article is two (2) acres.

- iv. Minimum frontage for all types of workforce housing units shall be 100 feet.
- v. Minimum front-yard, side-yard, and rear-yard setback requirements for any structure approved under this Article shall be 15 feet.

#### **VII.I. General Requirements of Workforce Housing Units**

- A. **Architectural compatibility of all units.** The dwellings qualifying as workforce housing shall be compatible in architectural style and exterior appearance with the market-rate dwellings of similar type, (i.e., workforce and market-rate multifamily units, workforce and market-rate single family homes) in the proposed development. The workforce units should be interspersed throughout the overall development and not concentrated in a separate area of the development. Workforce housing units shall be mixed with, and not clustered together or segregated in any way from market-rate units.
- B. **Phasing.** The phasing plan for the development shall provide for the development of workforce housing units concurrently with the market-rate units, and occupancy permits for no more than 80 percent of all units shall be issued until all workforce housing units are certified for occupancy.
- C. **Use of units.** No workforce housing units of any type, owner-occupied or rental, that are approved under this Article shall be sublet. All such units are intended for occupation by individuals or families whose incomes qualify them to purchase or rent the units and who have been properly qualified according to the provisions of this Article.

#### **D. VIII-Expansion or Modification of Units.** Expansion or modification of workforce housing units approved under this Article is permissible. However, three conditions apply in all cases:

- i. Such expansion or modification shall not exempt the owner from continuing to meet applicable affordability standards; and
- ii. Such expansion or modification shall meet all Zoning Ordinance restrictions current at the time it is proposed.

#### **IX. Affordability.**

- A. **Affordability Monitoring Agent.** As a condition of approval, the applicant shall negotiate and submit written evidence that an agreement has been executed with a qualified third party, acceptable to the Planning Board, as Monitoring Agent for the development.
  - i. The Monitoring Agent shall review and approve all documentation required to ensure that affordability provisions of this Article are fully enforced and maintained initially and over the duration of the required period of affordability.
  - ii. Said Agent shall not be changed without prior approval of the Planning Board.
  - iii. Should said Agent cease to provide such services for any reason without due prior notice, the applicant, his/her successor or designee shall promptly notify the Planning Board and propose a successor Monitoring Agent for approval of the Board.
  - iv. Said Agent shall submit annually a written report to the applicant and Planning Board that characterizes all transactions that have been reviewed by the Agent and states the sales prices or lease prices of all units subject to the Agent's purview.
  - v. Said Agent shall submit annually written certification that, during the reporting period, all units under his or her purview have continuously met affordability standards under this Article.

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- B. Certification of Income Levels.** To ensure that only eligible households purchase or rent and occupy the designated workforce housing units in any development approved under this Article, the purchaser or renter of an affordable unit shall submit to the monitoring agent copies of his or her federal income tax returns for the three years immediately prior to occupancy and written certification that verifies that his or her annual income level, combined with household assets, does not exceed the maximum level as established by this ordinance.
- i. The tax returns and written certification of income and assets shall be submitted to the monitoring agent engaged by the developer of the housing units prior to the execution of a lease for any workforce-housing rental unit or execution of a purchase and sale agreement for any workforce-housing owner-occupied unit.
  - ii. A copy of the tax returns and written certification of income and assets shall be submitted to the monitoring agent, not less than 30 days prior to the transfer of title of an owner-occupied unit or not less than 14 days prior to occupancy by the lessee of a rental unit.
- C. Assurance of Continued Affordability (Owner-occupied Units).** Approval of applications to develop owner-occupied workforce-housing units offered for sale shall require that a lien, granted to the Town of North Hampton, be placed on each workforce-housing unit.
- i. The initial value of the lien shall be equal to the difference between the fair market value of the unit, as determined by a certified residential real estate appraiser, and its reduced affordable sale price under this Article, which is indexed according to the qualifying income standards.
  - ii. The Town's lien shall be increased over its term at a compound rate equal to the Consumer Price Index (CPI) for Shelter in the Boston metropolitan area.
  - iii. Future maximum resale values shall be limited to the then current affordability standards for workforce housing.
  - iv. In the event that the owner of any owner-occupied workforce-housing unit does not comply with provisions of this Section VIII.C of this Article, the Town at its sole discretion may exercise its lien on the unit.
  - v. The combination of maintenance of the Town's lien and adherence to this Article's standards of affordability for workforce-housing shall remain in force until such time as two criteria are satisfied, as determined at the sole discretion of the Planning Board:
    - a. **"Fair-share" criterion.** The Town has fully met its requirement for providing its "fair share" of workforce housing.
    - b. **"First-in-first-out" criterion.** The unit in question is the first among units of its type that were approved as workforce-housing units under this Article, or the owner of all units that were approved earlier than the unit in question have waived their right to market their units to market prices.
- D. Assurance of Continued Affordability (Workforce-housing Rental Units).**
- i. Any increases in rent for workforce-housing rental units shall be limited to an amount that does not increase the rent to a level that exceeds the then current affordability limit under this Article.
  - ii. Approval of applications to develop workforce-housing rental units shall require that a lien, granted to the Town of North Hampton, be placed on each building that includes such units.
    - a. The initial value of the lien shall be equal to the present value over a period of 20 years of the difference between the fair-market-value rental of the units and their reduced affordable rental under this Article.

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- b. The Town's lien shall be increased over its term at a compound rate equal to the annual rate of change in the difference between fair-market-value rental and affordable rental of the units.
  - c. In the event that the owner of any workforce-housing rental unit does not comply with provisions of this Section VIII.C of this Article, the Town at its sole discretion may exercise its lien on the unit.
  - iii. This Article's standards of affordability for workforce-housing rental units shall remain in force until such time as two criteria are satisfied, as determined at the sole discretion of the Planning Board:
    - a. **"Fair-share" criterion.** The Town has fully met its requirement for providing its "fair share" of workforce housing.
    - b. **"First-in-first-out" criterion.** The unit in question is the first among units of its type that were approved as workforce-housing units under this Article, or the owner of all units that were approved earlier than the unit in question have waived their right to mark their units to market prices.
  - iv. As provided under Section VIII.A.v above, the Monitoring Agent shall certify at least annually that this Section VIII.D is being enforced for all units under the Agent's purview.
  - v. **Transfer of ownership.** Conveyance of ownership of any rental units approved under this Article shall require prior written approval of the Planning Board to ensure that any new owner understands the terms of this Article and agrees to adhere to them. Such approval shall not be unreasonably withheld. A statement of this provision shall be included as a restriction on all deeds for rental units approved under this Article.
  - E. **Documentation of restrictions.** Deed restrictions, restrictive covenants, and contractual arrangements related to workforce-housing units approved under this Article shall be noted on all plans filed with the Town's Planning Board and shall be registered at the Rockingham County Registry of Deeds.

**IX. Administration, Compliance, and Monitoring**

- A. The Planning Board shall be responsible for administration, compliance and ensuring that monitoring requirements are met under this Article.
- B. **Certificate of Occupancy.** No certificate of occupancy shall be issued for a workforce-housing unit approved under this Article without written confirmation of the income eligibility of the tenant or buyer of the workforce-housing unit by the monitoring agent and confirmation of the rent or price of the workforce-housing unit as documented by an executed lease or purchase and sale agreement and verified in writing by the monitoring agent.
- C. Ongoing responsibility for monitoring the compliance with resale and rental restrictions on affordable units shall be the responsibility of the monitoring agent, as defined in Section VIII.A above.
- D. **Annual report.** The owner of a project containing affordable units for rent shall prepare an annual report certifying that the gross rents of affordable units and the household income of tenants of affordable units have been maintained in accordance with this Article. Such reports shall be submitted to the monitoring agent and shall list the contract rent and occupant household incomes of all affordable housing units for the appropriate reporting period.
- E. **Relationship to other ordinances and regulations.** Except as specifically provided herein, no portion of this ordinance shall nullify provisions of the Zoning Ordinance -- including, but not limited to Zoning Ordinance Section 414: Water Resources and Aquifer Protection -- or of any other town ordinances which relate to environmental protection, water supply, sanitary disposal, traffic safety, or fire and life safety protection.



- i. Where affordable housing applicants propose a development of single family homes or mixed single family and multi-family homes, all provisions of the subdivision and site plan regulations shall apply, except as specifically waived by the Planning Board.
- ii. Where affordable housing applicants propose a development of multi-family units, the site plan regulations shall apply except as specifically waived by the Planning Board.

**F. XI. Conflict.** If any provision of this ordinance is in conflict with the provisions of other ordinances, except as specifically provided herein, the more restrictive provision shall apply. With respect to provisions relating to lot size, setbacks, or density the provisions of this ordinance shall apply.

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ii **ARTICLE IV - DISTRICT REGULATIONS**

**Section 401 Zoning Map**

A map entitled "North Hampton Zoning Map" is hereby adopted as part of this Ordinance and incorporated herein. \*3/12/68

**Section 402 Copies of Zoning Map**

Regardless of the existence of other printed copies of the Zoning Map, which from time to time may be made or published, the Official Zoning Map which shall be located in the Office of the ~~Selectmen~~ Select Board shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the Town. \*3/12/68

**Section 403 Zoning Districts**

The Township is divided into the districts stated in this Ordinance as shown by the district boundaries in the Zoning Map. The districts are: \*3/12/68

**R-1 High Density District:** The high density district is designated for land to be used for smaller single family dwellings with minimum yard space where central water and sewer facilities are available or where the installation of these facilities is feasible. After central water and sewerage facilities to include sewerage treatment disposal plants are installed, accepted by the town, and fully operational, multiple family dwellings are permitted. \*3/10/81

**R-2 Medium Density District:** The medium density district is designated for land which is to be used for medium to large single family dwellings with maximum yard space which will make possible the handling of the individual family's water and sewage disposal needs where central water and municipal facilities are not now available or where the immediate installation of these facilities is now immediately feasible. \*3/12/68 This district also includes areas where agriculture and other open land uses are appropriate and natural conditions make the land unsuitable for intensive development.

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~~**R-3 Low Density District:** The low density district is designated for land to be used for single family dwellings which are remote from existing municipal facilities or so situated in a drainage basin where municipal facilities would be excessive in cost and difficult to maintain. Residential and associated uses are permitted in this district only on large lots capable of handling the individual families water and sewage disposal needs. Much of this district will be used for agriculture and other open land uses. The purpose of this district is to prevent intensive development of land that is unsuitable for development because of subsoil conditions. \*3/12/68~~

**I-B/R Industrial-Business/Residential:** The Industrial-Business/Residential District is limited to business, light industrial and certain residential uses. By establishing compact areas for such uses, better fire protection, police protection, and utilities may be provided. Performance standards and yard regulations are set forth in this ordinance to ~~insure~~ ensure safe development that is compatible with adjacent uses. The purpose of this district is to encourage business growth and industrial installations in a campus like arrangement in the vicinity of important highways and other key locations. \*3/12/85

**Wetland Conservation District:** The Wetland Conservation District is characterized in Section 409 below. This district consists of wetland areas, as defined in Section 302. 18, 40, and 41 above and a buffer of 100 feet around all such wetland areas. No structures are permitted in the Wetlands Conservation District.

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**Conservation Land District:** The Conservation Land District consists of all land area that is permanently protected from subdivision and development by deed restrictions, easements, or other means. By definition, no structures are permitted on land within this District. The purpose of this district is to delineate land that has been preserved for the multiple benefits derived from conservation of land - including, but not limited to increased aquifer recharge, natural resource protection, unfragmented wildlife habitat, opportunities for passive recreation, and preservation of rural character.

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**Section 404 District Boundaries**

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District boundaries shown within the lines of roads, streams and transportation rights of way shall be deemed to follow the center lines. The discontinuance of roads shall not affect the location of such district boundaries. When the Building Inspector cannot definitely determine the location of a district boundary by such centerlines, by the scale or dimensions stated on the Zoning Map, or by the fact that it clearly coincides with a property line, he shall refuse action and the Board of Adjustment, upon appeal, shall interpret the location of the district boundary with reference to the scale of the Zoning Map and the purposes set forth in all relevant provisions of this Ordinance. \*3/12/68

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Section 405 Permitted Use, Special Exceptions and Prohibited Uses for All Districts \*3/9/2004

Pursuant to RSA 674:21 the Town of North Hampton Planning board is hereby authorized and empowered to administer the permitted uses and uses granted by special exception under the following standards.

**405.1 Permitted Uses - Industrial-Business/Residential ("I-B/R") District**

North Hampton encourages business development and growth in the I-B/R District because businesses provide jobs, make a significant contribution to the tax base and serve the needs and convenience of our citizens. Businesses in North Hampton must, however, be compatible with the Town's environment (particularly given the fact that a number of important aquifers underlie the I-B/R District) as well as the significant number of residences in and adjacent to the I-B/R District, the safety, health, and quiet enjoyment of which must be protected and maintained.

**405.1.1** Each such proposed permitted use shall be submitted to the Planning Board for review under the Planning Board's Site Plan Review Regulations and, in addition, shall be reviewed under the standards of 405.1.2 and 405.1.3.

**405.1.2** The Planning Board shall determine whether any such proposed permitted use shall have or cause any unreasonably adverse affect on abutting or neighborhood residential or other uses, ~~which with~~ respect to pollution, discharge of harmful or noxious substances, noise, dust, vibration, smoke, odors, light spillage, or other unpleasant, unhealthy or hazardous by-products of the proposed use.

**405.1.3** The Planning Board shall determine whether any such proposed permitted use shall have any unreasonably adverse ~~affect-effect~~ upon any water resource, the environment, the health or welfare of any residents, or the quality of life in or adjacent to the I-B/R District.

**405.2 Special Exceptions:**

Standards for the Zoning Board of Adjustment (ZBA) ~~is to~~ Apply in Considering Applications for Special Exceptions:

**405.2.1** In instances where standards for a listed Special Exception are defined in the Zoning Ordinance, the ZBA shall apply those standards.

**405.2.2** In instances where specific standards are not defined for a listed Special Exception, the ZBA shall apply the following standards:

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405.2.2.1 The Special Exception, if approved, shall not diminish the value of surrounding properties.

405.2.2.2 The Special Exception, if approved, shall not unreasonably adversely affect the public interests, safety, health, or welfare. The ZBA shall consider whether the proposed Special Exception may cause abutting or neighboring lots, or the I-B/R District generally, to be subjected to any form of pollution or discharge of harmful or noxious substances, noise, dust, vibration, smoke, odors, light spillage, or other unpleasant, unhealthy or hazardous by-products of the proposed business which threatens to adversely and unreasonably affect the environment, welfare of residents, or quality of life in and adjacent to the I-B/R District.

405.2.3 Notwithstanding approval by the ZBA of an application for a Special Exception, in cases where a site plan is normally required, the Planning Board shall independently review a Site Plan for the proposed use.

**405.3 Prohibited Uses for All Districts**

The types of uses designated as "Permitted Uses" and "Special Exceptions" in the following tables are necessarily broad and general in many cases. The Planning Board will consider specific applications for Site Plan Review or Changes of Use as described in 405.1 and 405.2.

Notwithstanding that each of the following uses might be deemed a specific instance of one or more Permitted Use ~~and or~~ Special Exception listed in the tables, they are considered inconsistent with goals for development of North Hampton as expressed in the Master Plan, beyond the capacity of the Town's infrastructure, and incompatible with criteria noted in 405.1 and 405.2. They are, therefore, prohibited in all districts in North Hampton.

**Prohibited Uses**

**Commercial animal husbandry facilities**, including but not limited to feed lots, slaughterhouses, breeding facilities, egg farms, and hog, chicken, turkey and other domestic fowl production facilities.

"Commercial animal husbandry facilities" does not include the following: veterinary clinics, kennels and other facilities for boarding domesticated animals, equestrian stables for recreational riding, or horse-breeding stables that stable 20 or fewer animals.

**Large scale distribution and logistics facilities**, including but not limited to facilities like those operated by trucking firms, by

package and mail carriers such as FedEx and United Parcel Service, by major retail chains such as Wal-Mart, K Mart, and Sears, by commercial or residential waste carriers, and by automotive manufacturers for parts distribution.

**Storage of raw materials for processing and the processing of raw materials for distribution or retail sale,** including but not limited to stockpiling or storage of dirt and debris for sifting and screening in the production of loan, storage or processing of manure or other materials for production of fertilizer, stockpiling and processing materials for concrete or asphalt production.

**R-1 HIGH DENSITY DISTRICT**

<b>Permitted Uses</b>	<b>Special Exceptions</b>
1. Agriculture	1. Cemeteries
2. Single-Family Dwellings	2. Home Occupations
3. Public and Parochial Schools	3. Non-Profit-Recreational Uses
4. Public Parks and Playgrounds	4. Nursery Schools
5. Churches	5. Public Utility Buildings
6. Essential Services	6. Water Recreation & Water Storage
7. Duplexes <b>*3/10/92</b>	7. Municipal Buildings & Libraries
8. Manufactured Housing on Individually Owned Lots, as defined in Section 302-36 of the Zoning Ordinance <b>*3/8/94</b>	8. Hospitals and Clinics for Humans or Animals
	9. Greenhouses
	10. Riding Stables
	11. Private Clubs
	12. Accessory Apartments <b>*3/13/90</b>
	13. Family Day Care <b>*3/13/90</b>

**R-2 MEDIUM DENSITY DISTRICT**

<b>Permitted Uses</b>	<b>Special Exceptions</b>
1. Agriculture	1. Cemeteries
2. Single-Family Dwellings	2. Home Occupations
3. Public and Parochial Schools	3. Non-Profit-Recreational Uses
4. Public Parks and Playgrounds	4. Nursery Schools
5. Churches	5. Public Utility Buildings
6. Essential Services	6. Water Recreation & Water Storage
7. Duplexes <b>*3/10/92</b>	7. Municipal Buildings & Libraries

8. Manufactured Housing on individually owned Lots, as defined in Section 302-36 of the Zoning Ordinance *3/8/94	8. Hospitals and Clinics for Humans or Animals
	9. Greenhouses
	10. Riding Stables
	11. Private Clubs
	12. Accessory Apartments *3/13/90
	13. Family Day Care *3/13/90

~~R-3 LOW-DENSITY DISTRICT~~

<del>Permitted Uses</del>	<del>Special Exceptions</del>
<del>1. Agriculture</del>	<del>1. Home Occupations</del>
<del>2. Single-Family Dwellings</del>	<del>2. Water Recreation &amp; Water Storage</del>
<del>3. Public Parks and Playgrounds</del>	<del>3. Non-Commercial Recreational Uses</del>
<del>4. Cemeteries</del>	<del>4. Nursery Schools</del>
<del>5. Essential Services</del>	<del>5. Churches</del>
<del>6. Duplexes *3/10/92</del>	<del>6. Accessory Apartments *3/13/90</del>
<del>7. Manufactured Housing on Individually Owned Lots, as defined in Section 302-36 of the Zoning Ordinance *3/8/94</del>	<del>7. Family Day Care *3/13/90</del>

INDUSTRIAL-BUSINESS/RESIDENTIAL DISTRICT ("I-B/R")

Permitted Uses	Special Exceptions
1. Agriculture	1. Water Recreation & Storage
2. Motels	2. Municipal Buildings & Libraries
3. Eating & Drinking Establishments	3. Multiple-Family Dwelling *3/6/73
4. Research and Testing Laboratories	4. Light Manufacturing *3/6/73
5. Offices	5. Public & Private Recreational Facilities *3/6/73
6. Hospitals and Clinics for Humans or Animals	6. Planned Unit Industrial & Business Projects
7. Public Utility Buildings *3/6/73	7. Accessory Apartments *3/13/90

8. Accredited Commercial Schools *3/9/82	8. Family Day Care *3/13/90
9. Essential Services *3/13/90	9. Home Occupations
10. Retail Uses *3/6/73	10. Motor-Vehicle Refueling Facilities *3/9/04
11. Wholesale Uses *3/6/73	11. Motor-Vehicle Service Facilities, including without limitation lubrication centers, repair shops, detail and washing facilities, body shops, and tire and battery shops *3/9/04
12. Accessory Uses *3/6/73	
13. Single Family Dwellings	
14. Group Day Care *3/13/90	
15. Duplexes *3/10/92	
16. Manufactured Housing on Individually Owned Lots, as defined in Section 302-36 of the Zoning Ordinance *3/8/94	
17. Manufactured Housing Parks *3/13/84	

Section 406 Yard and Lot Requirements Where Structures Are Permitted:

	<u>R1</u>	<u>R2</u>	<u>R3</u>	<u>I-B/R</u>
<del>Minimum Lot Area (Square Feet)</del>	<del>87,120</del>	<del>87,120</del>	<del>87,120</del>	<del>87,120</del>
<del>Minimum Frontage (Feet)</del>	<del>175</del>	<del>175</del>	<del>175</del>	<del>250</del>
<del>Minimum Depth, Front Yard (Feet)</del>	<del>30</del>	<del>35</del>	<del>35</del>	<del>50</del>
<del>Minimum Depth, Side Yard &amp; Minimum Depth, Rear Yard, Dwellings &amp; Commercial Buildings (Feet)</del>	<del>25</del>	<del>30</del>	<del>35</del>	<del>35</del>
<del>Minimum Depth, Side Yard &amp; Minimum Depth, Rear Yard, Unattached, Accessory Buildings Feet) *3/6/73</del>	<del>15</del>	<del>15</del>	<del>15</del>	<del>35</del>

406.1 Lots which abut on more than one street shall provide the required front yards along every street. \*3/12/68

District	R1	R2	I-B/R
Minimum Lot Area (Square Feet)	87,120	87,120	87,120
Minimum Frontage (Feet)	175	175	250

Minimum Depth, Front Yard (Feet)	30	35	50
Minimum Depth, Side Yard & Minimum Depth, Rear Yard, Dwellings & Commercial Buildings (Feet)	25	30	35
Minimum Depth, Side Yard & Minimum Depth, Rear Yard, Unattached, Accessory Buildings (Feet)	15	15	35

**\*3/6/73**

~~406.2 Any lot of record existing at the effective date of this Ordinance and then held in separate ownership different from the ownership of adjoining lots may be used for the erection of a structure conforming to the use regulations of the district in which it is located, even though its area and width are less than the minimum requirements of this Ordinance. \*3/5/74~~

406.3 Industrial-Business structures or uses shall not be located or conducted closer than 35 feet to any lot line of any other lot in any "R" District ~~than 35 feet. \*3/5/74~~

406.4

A. Duplex Requirements: The minimum lot size for a duplex shall be 100,000 square feet and the lot shall contain a minimum of 60,000 square feet of non-wetland area. No additional frontage is required, other than that specified in Section 406. The maximum number of bedrooms allowed per duplex is six. Each dwelling unit shall have a minimum living area of 720 square feet. An adequate septic system built to standards of the N.H. Water Supply and Pollution Control Division must be provided. **\*3/10/92**

B. Multiple Dwelling Lot and Yard Requirements: A Multiple Dwelling shall be located only in the ~~I-B~~ Industrial-Business/Residential District and shall be constructed only on a lot which meets all the lot and yard requirements for the location of structures in the ~~I-B~~ Industrial-Business/Residential District as set forth in Section 406 through Section 406.3. In addition, a multiple dwelling building lot must contain two acres of land for the first family unit, and for each additional family unit, there shall be an additional one hundred (100) feet frontage and an additional acre of land. **\*3/9/82**



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- 406.5 A lot in the I-B/R District that is presently utilized for business purposes shall not be used for residential purposes. Any existing undeveloped lot may be used for either a business or residential purpose, but not both. **\*3/12/85**
- 406.6 No building shall be constructed on any lot that does not have frontage on a street that has been accepted by the Town of North Hampton. For the purpose of this paragraph, a street that is located in the Town of North Hampton and is under construction may be considered at the discretion of the Building Inspector to be accepted only for the issuance of building permits thereon. **\*3/12/85**
- 406.7 Any newly created street must at least connect with an accepted street in the Town of North Hampton. **\*3/12/85**
- 406.8 Industrial-Business/Residential District lots located in the I-B/R zone shall include a landscaped buffer area around the perimeter of the lot. This area will be a minimum of ten feet wide along the entire property line. This landscaped area may not be used for structures, drainage structures, parking or access except where access is required and approved. **\*3/10/87**
- 406.9 A lot of record in any zoning district in existence before March 10, 1992, may be subdivided to allow one backlot under the following conditions:
- A. The existing lot of record shall be five acres or more in size and have a continuous frontage of at least two hundred and fifteen feet (215').
  - B. A backlot subdivision requires Planning Board approval and only one backlot shall be permitted per lot of record.
  - C. A backlot shall have a minimum frontage of forty feet (40') and the remaining lot or any future lots shall have the minimum frontage required for the zoning district. The width of the backlot shall not be less than forty feet (40') within two hundred feet (200') of the front lot line.
  - D. A backlot shall have a minimum lot size, which is 50 percent greater than that required for the remaining lot or lots in the zoning district. **\*3/10/92**
  - E. Structures or the display of merchandise (including motor vehicles) shall be permitted to be located on a backlot only in areas where the width of the lot, as measured parallel to the front lot line, is equal or greater than the minimum frontage requirement of the zoning district in which it is located. For the purpose of this section, signs shall not be considered structures. **\*3/14/95**

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**Section 407 Height Regulations**

No structure shall exceed 35 feet in height above average ground level unless approved by the Board of Adjustment. The Board may authorize a variance to the height regulations in any district if:

**407.1** All front, side and rear yard depths are increased one foot for each additional foot of height; and fire protection is adequately provided for; or

**407.2** The structure is any of the following and does not constitute a hazard to an established airport; television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, conveyors, and flagpoles. **\*3/12/68**

**Section 408 Building Area for Dwelling Units**

Every dwelling unit shall have a minimum ground floor or lower living area of 720 square feet exclusive of porches, garages, carports, barns, sheds, unwallled areas and any similar area. This section shall apply to newly constructed buildings or units converted from other uses or units that are moved. **\*3/2/76**

**Section 409 Wetland Conservation AreasDistrict**

**409.1 Purpose:**

In the interest of public health, convenience, safety and welfare, the regulations of this district are intended to guide the use of areas of land with extended periods of high water tables, and to accomplish the following purposes:

- A. To control the development of structures and land uses on naturally occurring wetlands, which would contribute to pollution of surface and groundwater by any means.
- B. To prevent the destruction of natural wetlands, which provide flood protection, recharge the groundwater supply, and the augmentation of stream flow during dry periods.
- C. To prevent unnecessary or excessive expense to the Town related to the provision and maintenance of essential services and utilities, which arise because of unwise use of wetlands.
- D. To encourage those uses that can appropriately and safely be located in wetland areas.
- E. To preserve wetlands for ecological reasons including, but not limited to, those cited in RSA 482-A.
- F. To preserve and enhance those aesthetic values associated with the Wetlands of this Town.
- G. To provide a single and consistent approach for identifying and delineating wetlands based on the most advanced professional standards and scientific analysis.

**409.2 Definition of District:**

The Wetlands Conservation District comprises all of the following areas within the Town of North Hampton:

- A. Tidal lands as defined in section 302, paragraph ~~30-40~~ herein. \*3/08/2005
- B. Wetlands as defined in section 302, paragraph ~~31-41~~ herein. \*3/08/2005
- C. Isolated, non-bordering wetlands as defined in Section 302, paragraph ~~32-18~~ herein.

**409.3 Wetlands Map:**

The Wetlands map of North Hampton prepared by Normandeau Associates in 1986 as part of the New Hampshire Coastal Wetlands Mapping Program shall be used as a guide in the preliminary identification of jurisdictional wetlands under this ordinance. The boundaries of the Wetlands Conservation District shall be identified by this North Hampton Wetlands Map as revised from time to time.

- A. In the event that an area is alleged to be incorrectly designated on the Wetlands Map, the person aggrieved by such designation may request a field inspection by the building inspector and the chairperson of the Conservation Commission (or their representative). If a determination is made by field inspection or by a Certified Wetlands Scientist, that the three criteria for Wetland delineation are not present and that the area in question is incorrectly designated a wetland; the Conservation Commission shall report this change to the Planning Board, who will arrange to update the Wetlands map accordingly.
- B. If, after the field inspection, the Wetlands designation is not changed, the person aggrieved by such designation may, by written petition, appeal the designation to the Planning Board.
- C. Any resident of North Hampton may, by written petition, propose to the Planning Board that additional areas be included within the Wetlands Conservation District. After informing the owners of the property proposed for inclusion in the Wetlands Conservation District and the owners of abutting property, the Planning Board shall place the proposal on the agenda of its next regularly scheduled public hearing. Before additional areas can be included within the Wetlands Conservation District, the North Hampton resident proposing such inclusion shall provide evidence, satisfactory to the Planning Board, that the subject land meets the three mandatory technical criteria for Wetlands delineation identified in Section 302, paragraph ~~31-41~~ herein.

**409.4 Appeal of Wetlands Boundaries:**

In the event of a petition pursuant to section 409.3 B. or 409.3 C., the North Hampton Planning Board may call upon the services of

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an independent qualified wetlands scientist to examine said area and report findings to the Planning Board for their determination of the boundary. Qualified wetland scientist shall mean a person who is qualified in soil classification and wetlands delineation and who is recommended or approved by the State of New Hampshire. The costs to the Town of such appeal shall be borne by the petitioner.

**409.5 Permitted Uses in the Wetlands Conservation District:**

The following uses shall be permitted within the Wetlands Conservation District:

- A. Any use otherwise permitted by the Zoning Ordinance, that does not include erection of a structure and does not alter the surface configuration of the land by the addition of fill or by dredging.
- B. Any agriculture that will not cause soil erosion or groundwater contamination by pesticides or other hazardous materials.
- C. Wildlife refuge and habitat management.
- D. Parks and such recreation purposes as are consistent with the purpose and intentions of this section.
- E. Conservation areas and nature trails.

**409.6 Additional Permitted Uses in Tidal Lands:**

The following additional uses shall be permitted in Tidal Lands:  
**\*3/08/2005**

- A. Cutting of dead or dying trees of any size;
- B. Cutting of live trees with a diameter of six inches or greater, measured 4 1/2 feet above the ground, provided that such partial cutting is limited to 30% of their total pre-harvest basal area. Selection of trees for such partial cutting shall be done with the consultation of the Rockingham County Forester and the approval of the Planning Board. Partial cutting shall be done in such a way that a well distributed stand of healthy growing trees remains.
- C. The erection of fences, footbridges, catwalks and wharves provided such structures are built on posts or pilings and permit the unobstructed flow of the tide and preserve the natural contour of the marshes.

**409.7 Additional Permitted Uses in Wetlands and Isolated Non-bordering Wetlands:**

The following additional uses shall be permitted in Wetlands and Isolated Non-bordering Wetlands: **\*3/08/2005**

- A. Forestry and tree farming which does not involve clear cutting;

- B. Water impoundments and construction of wells for on site water supply;
- C. Drainage ways, streams, creeks, or other paths of normal runoff water;
- D. Open space permitted by the subdivision regulations and other sections of the ordinance;
- E. Fill involving less than 3000 square feet of surface area.

**409.8 Prohibited Uses in the Wetlands Conservation District:**

The following uses are prohibited within the Wetlands Conservation District or within 75' of the district:

- A. Septic systems, leach fields, or on site disposal systems.
- B. Storage of gasoline, fuel oil, pesticides, hazardous agricultural and other materials or roadsalt stockpiles.

**409.9 Buffer Zone Restrictions:**

The buffer zone setback requirement from Tidal Lands and Wetlands is 100'. For the purposes of this section 409.9 "inland wetlands" shall not include a vegetated swale, roadside ditch, or other drainage way; a sedimentation/detention basin or an agricultural/irrigation pond. \*3/11/2003, 3/08/2005

**A. Undeveloped lots of record**

- 1) Undeveloped lots of record existing as of March 2003 or any lot created subsequently: No structure or impermeable surface shall be permitted within 100' of Tidal Lands or within 100' of Wetlands on any lot of record existing as of March 2003 or on any lot created subsequently. \*3/08/2005
- 2) **Undeveloped lots of record existing prior to March 2003:** If the imposition of 100' tidal and/or freshwater wetland buffer setbacks causes the buildable upland acreage (this is, land that is not in the wetlands buffer zone) to be less than 16,000 square feet, the prior wetlands buffer zone setback requirements of 50' for Wetlands and 75' for Tidal Wetlands shall apply. \*3/08/2005

**B. Developed lots of record**

No structure or impermeable surface shall be permitted within 100' of Tidal Wetlands or within 100' of Wetlands on any developed lot of record existing as of March 2003. \*3/08/2005

- 1) Developed residential lots of record existing prior to March 2003: If the imposition of 100' Tidal Lands and/or inland wetland buffer setbacks causes the buildable upland acreage (that is, land that is not in the buffer zone) to be less than 16,000 square feet, the prior buffer zone setback requirements of 50' for Wetlands and 75' for Tidal Lands shall apply. \*3/08/2005

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- 2) Notwithstanding other provisions of this section 409.9 of the Zoning Ordinance, the construction of additions to and/or extensions of existing buildings or structures shall be permitted within the 100' wetlands buffer zone provided that:
- a) The dwelling or structure to be expanded existed lawfully prior to the effective date of this section 409.9 of the Zoning Ordinance (March 2003) or was constructed subject to a validly issued building permit.
  - b) The proposed construction conforms to all other applicable ordinances and regulation of the Town of North Hampton.
  - c) The footprint of any proposed new construction within the buffer does not exceed the greater of 1200 square feet or 25% of the area of the footprint of the existing heated structure within the buffer which existed prior to the effective date of this Ordinance.
  - d) Any proposed new construction of an addition of extension shall not intrude further into the wetland buffer setback than the current principal heated structure of which it is a part.

**409.10 Conditional Use Permits:**

A conditional use permit may be granted by the Planning Board for fill in excess of 3000 square feet of surface area, for the construction of roads and other access ways, pipelines, powerlines, and other transmission lines within the district or the buffer zone, provided that all of the following conditions are found to exist:

- A. The proposed construction is essential to the productive use of land not within the wetlands;
- B. Design and construction methods will be such as to minimize detrimental impact upon the wetland site and will include restoration of the site as nearly as possible to its original grade and condition;
- C. No alternative, which does not cross a wetland or has less detrimental impact on the wetland is feasible;
- D. All other necessary permits have been obtained.

**409.11 Conditional Use Permit for Overburden Ground Water Pumping:**

A conditional use permit may be granted by the Planning Board for overburden ground water pumping at a rate in excess of 20,000 gallons per day, provided that such pumping is conducted in such manner as to assure no net loss of wetlands within the adjacent Wetlands Conservation District.

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**409.12 Special Exceptions Granted by the Zoning Board of Adjustment:**

Upon application to the Board of Adjustment, a special exception may be granted to permit the erection of a new structure on a vacant ~~lot approved building lots~~ of record or the expansion of an existing structure located within the Wetlands Conservation District, or any buffer zones, provided that all of the following conditions are found to exist:

- A. The lot upon which an exception is sought was an official lot of record, as recorded in the Rockingham County Registry of Deeds prior to March 8, 1988.
- B. The new structure or expansion is not otherwise prohibited under the zoning ordinance.
- C. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot, which are outside the Wetlands Conservation District or the buffer zone.
- D. Due to the provisions of the Wetlands Conservation District, no reasonable and economically viable use of the lot can be made without the exception.
- E. The design and construction of the proposed use will, to the extent practicable, be undertaken in such a manner as to be consistent with the purposes and spirit of this ordinance.

**409.13 Other Permits:**

Nothing in the above ordinance shall preclude the need to obtain any other necessary local, state or federal government permits.